

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 190
SENATE BILL 1038

AN ACT

AMENDING SECTIONS 36-402, 36-421 AND 41-921, 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 36-402, Arizona Revised Statutes, is amended to
3 read:

4 36-402. Exemptions

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

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

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

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

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

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

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

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

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

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

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

43 ~~9.~~ 8. The personal residence of a terminally ill person, or the
44 personal residence of that person's relative or guardian, where that
45 person receives hospice services from a hospice service agency.

1 ~~10-~~ 9. All medical and health-related facilities and services that
2 are provided to inmates who are confined in a state prison. The state
3 department of corrections shall annually evaluate the medical and
4 health-related facilities and services that are provided to inmates to
5 determine that the facilities and services meet the applicable standards
6 that are adopted by the director of the department of health services.
7 The state department of corrections shall report the results of its annual
8 evaluation and the actual findings, including a plan of correction for any
9 deficiencies, to the director of the department of health services. The
10 department of health services shall conduct validation surveys on a
11 percentage of the medical and health-related facilities, the number of
12 which shall be determined by the state department of corrections and the
13 department of health services. The director of the state department of
14 corrections shall maintain the annual evaluation reports. This paragraph
15 does not apply to licensed behavioral or mental health inpatient treatment
16 facilities that the state department of corrections operates.

17 ~~11-~~ 10. A facility that provides medical and health services to
18 inmates who are confined in a county jail. The sheriff shall annually
19 evaluate the facility to determine if it meets the applicable standards
20 that are adopted by either a national corrections commission on health
21 care or an American correctional association, or the sheriff shall
22 annually submit the facility to a similar separate inspection by an
23 outside agency with medical standards. The sheriff must submit the
24 certificate of accreditation or proof of successful inspection to the
25 department annually and keep a copy of the certificate or proof of
26 inspection.

27 ~~12-~~ 11. Community education, advocacy or recovery support groups
28 that are not owned or operated by or contracted to provide services with a
29 health care institution.

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

- 34 1. Does not exceed its intended medical and custodial purposes.
- 35 2. Adopts policies and procedures to comply with the national
36 commission on correctional health care standards, or equivalent standards.
- 37 3. As soon as practicable, becomes accredited by the national
38 commission on correctional health care, or by an equivalent organization.
- 39 4. Once accreditation is obtained, submits a certificate of
40 accreditation to the department of health services annually.
- 41 5. Maintains a copy of the certificate of accreditation.
- 42 6. Maintains patient and custodial records, including on-site
43 current photographs and fingerprints, if permitted by applicable law.
- 44 7. Makes patient lists with inmate identifiers available to the
45 state department of corrections on reasonable request.

1 8. Provides timely notice of any major incident involving public
2 safety to the appropriate law enforcement agency and allows that agency
3 access to the facility for the purposes of law enforcement and
4 investigation.

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

7 Sec. 2. Section 36-421, Arizona Revised Statutes, is amended to
8 read:

9 36-421. Construction or modification of a health care
10 institution

11 A. A license application for a health care institution shall
12 include architectural plans and specifications or the department's
13 approval of the architectural plans and specifications. These plans and
14 specifications shall meet the minimum standards for licensure within the
15 class or subclass of health care institution for which it is intended.
16 The application shall include the name and address of each owner and
17 lessee of any agricultural land that is regulated pursuant to section
18 3-365.

19 B. Construction or modification of a licensed health care
20 institution shall meet the minimum standards for licensure within the
21 class or subclass of health care institution for which it is intended.

22 C. An applicant shall comply with all state statutes and rules and
23 local codes and ordinances required for the health care institution's
24 construction.

25 D. A health care institution or its facility shall not be licensed
26 if it is located on property that is less than four hundred feet from
27 agricultural land that is regulated pursuant to section 3-365, except that
28 the owner of the agricultural land may agree to comply with the buffer
29 zone requirements of section 3-365. If the owner agrees in writing to
30 comply with the buffer zone requirements and records the agreement in the
31 office of the county recorder as a restrictive covenant running with the
32 title to the land, the health care institution or facility may be licensed
33 and located within the affected buffer zone. The agreement may include
34 any stipulations regarding the health care institution or facility,
35 including conditions for future expansion of the health care institution
36 or facility and changes in the operational status of the health care
37 institution or facility that will result in a breach of the agreement.
38 This subsection does not apply to the issuance of a license for a health
39 care institution located in the same location for which a health care
40 institution license was previously issued.

41 E. Notwithstanding any law to the contrary, a health care
42 institution that was licensed as a level 1 psychiatric acute behavioral
43 health facility-inpatient facility as of January 1, 2012 and that is not
44 certified under title XIX of the social security act shall be licensed as
45 a hospital and is not required to comply with the physical plant standards

1 for a general hospital, rural general hospital or special hospital
2 prescribed by the department.

3 F. THE ARIZONA PIONEERS' HOME IS NOT REQUIRED TO COMPLY WITH
4 SUBSECTION A OF THIS SECTION AND THE PHYSICAL PLANT STANDARDS FOR A HEALTH
5 CARE INSTITUTION PRESCRIBED BY THE DEPARTMENT.

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

8 Sec. 3. Section 41-921, Arizona Revised Statutes, is amended to
9 read:

10 41-921. Arizona pioneers' home; establishment; location

11 A home for aged and infirm Arizona pioneers is established and shall
12 be known as the "Arizona pioneers' home". For THE purposes prescribed in
13 section 25 of the enabling act, the pioneers' home shall be designated as
14 the STATE hospital for miners with disabilities ~~and shall have the same~~
15 ~~exemption provided to the pioneers' home pursuant to section 36-402~~. The
16 home shall be maintained at or near Prescott, Arizona.

17 Sec. 4. Emergency

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

APPROVED BY THE GOVERNOR MAY 8, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2019.