

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 121**  
**HOUSE BILL 2070**

AN ACT

AMENDING SECTIONS 36-401 AND 36-421, ARIZONA REVISED STATUTES; RELATING TO  
ADULT BEHAVIORAL HEALTH.

(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 BEHAVIORAL HEALTH THERAPEUTIC HOME" MEANS A RESIDENCE FOR  
13 INDIVIDUALS WHO ARE AT LEAST EIGHTEEN YEARS OF AGE, HAVE BEHAVIORAL HEALTH  
14 ISSUES AND NEED BEHAVIORAL HEALTH SERVICES THAT DOES ALL OF THE FOLLOWING  
15 FOR THOSE INDIVIDUALS:

16 (a) PROVIDES ROOM AND BOARD.

17 (b) ASSISTS IN ACQUIRING DAILY LIVING SKILLS.

18 (c) COORDINATES TRANSPORTATION TO SCHEDULED APPOINTMENTS.

19 (d) MONITORS BEHAVIORS.

20 (e) ASSISTS IN THE SELF-ADMINISTRATION OF MEDICATION.

21 (f) PROVIDES FEEDBACK TO CASE MANAGERS RELATED TO BEHAVIOR.

22 ~~3.~~ 4. "Adult day health care facility" means a facility that  
23 provides adult day health services during a portion of a continuous  
24 twenty-four-hour period for compensation on a regular basis for five or  
25 more adults who are not related to the proprietor.

26 ~~4.~~ 5. "Adult day health services" means a program that provides  
27 planned care supervision and activities, personal care, personal living  
28 skills training, meals and health monitoring in a group setting during a  
29 portion of a continuous twenty-four-hour period. Adult day health  
30 services may also include preventive, therapeutic and restorative  
31 health-related services that do not include behavioral health services.

32 ~~5.~~ 6. "Adult foster care home" means a residential setting that  
33 provides room and board and adult foster care services for at least one  
34 and no more than four adults who are participants in the Arizona long-term  
35 care system pursuant to chapter 29, article 2 of this title or contracts  
36 for services with the United States department of veterans affairs and in  
37 which the sponsor or the manager resides with the residents and integrates  
38 the residents who are receiving adult foster care into that person's  
39 family.

40 ~~6.~~ 7. "Adult foster care services" means supervision, assistance  
41 with eating, bathing, toileting, dressing, self-medication and other  
42 routines of daily living or services authorized by rules adopted pursuant  
43 to section 36-405 and section 36-2939, subsection C.

1           ~~7.~~ 8. "Assisted living center" means an assisted living facility  
2 that provides resident rooms or residential units to eleven or more  
3 residents.

4           ~~8.~~ 9. "Assisted living facility" means a residential care  
5 institution, including an adult foster care home, that provides or  
6 contracts to provide supervisory care services, personal care services or  
7 directed care services on a continuous basis.

8           ~~9.~~ 10. "Assisted living home" means an assisted living facility  
9 that provides resident rooms to ten or fewer residents.

10          ~~10.~~ 11. "Behavioral health services" means services that pertain  
11 to mental health and substance use disorders and that are either:

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

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

17          ~~11.~~ 12. "Construction" means the building, erection, fabrication  
18 or installation of a health care institution.

19          ~~12.~~ 13. "Continuous" means available at all times without  
20 cessation, break or interruption.

21          ~~13.~~ 14. "Controlling person" means a person who:

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

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

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

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

34          ~~14.~~ 15. "Department" means the department of health services.

35          ~~15.~~ 16. "Directed care services" means programs and services,  
36 including supervisory and personal care services, that are provided to  
37 persons who are incapable of recognizing danger, summoning assistance,  
38 expressing need or making basic care decisions.

39          ~~16.~~ 17. "Direction" means authoritative policy or procedural  
40 guidance for the accomplishment of a function or activity.

41          ~~17.~~ 18. "Director" means the director of the department of health  
42 services.

43          ~~18.~~ 19. "Facilities" means buildings that are used by a health  
44 care institution for providing any of the types of services as defined in  
45 this chapter.

1           ~~19.~~ 20. "Freestanding urgent care center":  
2           (a) Means an outpatient treatment center that, regardless of its  
3 posted or advertised name, meets any of the following requirements:  
4           (i) Is open twenty-four hours a day, excluding at its option  
5 weekends or certain holidays, but is not licensed as a hospital.  
6           (ii) Claims to provide unscheduled medical services not otherwise  
7 routinely available in primary care physician offices.  
8           (iii) By its posted or advertised name, gives the impression to the  
9 public that it provides medical care for urgent, immediate or emergency  
10 conditions.  
11           (iv) Routinely provides ongoing unscheduled medical services for  
12 more than eight consecutive hours for an individual patient.  
13           (b) Does not include the following:  
14           (i) A medical facility that is licensed under a hospital's license  
15 and that uses the hospital's medical provider number.  
16           (ii) A qualifying community health center pursuant to section  
17 36-2907.06.  
18           (iii) Any other health care institution licensed pursuant to this  
19 chapter.  
20           (iv) A physician's office that offers extended hours or same-day  
21 appointments to existing and new patients and that does not meet the  
22 requirements of subdivision (a), item (i), (iii) or (iv) of this  
23 paragraph.  
24           ~~20.~~ 21. "Governing authority" means the individual, agency,  
25 partners, group or corporation, appointed, elected or otherwise  
26 designated, in which the ultimate responsibility and authority for the  
27 conduct of the health care institution are vested.  
28           ~~21.~~ 22. "Health care institution" means every place, institution,  
29 building or agency, whether organized for profit or not, that provides  
30 facilities with medical services, nursing services, behavioral health  
31 services, health screening services, other health-related services,  
32 supervisory care services, personal care services or directed care  
33 services and includes home health agencies as defined in section 36-151,  
34 outdoor behavioral health care programs and hospice service agencies.  
35 Health care institution does not include a community residential setting  
36 as defined in section 36-551.  
37           ~~22.~~ 23. "Health-related services" means services, other than  
38 medical, that pertain to general supervision, protective, preventive and  
39 personal care services, supervisory care services or directed care  
40 services.  
41           ~~23.~~ 24. "Health screening services" means the acquisition,  
42 analysis and delivery of health-related data of individuals to aid in the  
43 determination of the need for medical services.  
44           ~~24.~~ 25. "Hospice" means a hospice service agency or the provision  
45 of hospice services in an inpatient facility.

1           ~~25.~~ 26. "Hospice service" means a program of palliative and  
2 supportive care for terminally ill persons and their families or  
3 caregivers.

4           ~~26.~~ 27. "Hospice service agency" means an agency or organization,  
5 or a subdivision of that agency or organization, that is engaged in  
6 providing hospice services at the place of residence of its clients.

7           ~~27.~~ 28. "Inpatient beds" or "resident beds" means accommodations  
8 with supporting services, such as food, laundry and housekeeping, for  
9 patients or residents who generally stay in excess of twenty-four hours.

10           ~~28.~~ 29. "Licensed capacity" means the total number of persons for  
11 whom the health care institution is authorized by the department to  
12 provide services as required pursuant to this chapter if the person is  
13 expected to stay in the health care institution for more than twenty-four  
14 hours. For a hospital, licensed capacity means only those beds specified  
15 on the hospital license.

16           ~~29.~~ 30. "Medical services" means the services that pertain to  
17 medical care and that are performed at the direction of a physician on  
18 behalf of patients by physicians, dentists, nurses and other professional  
19 and technical personnel.

20           ~~30.~~ 31. "Modification" means the substantial improvement,  
21 enlargement, reduction or alteration of or other change in a health care  
22 institution.

23           ~~31.~~ 32. "Nonproprietary institution" means any health care  
24 institution that is organized and operated exclusively for charitable  
25 purposes, no part of the net earnings of which inures to the benefit of  
26 any private shareholder or individual, or that is operated by the state or  
27 any political subdivision of the state.

28           ~~32.~~ 33. "Nursing care institution" means a health care institution  
29 that provides inpatient beds or resident beds and nursing services to  
30 persons who need continuous nursing services but who do not require  
31 hospital care or direct daily care from a physician.

32           ~~33.~~ 34. "Nursing services" means those services that pertain to  
33 the curative, restorative and preventive aspects of nursing care and that  
34 are performed at the direction of a physician by or under the supervision  
35 of a registered nurse licensed in this state.

36           ~~34.~~ 35. "Organized medical staff" means a formal organization of  
37 physicians, and dentists where appropriate, with the delegated authority  
38 and responsibility to maintain proper standards of medical care and to  
39 plan for continued betterment of that care.

40           ~~35.~~ 36. "Outdoor behavioral health care program" means an agency  
41 that provides behavioral health services in an outdoor environment as an  
42 alternative to behavioral health services that are provided in a health  
43 care institution with facilities. Outdoor behavioral health care programs  
44 do not include:

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

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

7 (c) Outdoor youth programs licensed by the department of economic  
8 security.

9 ~~36.~~ 37. "Personal care services" means assistance with activities  
10 of daily living that can be performed by persons without professional  
11 skills or professional training and includes the coordination or provision  
12 of intermittent nursing services and the administration of medications and  
13 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or  
14 as otherwise provided by law.

15 ~~37.~~ 38. "Physician" means any person who is licensed pursuant to  
16 title 32, chapter 13 or 17.

17 ~~38.~~ 39. "Recidivism reduction services" means services that are  
18 delivered by an adult residential care institution to its residents to  
19 encourage lawful behavior and to discourage or prevent residents who are  
20 suspected of, charged with or convicted of one or more criminal offenses,  
21 or whose mental health and substance use can be reasonably expected to  
22 place them at risk for the future threat of prosecution, diversion or  
23 incarceration, from engaging in future unlawful behavior.

24 ~~39.~~ 40. "Recidivism reduction staff" means a person who provides  
25 recidivism reduction services.

26 ~~40.~~ 41. "Residential care institution" means a health care  
27 institution other than a hospital or a nursing care institution that  
28 provides resident beds or residential units, supervisory care services,  
29 personal care services, behavioral health services, directed care services  
30 or health-related services for persons who do not need continuous nursing  
31 services.

32 ~~41.~~ 42. "Residential unit" means a private apartment, unless  
33 otherwise requested by a resident, that includes a living and sleeping  
34 space, kitchen area, private bathroom and storage area.

35 ~~42.~~ 43. "Respite care services" means services that are provided  
36 by a licensed health care institution to persons otherwise cared for in  
37 foster homes and in private homes to provide an interval of rest or relief  
38 of not more than thirty days to operators of foster homes or to family  
39 members.

40 ~~43.~~ 44. "Substantial compliance" means that the nature or number  
41 of violations revealed by any type of inspection or investigation of a  
42 health care institution does not pose a direct risk to the life, health or  
43 safety of patients or residents.

44 ~~44.~~ 45. "Supervision" means direct overseeing and inspection of  
45 the act of accomplishing a function or activity.



1 comply with the buffer zone requirements and records the agreement in the  
2 office of the county recorder as a restrictive covenant running with the  
3 title to the land, the health care institution or facility may be licensed  
4 and located within the affected buffer zone. The agreement may include  
5 any stipulations regarding the health care institution or facility,  
6 including conditions for future expansion of the health care institution  
7 or facility and changes in the operational status of the health care  
8 institution or facility that will result in a breach of the  
9 agreement. This subsection does not apply to the issuance of a license  
10 for a health care institution located in the same location for which a  
11 health care institution license was previously issued.

12 E. Notwithstanding any law to the contrary, a health care  
13 institution that was licensed as a level 1 psychiatric acute behavioral  
14 health facility-inpatient facility as of January 1, 2012 and that is not  
15 certified under title XIX of the social security act shall be licensed as  
16 a hospital and is not required to comply with the physical plant standards  
17 for a general hospital, rural general hospital or special hospital  
18 prescribed by the department.

19 F. AN ADULT BEHAVIORAL HEALTH THERAPEUTIC HOME IS NOT REQUIRED TO  
20 COMPLY WITH THE BUILDING CODES OR ZONING STANDARDS FOR A HEALTH CARE  
21 INSTITUTION PRESCRIBED BY THE DEPARTMENT.

22 ~~F.~~ G. For the purposes of this section, health care institution  
23 does not include a home health agency or a hospice service agency.

APPROVED BY THE GOVERNOR APRIL 23, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2019.