

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 158

SENATE BILL 1283

AN ACT

AMENDING SECTION 36-405, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; 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 36-405, Arizona Revised Statutes, is amended to
3 read:

4 36-405. Powers and duties of the director

5 A. The director shall adopt rules to establish minimum standards and
6 requirements for the construction, modification and licensure of health care
7 institutions necessary to assure the public health, safety and welfare. The
8 standards and requirements shall relate to the construction, equipment,
9 sanitation, staffing for medical, nursing and personal care services, and
10 record keeping pertaining to the administration of medical, nursing,
11 behavioral health and personal care services, in accordance with generally
12 accepted practices of health care. The director shall use the current
13 standards adopted by the joint commission on accreditation of hospitals and
14 the commission on accreditation of the American osteopathic association or
15 those adopted by any recognized accreditation organization approved by the
16 department as guidelines in prescribing minimum standards and requirements
17 under this section.

18 B. The director, by rule, may:

19 1. Classify and subclassify health care institutions according to
20 character, size, range of services provided, medical or dental specialty
21 offered, duration of care and standard of patient care required for the
22 purposes of licensure. Classes of health care institutions may include
23 hospitals, infirmaries, outpatient treatment centers, health screening
24 services centers and residential care facilities. Whenever the director
25 reasonably deems distinctions in rules and standards to be appropriate among
26 different classes or subclasses of health care institutions, the director may
27 make such distinctions.

28 2. Prescribe standards for determining a health care institution's
29 substantial compliance with licensure requirements.

30 3. Prescribe the criteria for the licensure inspection process.

31 4. Prescribe standards for the selection of health care related
32 demonstration projects.

33 5. Establish and collect nonrefundable fees for health care
34 institutions for license applications, initial licenses, renewal licenses and
35 architectural drawing reviews.

36 C. The director, by rule, ~~may~~ **SHALL** adopt licensing provisions that
37 facilitate the colocation and integration of outpatient treatment centers
38 that provide medical, nursing and health-related services with behavioral
39 health services, ~~including provisions for avoiding duplicative requirements~~
40 ~~for construction, record keeping, ancillary services, equipment and operation~~
41 ~~for a facility at a single location that operates with more than one license~~
42 **CONSISTENT WITH ARTICLE 3.1 OF THIS CHAPTER.**

43 D. Ninety ~~per cent~~ **PERCENT** of the fees collected pursuant to this
44 section shall be deposited, pursuant to sections 35-146 and 35-147, in the
45 health services licensing fund established by section 36-414 and ten ~~per cent~~

1 PERCENT of the fees collected pursuant to this section shall be deposited,
2 pursuant to sections 35-146 and 35-147, in the state general fund.

3 E. Subsection B, paragraph 5 of this section does not apply to a
4 health care institution operated by a state agency pursuant to state or
5 federal law or to adult foster care residential settings.

6 Sec. 2. Title 36, chapter 4, Arizona Revised Statutes, is amended by
7 adding article 3.1, to read:

8 ARTICLE 3.1. COLOCATION AT OUTPATIENT TREATMENT CENTERS

9 36-439. Definitions

10 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

11 1. "ASSOCIATED LICENSED PROVIDER" MEANS ONE OR MORE LICENSED
12 OUTPATIENT TREATMENT CENTERS OR ONE OR MORE LICENSED COUNSELING FACILITIES
13 THAT SHARE COMMON AREAS PURSUANT TO A WRITTEN AGREEMENT WITH A COLLABORATING
14 OUTPATIENT TREATMENT CENTER AND THAT ARE LIABLE AND RESPONSIBLE FOR THE
15 TREATMENT AREAS THAT ARE USED BY THE RESPECTIVE ASSOCIATED LICENSED PROVIDER
16 PURSUANT TO WRITTEN POLICIES.

17 2. "COLLABORATING OUTPATIENT TREATMENT CENTER" MEANS A LICENSED
18 OUTPATIENT TREATMENT CENTER THAT HAS A WRITTEN AGREEMENT WITH ONE OR MORE
19 OUTPATIENT TREATMENT CENTERS OR EXEMPT HEALTH CARE PROVIDERS OR LICENSED
20 COUNSELING FACILITIES THAT REQUIRES THE COLLABORATING OUTPATIENT TREATMENT
21 CENTER TO BE LIABLE AND RESPONSIBLE PURSUANT TO WRITTEN POLICIES FOR ALL
22 COMMON AREAS THAT ONE OR MORE COLOCATORS USE.

23 3. "COLOCATOR" MEANS AN EXEMPT HEALTH CARE PROVIDER OR A GOVERNING
24 AUTHORITY OPERATING AS AN OUTPATIENT TREATMENT CENTER OR A LICENSED
25 COUNSELING FACILITY THAT MAY SHARE COMMON AREAS AND NONTREATMENT PERSONNEL
26 WITH ANOTHER COLOCATOR PURSUANT TO AN AGREEMENT AS PRESCRIBED IN THIS
27 ARTICLE.

28 4. "COMMON AREAS":

29 (a) MEANS THE LICENSED PUBLIC OR NONPUBLIC PORTIONS OF OUTPATIENT
30 TREATMENT CENTER PREMISES THAT ARE NOT USED FOR TREATMENT AND THAT ARE SHARED
31 BY ONE OR MORE LICENSEES OR EXEMPT HEALTH CARE PROVIDERS.

32 (b) INCLUDES HALLWAYS, ENTRANCES, ELEVATORS, STAIRCASES, RESTROOMS,
33 RECEPTION AREAS, CONFERENCE AREAS, EMPLOYEE BREAK ROOMS, RECORDS RETENTION
34 AREAS AND OTHER NONTREATMENT AREAS OF AN OUTPATIENT TREATMENT CENTER.

35 5. "EMERGENCY HEALTH CARE SERVICES" MEANS TREATMENT FOR A MEDICAL OR
36 BEHAVIORAL HEALTH CONDITION, INCLUDING LABOR AND DELIVERY, THAT MANIFESTS
37 ITSELF BY ACUTE SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, SUCH
38 THAT A PRUDENT LAYPERSON WHO POSSESSES AN AVERAGE KNOWLEDGE OF HEALTH AND
39 MEDICINE COULD REASONABLY EXPECT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION
40 TO RESULT IN ANY OF THE FOLLOWING:

41 (a) PLACING THE PATIENT'S HEALTH, INCLUDING MENTAL HEALTH, IN SERIOUS
42 JEOPARDY.

43 (b) SERIOUS IMPAIRMENT TO A BODILY FUNCTION OF THE PATIENT.

44 (c) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF THE PATIENT.

45 (d) HARM TO THE PATIENT OR OTHERS.

1 6. "EXEMPT HEALTH CARE PROVIDER" MEANS A HEALTH CARE PROVIDER WHO IS
2 LICENSED PURSUANT TO TITLE 32, WHO HOLDS AN ACTIVE LICENSE AND WHOSE PRIVATE
3 OFFICE OR CLINIC IS EXEMPT FROM LICENSURE PURSUANT TO SECTION 36-402,
4 SUBSECTION A, PARAGRAPH 3.

5 7. "NONTREATMENT PERSONNEL" MEANS EMPLOYEES, AGENTS, STUDENTS, INTERNS
6 OR INDEPENDENT CONTRACTORS WHO PROVIDE SERVICES TO AN OUTPATIENT TREATMENT
7 CENTER COLOCATOR THAT DO NOT ENTAIL MEDICAL, NURSING OR BEHAVIORAL HEALTH
8 ASSESSMENT OR TREATMENT.

9 8. "TREATMENT AREAS" MEANS PORTIONS OF LICENSED OUTPATIENT TREATMENT
10 CENTER PREMISES THAT ARE USED FOR THE PROVISION OF HEALTH CARE ASSESSMENT AND
11 TREATMENT OF PATIENTS.

12 36-439.01. Colocation of licensees

13 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, ONE OR MORE
14 OUTPATIENT TREATMENT CENTER LICENSEES THAT PROVIDE MEDICAL, NURSING AND
15 HEALTH-RELATED SERVICES MAY COLOCATE OR COLOCATE WITH ONE OR MORE LICENSEES
16 THAT PROVIDE BEHAVIORAL HEALTH SERVICES OR WITH ONE OR MORE LICENSED
17 COUNSELING FACILITIES AND MAY SHARE COMMON AREAS AT THE COLLABORATING
18 OUTPATIENT TREATMENT CENTER PREMISES AND SHARE NONTREATMENT PERSONNEL
19 PURSUANT TO THE REQUIREMENTS OF THIS ARTICLE.

20 36-439.02. Colocators; collaborating outpatient treatment
21 centers; requirements

22 IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS CHAPTER, COLOCATORS AT A
23 COLLABORATING OUTPATIENT TREATMENT CENTER SHALL:

24 1. DESIGNATE WHICH OUTPATIENT TREATMENT CENTER WILL ACT AS THE
25 COLLABORATING OUTPATIENT TREATMENT CENTER AND BE LIABLE AND RESPONSIBLE FOR
26 THE HEALTH, SAFETY, CLEANLINESS AND MAINTENANCE OF ALL COMMON AREAS AND THE
27 SUPERVISION AND TRAINING OF ALL SHARED NONTREATMENT PERSONNEL PURSUANT TO
28 WRITTEN POLICIES OF THE COLLABORATING OUTPATIENT TREATMENT CENTER.

29 2. DESIGNATE WHICH AREAS ARE CONSIDERED COMMON AREAS AND WHICH
30 PERSONNEL ARE DESIGNATED AS SHARED NONTREATMENT PERSONNEL.

31 3. DESIGNATE THE ASSOCIATED LICENSED PROVIDERS.

32 4. ENSURE THAT MEDICAL RECORDS THAT ARE LOCATED IN COMMON AREAS OR
33 SHARED BY COLOCATORS ARE MAINTAINED PURSUANT TO ALL FEDERAL AND STATE
34 CONFIDENTIALITY LAWS. A COLOCATOR MAY HAVE ACCESS TO A PATIENT'S MEDICAL
35 RECORDS ONLY IF THE PATIENT HAS CONSENTED.

36 36-439.03. Use of treatment areas

37 COLOCATORS SHALL SOLELY MAINTAIN AND USE TREATMENT AREAS THAT ARE
38 DESIGNATED PURSUANT TO EACH OF THEIR RESPECTIVE LICENSES AND MAY NOT USE
39 ANOTHER COLOCATOR'S TREATMENT AREAS EXCEPT AS FOLLOWS:

40 1. FOR THE PROVISION OF EMERGENCY HEALTH CARE SERVICES.

41 2. DURING HOURS OF OPERATION BY A COLOCATOR THAT ARE CLEARLY
42 IDENTIFIED BY SIGNAGE TO THE PUBLIC AND NOTICE TO THE DEPARTMENT.

1 36-439.04. Colocation: outpatient treatment centers: health
2 care providers

3 A. THE GOVERNING AUTHORITY OF A LICENSED COLLABORATING OUTPATIENT
4 TREATMENT CENTER, BY AGREEMENT, MAY SHARE COMMON AREAS AND MAY SHARE
5 NONTREATMENT PERSONNEL WITH ONE OR MORE EXEMPT HEALTH CARE PROVIDERS OR ONE
6 OR MORE LICENSED COUNSELING FACILITIES PURSUANT TO SECTION 36-439.02.

7 B. TREATMENT AREAS THAT ARE LICENSED UNDER AN OUTPATIENT TREATMENT
8 CENTER MAY ALSO BE USED BY AN EXEMPT HEALTH CARE PROVIDER IF THE PROVIDER'S
9 TREATMENT AREAS AND HOURS OF OPERATION ARE CLEARLY IDENTIFIED BY SIGNAGE TO
10 THE PUBLIC AND NOTICE TO THE DEPARTMENT.

11 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, AN OUTPATIENT
12 TREATMENT CENTER MAY CONTRACT WITH OR EMPLOY AN EXEMPT HEALTH CARE PROVIDER
13 TO PROVIDE HEALTH CARE SERVICES TO THE OUTPATIENT TREATMENT CENTER'S
14 PATIENTS.

15 Sec. 3. Rulemaking; exemption

16 A. For the purposes of the implementation of this act, the department
17 of health services is exempt from the rulemaking requirements of title 41,
18 chapter 6, Arizona Revised Statutes, until April 15, 2016, except that the
19 department shall provide public notice and an opportunity for public comment
20 on proposed rules at least thirty days before the rules are adopted or
21 amended.

22 B. The director of the department of health services shall consider
23 the adoption of and amendment to rules relating to the licensing of
24 behavioral health residential facilities, outpatient treatment centers and
25 behavioral health respite homes. For the purposes of implementing this
26 subsection, the department is exempt from the rulemaking requirements of
27 title 41, chapter 6, Arizona Revised Statutes, until April 15, 2016. The
28 department shall provide public notice and an opportunity for public comment
29 on proposed rules adopted or amended pursuant to this subsection at least
30 thirty days before the rules are adopted or amended. In adopting the rules,
31 the director shall:

32 1. Provide for the use of outpatient treatment centers for the
33 provision of respite care for children receiving behavioral health services
34 pursuant to rules adopted by the department.

35 2. Allow children who are receiving behavioral health services to
36 receive respite care in a behavioral health residential facility without a
37 nursing assessment or physical examination if the child will be receiving
38 respite services for fewer than five consecutive days at the facility.

39 Sec. 4. Emergency

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

APPROVED BY THE GOVERNOR APRIL 1, 2015.

S.B. 1283

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.