

REFERENCE TITLE: health facilities; substance abuse recovery

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

## **HB 2563**

Introduced by  
Representatives Campbell, Borrelli, Fann, Meyer, Senator Begay:  
Representatives Andrade, Bolding, Boyer, Cobb, Fernandez, Finchem, Hale,  
Lawrence, Norgaard, Rios, Robson, Townsend, Wheeler

AN ACT

AMENDING SECTIONS 36-401 AND 36-402, ARIZONA REVISED STATUTES; 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 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 who are  
14 not 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 or contracts for services  
25 with the United States department of veterans affairs and in which the  
26 sponsor or the manager resides with the residents and integrates the  
27 residents who are receiving adult foster care into that person's family.

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

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

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

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

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

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

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

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

5 12. "Continuous" means available at all times without cessation, break  
6 or interruption.

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

8 (a) Through ownership, has the power to vote at least ten ~~per-cent~~  
9 PERCENT of the outstanding voting securities.

10 (b) If the applicant or licensee is a partnership, is the general  
11 partner or a limited partner who holds at least ten ~~per-cent~~ PERCENT of the  
12 voting rights of the partnership.

13 (c) If the applicant or licensee is a corporation, an association or a  
14 limited liability company, is the president, the chief executive officer, the  
15 incorporator or any person who owns or controls at least ten ~~per-cent~~ PERCENT  
16 of the voting securities. For the purposes of this subdivision, corporation  
17 does not include nonprofit corporations.

18 (d) Holds a beneficial interest in ten ~~per-cent~~ PERCENT or more of the  
19 liabilities of the applicant or the licensee.

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

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

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

27 17. "Director" means the director of the department of health services.

28 18. "Facilities" means buildings that are used by a health care  
29 institution for providing any of the types of services as defined in this  
30 chapter, INCLUDING ANY RESIDENTIAL PROPERTY THAT IS OWNED OR OPERATED BY OR  
31 AFFILIATED WITH A HEALTH CARE INSTITUTION EVEN IF SERVICES ARE NOT OFFERED AT  
32 THOSE LOCATIONS.

33 19. "Freestanding urgent care center":

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

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

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

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

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

1 (b) Does not include the following:

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

4 (ii) A qualifying community health center pursuant to section  
5 36-2907.06.

6 (iii) Any other health care institution licensed pursuant to this  
7 chapter.

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

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

15 21. "Health care institution" means every place, institution, building  
16 or agency, whether organized for profit or not, that provides facilities with  
17 medical services, nursing services, behavioral health services, health  
18 screening services, other health-related services, supervisory care services,  
19 personal care services or directed care services and includes home health  
20 agencies as defined in section 36-151, outdoor behavioral health care  
21 programs and hospice service agencies.

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

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

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

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

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

35 27. "Inpatient beds" or "resident beds" means accommodations with  
36 supporting services, such as food, laundry, ~~and~~ housekeeping **AND SUBSTANCE**  
37 **ABUSE RECOVERY SUPPORT**, for patients or residents who generally stay in  
38 excess of twenty-four hours.

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

44 29. "Medical services" means the services that pertain to medical care  
45 and that are performed at the direction of a physician on behalf of patients

1 by physicians, dentists, nurses and other professional and technical  
2 personnel.

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

5 31. "Nonproprietary institution" means any health care institution that  
6 is organized and operated exclusively for charitable purposes, no part of the  
7 net earnings of which inures to the benefit of any private shareholder or  
8 individual, or that is operated by the state or any political subdivision of  
9 the state.

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

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

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

22 35. "Outdoor behavioral health care program" means an agency that  
23 provides behavioral health services in an outdoor environment as an  
24 alternative to behavioral health services that are provided in a health care  
25 institution with facilities. Outdoor behavioral health care programs do not  
26 include:

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

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

33 (c) Outdoor youth programs licensed by the department of economic  
34 security.

35 36. "Personal care services" means assistance with activities of daily  
36 living that can be performed by persons without professional skills or  
37 professional training and includes the coordination or provision of  
38 intermittent nursing services, ~~and~~ the administration of medications and  
39 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as  
40 otherwise provided by law **AND SUBSTANCE ABUSE RECOVERY SUPPORT**.

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

43 38. "Residential care institution" means a health care institution  
44 other than a hospital or a nursing care institution that provides resident  
45 beds or residential units, supervisory care services, personal care services,

1 behavioral health services, directed care services or health-related services  
2 for persons who do not need continuous nursing services.

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

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

10 41. "Substantial compliance" means that the nature or number of  
11 violations revealed by any type of inspection or investigation of a health  
12 care institution does not pose a direct risk to the life, health or safety of  
13 patients or residents.

14 42. "Supervision" means direct overseeing and inspection of the act of  
15 accomplishing a function or activity.

16 43. "Supervisory care services" means general supervision, including  
17 daily awareness of resident functioning and continuing needs, the ability to  
18 intervene in a crisis, ~~and~~ assistance in the self-administration of  
19 prescribed medications **AND SUBSTANCE ABUSE COUNSELING AND SUPPORT**.

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

23 45. "Unscheduled medical services" means medically necessary periodic  
24 health care services that are unanticipated or cannot reasonably be  
25 anticipated and that require medical evaluation or treatment before the next  
26 business day.

27 B. If there are fewer than four Arizona long-term care system  
28 participants receiving adult foster care in an adult foster care home,  
29 nonparticipating adults may receive other types of services that are  
30 authorized by law to be provided in the adult foster care home as long as the  
31 number of adults served, including the Arizona long-term care system  
32 participants, does not exceed four.

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

37 Sec. 2. Section 36-402, Arizona Revised Statutes, is amended to read:  
38 **36-402. Exemptions**

39 A. This chapter and the rules adopted by the director pursuant to this  
40 chapter do not authorize the licensure, supervision, regulation or control  
41 of:

42 1. The remedial care or treatment of residents or patients in any home  
43 or institution conducted only for those who rely solely on treatment by  
44 prayer or spiritual means in accordance with the creed or tenets of any  
45 well-recognized church or religious denomination.

2. Establishments, such as motels, hotels and boarding houses, that provide domiciliary and ancillary commercial services, but do not provide adaptive, medical, hospital, nursing, behavioral health, health-related or supervisory care services.

3. Private offices and clinics of health care providers licensed under title 32 that are not freestanding urgent care centers, unless:

(a) Patients are kept overnight as bed patients or treated otherwise under general anesthesia, except when treatment by general anesthesia is regulated by title 32, chapter 11.

(b) The office or clinic is an abortion clinic. For the purposes of this subdivision, "abortion clinic" has the same meaning prescribed in section 36-449.01.

4. Dispensaries and first aid stations located within business or industrial establishments maintained solely for the use of employees if the facility does not contain inpatient beds and is under the supervision of a physician.

5. The collection, processing or distribution of whole human blood, blood components, plasma, blood fractions or derivatives procured, processed or distributed by federally licensed and regulated blood banks.

6. Places where four or fewer adults not related to the administrator or owner receive adult day health services for compensation on a regular basis.

7. Places at which persons receive health-related services only from relatives or from legal guardians or places that do not purport to be establishments that regularly provide health-related services and at which one or two persons receive health-related services on a twenty-four-hour basis.

8. The Arizona pioneers' home. However, the department of health services shall evaluate the health and sanitation conditions at the Arizona pioneers' home annually using the standards applicable to licensed nursing care institutions.

9. The personal residence of a terminally ill person, or the personal residence of that person's relative or guardian, where that person receives hospice services from a hospice service agency.

10. All medical and health-related facilities and services that are provided to inmates who are confined in a state prison. The state department of corrections shall annually evaluate the medical and health-related facilities and services that are provided to inmates to determine that the facilities and services meet the applicable standards that are adopted by the director of the department of health services. The state department of corrections shall report the results of its annual evaluation and the actual findings, including a plan of correction for any deficiencies, to the director of the department of health services. The department of health services shall conduct validation surveys on a percentage of the medical and health-related facilities, the number of which shall be determined by the

1 state department of corrections and the department of health services. The  
2 director of the state department of corrections shall maintain the annual  
3 evaluation reports. This paragraph does not apply to licensed behavioral or  
4 mental health inpatient treatment facilities that the state department of  
5 corrections operates.

6 11. A facility that provides medical and health services to inmates who  
7 are confined in a county jail. The sheriff shall annually evaluate the  
8 facility to determine if it meets the applicable standards that are adopted  
9 by either a national corrections commission on health care or an American  
10 correctional association, or the sheriff shall annually submit the facility  
11 to a similar separate inspection by an outside agency with medical  
12 standards. The sheriff must submit the certificate of accreditation or proof  
13 of successful inspection to the department annually and keep a copy of the  
14 certificate or proof of inspection.

15 12. Community education, advocacy or recovery support groups that are  
16 not owned or operated by or contracted to provide services with a health care  
17 institution **AND THAT DO NOT PROVIDE INPATIENT BEDS.**

18 B. A medical and health-related facility that provides medical and  
19 health services exclusively to persons who are incarcerated, detained or  
20 confined under court order or court jurisdiction is exempt from the  
21 patient-per-room capacity requirements provided in rule if the facility:

- 22 1. Does not exceed its intended medical and custodial purposes.
- 23 2. Adopts policies and procedures to comply with the national  
24 commission on correctional health care standards, or equivalent standards.
- 25 3. As soon as practicable, becomes accredited by the national  
26 commission on correctional health care, or by an equivalent organization.
- 27 4. Once accreditation is obtained, submits a certificate of  
28 accreditation to the department of health services annually.
- 29 5. Maintains a copy of the certificate of accreditation.
- 30 6. Maintains patient and custodial records, including on-site current  
31 photographs and fingerprints, if permitted by applicable law.
- 32 7. Makes patient lists with inmate identifiers available to the state  
33 department of corrections on reasonable request.

34 8. Provides timely notice of any major incident involving public  
35 safety to the appropriate law enforcement agency and allows that agency  
36 access to the facility for the purposes of law enforcement and investigation.

37 C. Subsection B of this section does not apply to health care  
38 institutions that exclusively provide behavioral health services.

39 Sec. 3. Rulemaking; exemption

40 For the purposes of implementing this act, the department of health  
41 services is exempt from the rulemaking requirements of title 41, chapter 6,  
42 Arizona Revised Statutes, for one year after the effective date of this act.  
43 The department shall provide notice and an opportunity for public comment on  
44 any proposed rules at least thirty days before the rule is adopted or  
45 amended.