

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2124

AN ACT

AMENDING SECTIONS 36-401 AND 36-422, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE INSTITUTIONS' LICENSURE PROVISIONS.

(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 accredited
10 by a nationally recognized organization on hospital accreditation.

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

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

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

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

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

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

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

39 10. "Construction" means the building, erection, fabrication or
40 installation of a health care institution.

41 11. "Continuous" means available at all times without cessation, break
42 or interruption.

43 12. "Controlling person" means a person who:

44 (a) Through ownership, has the power to vote at least ten per cent of
45 the outstanding voting securities.

1 (b) If the applicant or licensee is a partnership, is the general
2 partner or a limited partner who holds at least ten per cent of the voting
3 rights of the partnership.

4 (c) If the applicant or licensee is a corporation, an association or a
5 limited liability company, is the president, the chief executive officer, the
6 incorporator or any person who owns or controls at least ten per cent of the
7 voting securities. For the purposes of this subdivision, corporation does
8 not include nonprofit corporations.

9 (d) Holds a beneficial interest in ten per cent or more of the
10 liabilities of the applicant or the licensee.

11 13. "Department" means the department of health services.

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

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

18 16. "Director" means the director of the department of health services.

19 17. "Facilities" means buildings that are used by a health care
20 institution for providing any of the types of services as defined in this
21 chapter.

22 18. "Freestanding urgent care center":

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

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

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

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

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

34 (b) Does not include the following:

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

37 (ii) A qualifying community health center pursuant to section
38 36-2907.06.

39 (iii) Any other health care institution licensed pursuant to this
40 chapter.

41 (iv) A physician's office that offers extended hours or same day
42 appointments to existing and new patients and that does not meet the
43 requirements of subdivision (a), item (i), (iii) or (iv). For the purposes
44 of this item, "physician" means a person licensed pursuant to title 32,
45 chapter 13 or 17.

1 19. "Governing authority" means the individual, agency, group or
2 corporation, appointed, elected or otherwise designated, in which the
3 ultimate responsibility and authority for the conduct of the health care
4 institution are vested.

5 20. "Health care institution" means every place, institution, building
6 or agency, whether organized for profit or not, that provides facilities with
7 medical services, nursing services, health screening services, other
8 health-related services, supervisory care services, personal care services or
9 directed care services and includes home health agencies as defined in
10 section 36-151, outdoor behavioral health care programs and hospice service
11 agencies.

12 21. "Health-related services" means services, other than medical, that
13 pertain to general supervision, protective, preventive and personal care
14 services, supervisory care services or directed care services.

15 22. "Health screening services" means the acquisition, analysis and
16 delivery of health-related data of individuals to aid in the determination of
17 the need for medical services.

18 23. "Hospice" means a hospice service agency or the provision of
19 hospice services in an inpatient facility.

20 24. "Hospice service" means a program of palliative and supportive care
21 for terminally ill persons and their families or caregivers.

22 25. "Hospice service agency" means an agency or organization, or a
23 subdivision of that agency or organization, that is engaged in providing
24 hospice services at the place of residence of its clients.

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

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

33 28. "Medical services" means the services that pertain to medical care
34 and that are performed at the direction of a physician on behalf of patients
35 by physicians, dentists, nurses and other professional and technical
36 personnel.

37 29. "Modification" means the substantial improvement, enlargement,
38 reduction or alteration of or other change in a health care institution.

39 30. "Nonproprietary institution" means any health care institution that
40 is organized and operated exclusively for charitable purposes, no part of the
41 net earnings of which inures to the benefit of any private shareholder or
42 individual, or that is operated by the state or any political subdivision of
43 the state.

44 31. "Nursing care institution" means a health care institution that
45 provides inpatient beds or resident beds and nursing services to persons who

1 need continuous nursing services but who do not require hospital care or
2 direct daily care from a physician.

3 32. "Nursing services" means those services that pertain to the
4 curative, restorative and preventive aspects of nursing care and that are
5 performed at the direction of a physician by or under the supervision of a
6 registered nurse licensed in this state.

7 33. "Organized medical staff" means a formal organization of
8 physicians, and dentists where appropriate, with the delegated authority and
9 responsibility to maintain proper standards of medical care and to plan for
10 continued betterment of that care.

11 34. "Outdoor behavioral health care program" means an agency that
12 provides behavioral health services in an outdoor environment as an
13 alternative to behavioral health services that are provided in a health care
14 institution with facilities. Outdoor behavioral health care programs do not
15 include:

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

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

22 (c) Outdoor youth programs licensed by the department of economic
23 security.

24 35. "Personal care services" means assistance with activities of daily
25 living that can be performed by persons without professional skills or
26 professional training and includes the coordination or provision of
27 intermittent nursing services and the administration of medications and
28 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as
29 otherwise provided by law.

30 36. "Physician" means any person who is licensed pursuant to title 32,
31 chapter 13 or 17.

32 37. "Residential care institution" means a health care institution
33 other than a hospital or a nursing care institution that provides resident
34 beds or residential units, supervisory care services, personal care services,
35 directed care services or health-related services for persons who do not need
36 continuous nursing services.

37 38. "Residential unit" means a private apartment, unless otherwise
38 requested by a resident, that includes a living and sleeping space, kitchen
39 area, private bathroom and storage area.

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

44 40. "Substantial compliance" means that the nature or number of
45 violations revealed by any type of inspection or investigation of a health

1 care institution does not pose a direct risk to the life, health or safety of
2 patients or residents.

3 41. "Supervision" means direct overseeing and inspection of the act of
4 accomplishing a function or activity.

5 42. "Supervisory care services" means general supervision, including
6 daily awareness of resident functioning and continuing needs, the ability to
7 intervene in a crisis and assistance in the self-administration of prescribed
8 medications.

9 43. "TEMPORARY LICENSE" MEANS A LICENSE ISSUED BY THE DEPARTMENT TO
10 OPERATE A CLASS OR SUBCLASS OF A HEALTH CARE INSTITUTION AT A SPECIFIC
11 LOCATION THAT IS VALID UNTIL AN INITIAL LICENSING INSPECTION.

12 ~~43.~~ 44. "Unscheduled medical services" means medically necessary
13 periodic health care services that are unanticipated or cannot reasonably be
14 anticipated and that require medical evaluation or treatment before the next
15 business day.

16 B. If there are fewer than four Arizona long-term care system
17 participants receiving adult foster care in an adult foster care home,
18 nonparticipating adults may receive other types of services that are
19 authorized by law to be provided in the adult foster care home as long as the
20 number of adults served, including the Arizona long-term care system
21 participants, does not exceed four.

22 C. Nursing care services may be provided by the adult foster care
23 licensee if the licensee is a nurse who is licensed pursuant to title 32,
24 chapter 15 and the services are limited to those allowed pursuant to law.
25 The licensee shall keep a record of nursing services rendered.

26 Sec. 2. Section 36-422, Arizona Revised Statutes, is amended to read:

27 ~~36-422.~~ Application for license; notification of proposed
28 change in status; joint licenses; definitions

29 A. A person who wishes to apply for an initial license or to renew a
30 license to operate a health care institution pursuant to this chapter shall
31 file with the department an application on a written or electronic form
32 prescribed, prepared and furnished by the department. The application shall
33 contain the following:

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

35 2. Whether it is to be operated as a proprietary or nonproprietary
36 institution.

37 3. The name of the governing authority. The applicant shall be the
38 governing authority having the operative ownership of, or the governmental
39 agency charged with the administration of, the health care institution sought
40 to be licensed.

41 4. The name and business or residential address of each controlling
42 person and an affirmation that none of the controlling persons has been
43 denied a license or certificate by a health profession regulatory board
44 pursuant to title 32 or by a state agency pursuant to chapter 6, article 7 or
45 chapter 17 of this title or a license to operate a health care institution in

1 this state or another state or has had a license or certificate issued by a
2 health profession regulatory board pursuant to title 32 or issued by a state
3 agency pursuant to chapter 6, article 7 or chapter 17 of this title or a
4 license to operate a health care institution revoked. If a controlling
5 person has been denied a license or certificate by a health profession
6 regulatory board pursuant to title 32 or by a state agency pursuant to
7 chapter 6, article 7 or chapter 17 of this title or a license to operate a
8 health care institution in this state or another state or has had a health
9 care professional license or a license to operate a health care institution
10 revoked, the controlling person shall include in the application a
11 comprehensive description of the circumstances for the denial or the
12 revocation.

13 5. The class or subclass of health care institution to be established
14 or operated.

15 6. The types and extent of the health care services to be provided,
16 including emergency services, community health services and services to
17 indigent patients.

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

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

22 B. An application filed pursuant to this section shall contain the
23 written or electronic signature of:

24 1. If the applicant is an individual, the owner of the health care
25 institution.

26 2. If the applicant is a partnership or corporation, two of the
27 partnership's or corporation's officers.

28 3. If the applicant is a governmental unit, the head of the
29 governmental unit.

30 C. An application for licensure or relicensure shall be filed at least
31 sixty but not more than one hundred twenty days before the anticipated
32 operation or the expiration date of the current license. An application for
33 a substantial compliance survey submitted pursuant to section 36-425,
34 subsection G shall be filed at least thirty days before the date on which the
35 substantial compliance survey is requested.

36 D. If a current licensee intends to terminate the operation of a
37 licensed health care institution or if a change of ownership is planned
38 either during or at the expiration of the term of the license, the current
39 licensee shall notify the director in writing at least thirty days before the
40 termination of operation or change in ownership is to take place. The
41 current licensee is responsible for preventing any interruption of services
42 required to sustain the life, health and safety of the patients or residents.
43 A new owner shall not begin operating the health care institution until the
44 director issues a license.

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

4 F. If a person operates a hospital in a county with a population of
5 more than five hundred thousand persons in a setting that includes satellite
6 facilities of the hospital that are located separately from the main hospital
7 building, the department at the request of the applicant or licensee shall
8 issue a single group license to the hospital and its designated satellite
9 facilities located within one-half mile of the main hospital building if all
10 of the facilities meet or exceed department licensure requirements for the
11 designated facilities. At the request of the applicant or licensee, the
12 department shall also issue a single group license that includes the hospital
13 and not more than ten of its designated satellite facilities that are located
14 farther than one-half mile from the main hospital building if all of these
15 facilities meet or exceed applicable department licensure requirements. Each
16 facility included under a single group license is subject to the department's
17 licensure requirements that are applicable to that category of facility.
18 Subject to compliance with applicable licensure or accreditation
19 requirements, the department shall reissue individual licenses for the
20 facility of a hospital located in separate buildings from the main hospital
21 building when requested by the hospital. This subsection does not apply to
22 nursing care institutions and residential care institutions. The department
23 is not limited in conducting inspections of an accredited health care
24 institution to ensure that the institution meets department licensure
25 requirements. If a person operates a hospital in a county with a population
26 of five hundred thousand persons or less in a setting that includes satellite
27 facilities of the hospital that are located separately from the main hospital
28 building, the department at the request of the applicant or licensee shall
29 issue a single group license to the hospital and its designated satellite
30 facilities located within thirty-five miles of the main hospital building if
31 all of the facilities meet or exceed department licensure requirements for
32 the designated facilities. At the request of the applicant or licensee, the
33 department shall also issue a single group license that includes the hospital
34 and not more than ten of its designated satellite facilities that are located
35 farther than thirty-five miles from the main hospital building if all of
36 these facilities meet or exceed applicable department licensure requirements.

37 G. If a county with a population of more than one million persons or a
38 special health care district in a county with a population of more than one
39 million persons operates an accredited hospital that includes the hospital's
40 accredited facilities that are located separately from the main hospital
41 building and the accrediting body's standards as applied to all facilities
42 meet or exceed the department's licensure requirements, the department shall
43 issue a single license to the hospital and its facilities if requested to do
44 so by the hospital. If a hospital complies with applicable licensure or
45 accreditation requirements, the department shall reissue individual licenses

1 for each hospital facility that is located in a separate building from the
2 main hospital building if requested to do so by the hospital. This
3 subsection does not limit the department's duty to inspect a health care
4 institution to determine its compliance with department licensure standards.
5 This subsection does not apply to nursing care institutions and residential
6 care institutions.

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

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

14 J. EXCEPT FOR AN OUTPATIENT TREATMENT CENTER PROVIDING DIALYSIS
15 SERVICES OR ABORTION PROCEDURES, A PERSON WISHING TO BEGIN OPERATING AN
16 OUTPATIENT TREATMENT CENTER BEFORE AN INITIAL LICENSING INSPECTION IS
17 COMPLETED SHALL SUBMIT ALL OF THE FOLLOWING:

18 1. THE INITIAL LICENSE APPLICATION REQUIRED PURSUANT TO THIS SECTION.

19 2. ALL APPLICABLE APPLICATION AND LICENSE FEES.

20 3. A WRITTEN REQUEST FOR A TEMPORARY LICENSE THAT INCLUDES:

21 (a) THE ANTICIPATED DATE OF OPERATION.

22 (b) AN ATTESTATION SIGNED BY THE APPLICANT THAT THE APPLICANT AND THE
23 FACILITY COMPLY WITH AND WILL CONTINUE TO COMPLY WITH THE APPLICABLE
24 LICENSING STATUTES AND RULES.

25 K. WITHIN SEVEN DAYS OF THE DEPARTMENT'S RECEIPT OF THE ITEMS REQUIRED
26 IN SUBSECTION J, BUT NOT BEFORE THE ANTICIPATED OPERATION DATE SUBMITTED IN
27 SUBSECTION C, THE DEPARTMENT SHALL ISSUE A TEMPORARY LICENSE THAT INCLUDES:

28 1. THE NAME OF THE FACILITY.

29 2. THE NAME OF THE LICENSEE.

30 3. THE FACILITY'S CLASS OR SUBCLASS.

31 4. THE TEMPORARY LICENSE'S EFFECTIVE DATE.

32 5. THE LOCATION OF THE LICENSED PREMISES.

33 L. A FACILITY MAY BEGIN OPERATING ON THE EFFECTIVE DATE OF THE
34 TEMPORARY LICENSE.

35 M. THE DIRECTOR MAY CEASE THE ISSUANCE OF TEMPORARY LICENSES AT ANY
36 TIME IF THE DIRECTOR BELIEVES THAT PUBLIC HEALTH AND SAFETY IS ENDANGERED.

37 ~~J.~~ N. For the purposes of this section:

38 1. "Accredited" means accredited by a nationally recognized
39 accreditation organization.

40 2. "Satellite facility" means an outpatient facility at which the
41 hospital provides outpatient medical services.