

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SENATE BILL 1505

AN ACT

AMENDING SECTIONS 36-401 AND 36-421, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-425.07; AMENDING SECTIONS 36-551, 36-557, 36-568, 36-581, 36-591 AND 36-595.01, 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
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 4. "Adult day health care facility" means a facility that provides
23 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 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 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 7. "Adult foster care services" means supervision, assistance with
41 eating, bathing, toileting, dressing, self-medication and other routines
42 of daily living or services authorized by rules adopted pursuant to
43 section 36-405 and section 36-2939, subsection C.

44 8. "Assisted living center" means an assisted living facility that
45 provides resident rooms or residential units to eleven or more residents.

1 9. "Assisted living facility" means a residential care institution,
2 including an adult foster care home, that provides or contracts to provide
3 supervisory care services, personal care services or directed care
4 services on a continuous basis.

5 10. "Assisted living home" means an assisted living facility that
6 provides resident rooms to ten or fewer residents.

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

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

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

14 12. "Construction" means the building, erection, fabrication or
15 installation of a health care institution.

16 13. "Continuous" means available at all times without cessation,
17 break or interruption.

18 14. "Controlling person" means a person who:

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

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

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

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

31 15. "Department" means the department of health services.

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

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

38 18. "Director" means the director of the department of health
39 services.

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

43 20. "Freestanding urgent care center":

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

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

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

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

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

10 (b) Does not include the following:

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

13 (ii) A qualifying community health center pursuant to section
14 36-2907.06.

15 (iii) Any other health care institution licensed pursuant to this
16 chapter.

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

21 21. "Governing authority" means the individual, agency, partners,
22 group or corporation, appointed, elected or otherwise designated, in which
23 the ultimate responsibility and authority for the conduct of the health
24 care institution are vested.

25 22. "Health care institution" means every place, institution,
26 building or agency, whether organized for profit or not, that provides
27 facilities with medical services, nursing services, behavioral health
28 services, health screening services, other health-related services,
29 supervisory care services, personal care services or directed care
30 services and includes home health agencies as defined in section 36-151,
31 outdoor behavioral health care programs and hospice service agencies.

32 ~~Health care institution does not include a community residential setting~~
33 ~~as defined in section 36-551.~~

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

37 24. "Health screening services" means the acquisition, analysis and
38 delivery of health-related data of individuals to aid in the determination
39 of the need for medical services.

40 25. "Hospice" means a hospice service agency or the provision of
41 hospice services in an inpatient facility.

42 26. "Hospice service" means a program of palliative and supportive
43 care for terminally ill persons and their families or caregivers.

1 27. "Hospice service agency" means an agency or organization, or a
2 subdivision of that agency or organization, that is engaged in providing
3 hospice services at the place of residence of its clients.

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

7 29. "Intermediate care facility for individuals with intellectual
8 disabilities" has the same meaning prescribed in section 36-551.

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

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

19 32. "Modification" means the substantial improvement, enlargement,
20 reduction or alteration of or other change in a health care institution.

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

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

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

34 36. "NURSING SUPPORTED GROUP HOME" MEANS A HEALTH CARE INSTITUTION
35 THAT IS A COMMUNITY RESIDENTIAL SETTING AS DEFINED IN SECTION 36-551 FOR
36 NOT MORE THAN SIX PERSONS WITH DEVELOPMENTAL DISABILITIES THAT IS OPERATED
37 BY A SERVICE PROVIDER UNDER CONTRACT WITH THE DEPARTMENT OF ECONOMIC
38 SECURITY AND THAT PROVIDES ROOM AND BOARD, DAILY HABILITATION AND
39 CONTINUOUS NURSING SUPPORT AND INTERVENTION.

40 ~~36.~~ 37. "Organized medical staff" means a formal organization of
41 physicians, and dentists where appropriate, with the delegated authority
42 and responsibility to maintain proper standards of medical care and to
43 plan for continued betterment of that care.

1 ~~37.~~ 38. "Outdoor behavioral health care program" means an agency
2 that provides behavioral health services in an outdoor environment as an
3 alternative to behavioral health services that are provided in a health
4 care institution with facilities. Outdoor behavioral health care programs
5 do not include:

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

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

12 (c) Outdoor youth programs licensed by the department of economic
13 security.

14 ~~38.~~ 39. "Personal care services" means assistance with activities
15 of daily living that can be performed by persons without professional
16 skills or professional training and includes the coordination or provision
17 of intermittent nursing services and the administration of medications and
18 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or
19 as otherwise provided by law.

20 ~~39.~~ 40. "Physician" means any person who is licensed pursuant to
21 title 32, chapter 13 or 17.

22 ~~40.~~ 41. "Recidivism reduction services" means services that are
23 delivered by an adult residential care institution to its residents to
24 encourage lawful behavior and to discourage or prevent residents who are
25 suspected of, charged with or convicted of one or more criminal offenses,
26 or whose mental health and substance use can be reasonably expected to
27 place them at risk for the future threat of prosecution, diversion or
28 incarceration, from engaging in future unlawful behavior.

29 ~~41.~~ 42. "Recidivism reduction staff" means a person who provides
30 recidivism reduction services.

31 ~~42.~~ 43. "Residential care institution" means a health care
32 institution other than a hospital or a nursing care institution that
33 provides resident beds or residential units, supervisory care services,
34 personal care services, behavioral health services, directed care services
35 or health-related services for persons who do not need continuous nursing
36 services.

37 ~~43.~~ 44. "Residential unit" means a private apartment, unless
38 otherwise requested by a resident, that includes a living and sleeping
39 space, kitchen area, private bathroom and storage area.

40 ~~44.~~ 45. "Respite care services" means services that are provided
41 by a licensed health care institution to persons otherwise cared for in
42 foster homes and in private homes to provide an interval of rest or relief
43 of not more than thirty days to operators of foster homes or to family
44 members.

1 ~~45.~~ 46. "Substantial compliance" means that the nature or number
2 of violations revealed by any type of inspection or investigation of a
3 health care institution does not pose a direct risk to the life, health or
4 safety of patients or residents.

5 ~~46.~~ 47. "Supervision" means direct overseeing and inspection of
6 the act of accomplishing a function or activity.

7 ~~47.~~ 48. "Supervisory care services" means general supervision,
8 including daily awareness of resident functioning and continuing needs,
9 the ability to intervene in a crisis and assistance in the
10 self-administration of prescribed medications.

11 ~~48.~~ 49. "Temporary license" means a license that is issued by the
12 department to operate a class or subclass of a health care institution at
13 a specific location and that is valid until an initial licensing
14 inspection.

15 ~~49.~~ 50. "Unscheduled medical services" means medically necessary
16 periodic health care services that are unanticipated or cannot reasonably
17 be anticipated and that require medical evaluation or treatment before the
18 next business day.

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

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

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

31 36-421. Construction or modification of a health care
32 institution

33 A. A license application for a health care institution shall
34 include architectural plans and specifications or the department's
35 approval of the architectural plans and specifications. These plans and
36 specifications shall meet the minimum standards for licensure within the
37 class or subclass of health care institution for which it is intended.
38 The application shall include the name and address of each owner and
39 lessee of any agricultural land that is regulated pursuant to section
40 3-365.

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

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

4 D. A health care institution or its facility shall not be licensed
5 if it is located on property that is less than four hundred feet from
6 agricultural land that is regulated pursuant to section 3-365, except that
7 the owner of the agricultural land may agree to comply with the buffer
8 zone requirements of section 3-365. If the owner agrees in writing to
9 comply with the buffer zone requirements and records the agreement in the
10 office of the county recorder as a restrictive covenant running with the
11 title to the land, the health care institution or facility may be licensed
12 and located within the affected buffer zone. The agreement may include
13 any stipulations regarding the health care institution or facility,
14 including conditions for future expansion of the health care institution
15 or facility and changes in the operational status of the health care
16 institution or facility that will result in a breach of the agreement.
17 This subsection does not apply to the issuance of a license for a health
18 care institution located in the same location for which a health care
19 institution license was previously issued.

20 E. Notwithstanding any law to the contrary, a health care
21 institution that was licensed as a level 1 psychiatric acute behavioral
22 health facility-inpatient facility as of January 1, 2012 and that is not
23 certified under title XIX of the social security act shall be licensed as
24 a hospital and is not required to comply with the physical plant standards
25 for a general hospital, rural general hospital or special hospital
26 prescribed by the department.

27 F. An adult behavioral health therapeutic home is not required to
28 comply with the building codes or zoning standards for a health care
29 institution prescribed by the department.

30 G. The Arizona pioneers' home is not required to comply with
31 subsection A of this section and the physical plant standards for a health
32 care institution prescribed by the department.

33 H. A NURSING SUPPORTED GROUP HOME IS NOT REQUIRED TO COMPLY WITH
34 THE ZONING STANDARDS FOR A HEALTH CARE INSTITUTION PRESCRIBED BY THE
35 DEPARTMENT.

36 ~~H.~~ I. For the purposes of this section, health care institution
37 does not include a home health agency or a hospice service agency.

38 Sec. 3. Title 36, chapter 4, article 2, Arizona Revised Statutes,
39 is amended by adding section 36-425.07, to read:

40 36-425.07. Nursing supported group homes: licensure

41 ON OR BEFORE JULY 1, 2021, A NURSING SUPPORTED GROUP HOME THAT IS
42 OPERATED IN THIS STATE BY A SERVICE PROVIDER UNDER CONTRACT WITH THE
43 DEPARTMENT OF ECONOMIC SECURITY SHALL BE LICENSED PURSUANT TO THIS
44 CHAPTER.

1 Sec. 4. Section 36-551, Arizona Revised Statutes, is amended to
2 read:

3 36-551. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Adaptive behavior" means the effectiveness or degree to which
6 the individual meets the standards of personal independence and social
7 responsibility expected of the person's age and cultural group.

8 2. "Adult developmental home" means a residential setting in a
9 family home in which the care, physical custody and supervision of the
10 adult client are the responsibility, under a twenty-four-hour care model,
11 of the licensee who, in that capacity, is not an employee of the division
12 or of a service provider and the home provides the following services for
13 a group of siblings or up to three adults with developmental disabilities:

14 (a) Room and board.

15 (b) Habilitation.

16 (c) Appropriate personal care.

17 (d) Appropriate supervision.

18 3. "Adult household member":

19 (a) Means a person who is at least eighteen years of age and who
20 resides in an adult developmental home, child developmental home or other
21 home and community based service setting for at least thirty days or who
22 resides in the household throughout the year for more than a cumulative
23 total of thirty days.

24 (b) Does not include a person who is receiving developmental
25 disabilities services from the department.

26 4. "Advisory council" means the developmental disabilities advisory
27 council.

28 5. "Arizona training program facility" means a state-operated
29 institution for clients of the department with developmental disabilities.

30 6. "Attributable to cognitive disability, epilepsy, cerebral palsy
31 or autism" means that there is a causal relationship between the presence
32 of an impairing condition and the developmental disability.

33 7. "Autism" means a condition characterized by severe disorders in
34 communication and behavior resulting in limited ability to communicate,
35 understand, learn and participate in social relationships.

36 8. "Case management" means coordinating the assistance needed by
37 persons with developmental disabilities and their families in order to
38 ensure that persons with developmental disabilities attain their maximum
39 potential for independence, productivity and integration into the
40 community.

41 9. "Case manager" means a person who coordinates the implementation
42 of the individual program plan of goals, objectives and appropriate
43 services for persons with developmental disabilities.

1 10. "Cerebral palsy" means a permanently disabling condition
2 resulting from damage to the developing brain that may occur before, after
3 or during birth and that results in loss or impairment of control over
4 voluntary muscles.

5 11. "Child developmental certified home" means a regular foster
6 home as defined in section 8-501 that is licensed pursuant to section
7 8-509 and that is certified by the department pursuant to section
8 36-593.01.

9 12. "Child developmental home" means a residential setting in a
10 family home in which the care and supervision of the child are the
11 responsibility, under a twenty-four-hour care model, of the licensee who
12 serves as the developmental home provider of the child in the home setting
13 and who, in that capacity, is not an employee of the division or of a
14 service provider and the home provides the following services for a group
15 of siblings or up to three children with developmental disabilities:

16 (a) Room and board.

17 (b) Habilitation.

18 (c) Appropriate personal care.

19 (d) Appropriate supervision.

20 13. "Client" means a person receiving developmental disabilities
21 services from the department.

22 14. "Cognitive disability" means a condition that involves
23 subaverage general intellectual functioning, that exists concurrently with
24 deficits in adaptive behavior manifested before the age of eighteen and
25 that is sometimes referred to as intellectual disability.

26 15. "Community residential setting" means a residential setting in
27 which persons with developmental disabilities live and are provided with
28 appropriate supervision by the service provider responsible for the
29 operation of the residential setting. Community residential setting
30 includes a child developmental home or an adult developmental home
31 operated or contracted by the department or the department's contracted
32 vendor, ~~OR~~ a group home operated or contracted by the department **OR A**
33 **NURSING SUPPORTED GROUP HOME CONTRACTED BY THE DEPARTMENT.**

34 16. "Consent" means voluntary informed consent. Consent is
35 voluntary if not given as the result of coercion or undue influence.
36 Consent is informed if the person giving the consent has been informed of
37 and comprehends the nature, purpose, consequences, risks and benefits of
38 the alternatives to the procedure, and has been informed and comprehends
39 that withholding or withdrawal of consent will not prejudice the future
40 provision of care and services to the client. In cases of unusual or
41 hazardous treatment procedures performed pursuant to section 36-561,
42 subsection A, experimental research, organ transplantation and
43 nontherapeutic surgery, consent is informed if, in addition to the
44 foregoing, the person giving the consent has been informed of and
45 comprehends the method to be used in the proposed procedure.

1 17. "Daily habilitation" means habilitation as defined in this
2 section except that the method of payment is for one unit per residential
3 day.

4 18. "Department" means the department of economic security.

5 19. "Developmental disability" means either a strongly demonstrated
6 potential that a child under six years of age has a developmental
7 disability or will develop a developmental disability, as determined by a
8 test performed pursuant to section 36-694 or by other appropriate tests,
9 or a severe, chronic disability that:

10 (a) Is attributable to cognitive disability, cerebral palsy,
11 epilepsy or autism.

12 (b) Is manifested before the age of eighteen.

13 (c) Is likely to continue indefinitely.

14 (d) Results in substantial functional limitations in three or more
15 of the following areas of major life activity:

16 (i) Self-care.

17 (ii) Receptive and expressive language.

18 (iii) Learning.

19 (iv) Mobility.

20 (v) Self-direction.

21 (vi) Capacity for independent living.

22 (vii) Economic self-sufficiency.

23 (e) Reflects the need for a combination and sequence of
24 individually planned or coordinated special, interdisciplinary or generic
25 care, treatment or other services that are of lifelong or extended
26 duration.

27 20. "Director" means the director of the department of economic
28 security.

29 21. "Division" means the division of developmental disabilities in
30 the department of economic security.

31 22. "Epilepsy" means a neurological condition characterized by
32 abnormal electrical-chemical discharge in the brain. This discharge is
33 manifested in various forms of physical activities called seizures.

34 23. "Group home" means a community residential setting for not more
35 than six persons with developmental disabilities that is operated by a
36 service provider under contract with the department and that provides room
37 and board and daily habilitation and other assessed medically necessary
38 services and supports to meet the needs of each person. Group home does
39 not include an adult developmental home, a child developmental home, A
40 NURSING SUPPORTED GROUP HOME or an intermediate care facility for
41 individuals with intellectual disabilities.

42 24. "Guardian" means the person who, under court order, is
43 appointed to fulfill the powers and duties prescribed in section 14-5312.
44 Guardian does not include a guardian pursuant to section 14-5312.01.

1 25. "Habilitation" means the process by which a person is assisted
2 to acquire and maintain those life skills that enable the person to cope
3 more effectively with personal and environmental demands and to raise the
4 level of the person's physical, mental and social efficiency.

5 26. "Indigent" means a person with a developmental disability whose
6 estate or parent is unable to bear the full cost of maintaining or
7 providing services for that person in a developmental disabilities
8 program.

9 27. "Individual program plan" means a written statement of services
10 to be provided to a person with developmental disabilities, including
11 habilitation goals and objectives, that is developed following initial
12 placement evaluation and revised after periodic evaluations.

13 28. "Intermediate care facility for individuals with intellectual
14 disabilities" means a facility that primarily provides health and
15 rehabilitative services to persons with developmental disabilities that
16 are above the service level of room and board or supervisory care services
17 or personal care services as defined in section 36-401.

18 29. "Large group setting" means a setting that in addition to
19 residential care provides support services such as therapy, recreation and
20 transportation to seven or more persons with developmental disabilities
21 who require intensive supervision.

22 30. "Least restrictive alternative" means an available program or
23 facility that fosters independent living, that is the least confining for
24 the client's condition and where service and treatment are provided in the
25 least intrusive manner reasonably and humanely appropriate to the
26 individual's needs.

27 31. "Likely to continue indefinitely" means that the developmental
28 disability has a reasonable likelihood of continuing for a protracted
29 period of time or for life.

30 32. "Manifested before the age of eighteen" means that the
31 disability must be apparent and have a substantially limiting effect on a
32 person's functioning before the age of eighteen.

33 33. "NURSING SUPPORTED GROUP HOME" HAS THE SAME MEANING PRESCRIBED
34 IN SECTION 36-401.

35 ~~33.~~ 34. "Physician" means a person who is licensed to practice
36 pursuant to title 32, chapter 13 or 17.

37 ~~34.~~ 35. "Placement evaluation" means an interview and evaluation
38 of a person with a developmental disability and a review of the person's
39 prior medical and program histories to determine the appropriate
40 developmental disability programs and services for the person and
41 recommendations for specific program placements for the person.

42 ~~35.~~ 36. "Psychologist" means a person who is licensed pursuant to
43 title 32, chapter 19.1.

~~36.~~ 37. "Respite services" means services that provide a short-term or long-term interval of rest or relief to the care provider of a person with a developmental disability.

~~37.~~ 38. "Responsible person" means the parent or guardian of a minor with a developmental disability, the guardian of an adult with a developmental disability or an adult with a developmental disability who is a client or an applicant for whom no guardian has been appointed.

~~38.~~ 39. "Service provider" means a person or agency that provides services to clients pursuant to a contract, service agreement or qualified vendor agreement with the division.

~~39.~~ 40. "State operated service center" means a state owned or leased facility that is operated by the department and that provides temporary residential care and space for child and adult services that include respite care, crisis intervention and diagnostic evaluation.

~~40.~~ 41. "Subaverage general intellectual functioning" means measured intelligence on standardized psychometric instruments of two or more standard deviations below the mean for the tests used.

~~41.~~ 42. "Substantial functional limitation" means a limitation so severe that extraordinary assistance from other people, programs, services or mechanical devices is required to assist the person in performing appropriate major life activities.

~~42.~~ 43. "Supervision" means the process by which the activities of an individual with developmental disabilities are directed, influenced or monitored.

Sec. 5. Section 36-557, Arizona Revised Statutes, is amended to read:

36-557. Community developmental disability services; service providers

A. The department may use state and federal monies appropriated or otherwise available to it for this purpose to assist in the establishment and maintenance of local developmental disability services by public or private nonprofit or profit agencies. The monies may be expended as professional fees for service, in contracts for advancement or reimbursement or in another appropriate manner and may be used for any purpose necessary to the provision of local developmental disability services. The monies may not be used for departmental salaries, care of persons with developmental disabilities by the department or any other purpose within the department, but may be used for consultation to the department in the interest of local programs.

B. A local public or private nonprofit or profit agency providing or intending to provide community developmental disability services and desiring to contract with the department for the furnishing of these services shall submit a program plan and budget to the department on the forms and in the manner required by the department. If the program meets departmental standards and is consistent with the state plan of the

1 department and the individualized service program plan of the client, the
2 department, notwithstanding the provisions of title 41, chapter 23,
3 relating to procurement and including services pursuant to section
4 36-2943, may contract with that agency for required services on terms the
5 department requires. The contracts shall provide that the provider of
6 services is subject to a continuing program evaluation by the department
7 through progress reports, expenditure reports, program audits or other
8 appropriate evaluation techniques to assure that the provider of service
9 is in continued compliance with the terms of the contract and the
10 department's community developmental disability service standards and
11 requirements.

12 C. Contracts between the department and a school district or
13 districts are subject to approval by the department of education.

14 D. This article does not make the department or the state
15 responsible for funding programs beyond the limits of legislative
16 appropriation for the programs. This article does not require a provider
17 of services to provide unreimbursed services to the department or its
18 clients.

19 E. Contracts to provide community developmental disability services
20 shall require that:

21 1. The contractor is obligated to operate a program or service in
22 strict accordance with the standards adopted for that program or service
23 by the department.

24 2. If state funding is provided for a particular program the
25 contractor, to the extent of positions available that are being purchased
26 by the department, shall provide services to a client with a developmental
27 disability who has been evaluated and placed by the department.

28 3. All contractors must carry liability insurance in amounts
29 approved by the risk management division of the department of
30 administration and file proof of insurance with the risk management
31 division. The director may waive that requirement on a case by case basis
32 on a finding that insurance for the program or service is not practicably
33 available at affordable rates and that it is necessary that the program or
34 service be provided by the contractor.

35 4. All clients enrolled in programs have all the same specified
36 rights as they would have if enrolled in a program operated directly by
37 the state.

38 5. Except for emergency placement pursuant to section 36-560,
39 subsection N, payment shall not be made based on program services provided
40 to a client if a placement evaluation has not been made, and no individual
41 program has been prepared and when, based on that placement evaluation, no
42 recommendation has been made to enroll the client in the particular
43 program service.

44 F. This article does not require a contracted agency to provide
45 unreimbursed services to the department or a client of the department.

1 G. Contracts for the purchase of residential care services other
2 than those community residential settings licensed pursuant to this
3 chapter, in addition to other general requirements applicable to purchase
4 of care contractors, shall:

5 1. Provide for mandatory inspection by the department every two
6 years for facilities other than group homes.

7 2. Provide for mandatory monitoring by the department for health,
8 safety, contractual and programmatic standards at least every six months,
9 unless the department has granted deemed status to the service provider or
10 the service provider received a score of at least ninety-five percent on
11 the most recent monitoring visit. If the department has granted deemed
12 status or awarded the service provider with a score of at least
13 ninety-five percent on the most recent monitoring visit, it shall monitor
14 that provider once each year. On determination by the department that
15 there is reasonable cause to believe a service provider is not adhering to
16 the department's programmatic or contractual requirements, the department
17 and any duly designated employee or agent of the department may enter on
18 and into the premises at any reasonable time for the purpose of
19 determining the state of compliance with the programmatic or contractual
20 requirements of the department.

21 3. Provide for mandatory investigation by the department in
22 response to complaints within ten working days, except that in those
23 instances that pose a danger to the client, the department shall conduct
24 the investigation immediately. Health and safety complaints related to
25 group homes shall be referred to the department of health services on
26 receipt. The department of health services shall share all incident
27 reports related to health and safety with the division of developmental
28 disabilities.

29 4. Except for group homes licensed by the department of health
30 services, specify the health and safety and sanitation codes and other
31 codes or standards applicable to the facility or to the operation of the
32 facility by the contractor other than group homes.

33 5. Provide for mandatory periodic reports to be filed by the
34 provider contractor with the department with respect to the operation of
35 the facility.

36 6. Provide that the facility and the books and records of the
37 facility and of the provider are subject to inspection at any time by
38 employees of the department or designees of the department.

39 7. Provide that parents and guardians of persons with developmental
40 disabilities residing at the facility, members of the developmental
41 disabilities advisory council, and members of other recognized and ongoing
42 advocacy groups for persons with developmental disabilities may inspect
43 the facility at reasonable times.

44 H. Contracts for the purchase of residential care services shall
45 require a community residential setting to be licensed pursuant to this

1 chapter other than group homes AND NURSING SUPPORTED GROUP HOMES licensed
2 by the department of health services.

3 I. Contracts for the purchase of day program or employment
4 services, in addition to the other general requirements applicable to the
5 purchase of client services, must provide for mandatory monitoring by the
6 department for health, safety, contractual, programmatic and quality
7 assurance standards at least once every six months, unless the department
8 has granted deemed status to the service provider. If the department has
9 granted deemed status to the service provider, the department shall
10 monitor that provider once each year. The department and any duly
11 designated employee or agent of the department may enter on or into the
12 service provider's premises at any reasonable time for the purpose of
13 determining the state of compliance with the department's programmatic,
14 contractual and quality assurance requirements.

15 J. The division shall ensure that all contracted developmental
16 disabilities service providers rendering services pursuant to this chapter
17 are reimbursed in accordance with title XIX of the social security act.

18 K. Contracts for client services issued by the department shall
19 include language outlining the provisions for a grievance and appeal
20 procedure. The director shall provide notice to providers not less than
21 thirty days before the issuance of an amendment to a qualified vendor
22 agreement. The decision of the director regarding qualified vendor
23 agreement amendments may be appealed pursuant to title 41, chapter 6,
24 article 10. The grievance process applicable to these contracts shall
25 comply with title XIX requirements.

26 L. As a condition of contracts with any developmental disabilities
27 service provider, the director shall require terms that conform with state
28 and federal laws, title XIX statutes and regulations and quality
29 standards. The director shall further require contract terms that ensure
30 performance by the provider of the provisions of each contract executed
31 pursuant to this article.

32 M. The division shall establish a rate structure that ensures an
33 equitable funding basis for private nonprofit or for profit agencies for
34 services pursuant to subsection B of this section and section 36-2943. In
35 each fiscal year, the division shall review and adjust the rate structure
36 based on section 36-2959. A rate book shall be published and updated by
37 the division to announce the rate structure that shall be incorporated by
38 reference in contracts for client services.

39 N. The division shall disclose to a service provider in the
40 individual program plan, and in all meetings resulting from a response to
41 a vendor call, any historical and behavioral information necessary for the
42 provider to be able to anticipate the client's future behaviors and needs,
43 including summary information from the program review committee, unusual
44 incident reports reviewed by the independent oversight committee and

1 behavioral treatment plans. The division shall redact the client's
2 identification from this information.

3 0. Service providers are authorized to engage in the following
4 activities in accordance with a client's individual program plan:

5 1. Administer medications, including assisting with the client's
6 self-administration of medications.

7 2. Log, store, remove and dispose of medications.

8 3. Maintain medications and protocols for direct care.

9 4. Serve as the client's representative payee if requested by the
10 client or the client's guardian and approved by the payer.

11 P. The department may adopt rules establishing procedures for
12 engaging in the activities listed in subsection 0 of this section.

13 Q. To protect the health and safety of a client, a provider must
14 notify the division within twenty-four hours if an emergency situation
15 exists in which the provider is unable to meet the health or safety needs
16 of the client.

17 R. On notification of an emergency situation, the department shall
18 hold an individual program plan meeting within fifteen days after
19 notification to recommend any changes, including whether there is a need
20 for temporary additional staffing to provide appropriate care for a
21 client, and develop a plan within thirty days after notification to
22 resolve the situation.

23 Sec. 6. Section 36-568, Arizona Revised Statutes, is amended to
24 read:

25 36-568. Group homes; intermediate care facilities; electronic
26 monitoring; rules; policies; definition

27 A. A service provider that operates a group home, A NURSING
28 SUPPORTED GROUP HOME or an intermediate care facility for persons with an
29 intellectual ~~disability~~ DISABILITIES may install, oversee and monitor
30 electronic monitoring devices in common areas, including hallways, of the
31 group home, NURSING SUPPORTED GROUP HOME or intermediate care facility.
32 The service provider may contract with a third party to install, oversee
33 and monitor the electronic monitoring device.

34 B. The director shall adopt rules regarding the use of electronic
35 monitoring in group homes and intermediate care facilities that include at
36 a minimum:

37 1. Consent requirements consistent with section 13-3019.

38 2. Public disclosure that an electronic monitoring device is in use
39 on the property.

40 3. The maintenance, storage and retention schedule of the
41 electronic record.

42 4. Who may access the electronic record and under what
43 circumstances.

44 5. How confidentiality and privacy are maintained.

1 6. How often the electronic monitoring device is monitored or
2 reviewed by the service provider or the service provider's designee.

3 7. Ensuring that all staff who have access to the electronic record
4 are properly trained in the facility policies and the protection of client
5 rights.

6 8. Ensuring that adherence to the facility policies is monitored
7 and the risks or breaches of the facility policies are promptly addressed.

8 C. The rules adopted pursuant to subsection B of this section may
9 not:

10 1. Prohibit accessing the electronic record from the service
11 provider, the member or the member's family or guardian unless the
12 electronic record contains evidence of a suspected criminal offense.

13 2. Require a service provider to be financially responsible for
14 purchasing, installing, maintaining or monitoring an electronic monitoring
15 device that is not voluntarily installed by the service provider in the
16 group home or intermediate care facility.

17 D. If a service provider has installed and uses an electronic
18 monitoring device before August 27, 2019, the service provider shall
19 establish policies consistent with rules adopted pursuant to subsection B
20 of this section and submit the policies to the department within ninety
21 days after the rules are adopted.

22 E. For the purposes of this section, "electronic monitoring
23 device":

24 1. Means a video surveillance camera or audio device that is
25 installed in a common area, including a hallway, of a group home or
26 intermediate care facility.

27 2. Does not include an electronic, mechanical or other device that
28 is specifically used for the nonconsensual interception of wire or
29 electronic communications.

30 Sec. 7. Section 36-581, Arizona Revised Statutes, is amended to
31 read:

32 36-581. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Developmental disability" means autism, cerebral palsy,
35 epilepsy or A cognitive disability.

36 2. "Residential facility" means a ~~home~~ COMMUNITY RESIDENTIAL
37 SETTING in which persons with developmental disabilities live and that is
38 licensed, operated, supported or supervised by the department.

39 Sec. 8. Section 36-591, Arizona Revised Statutes, is amended to
40 read:

41 36-591. Adult developmental homes; child developmental homes;
42 licensing; notification requirements; exception;
43 annual inspection

44 A. An adult developmental home or child developmental home shall be
45 licensed pursuant to this article.

1 B. Group homes, except for those described in subsection E of this
2 section, shall be licensed for health and safety by the department of
3 health services pursuant to section 36-132.

4 C. The division shall notify the department of health services of:

5 1. Service providers who enter into contracts with the division for
6 group homes or intermediate care facilities for individuals with
7 intellectual disabilities.

8 2. Any violation of health and safety standards observed during
9 monitoring visits.

10 D. The department of health services shall immediately notify the
11 division:

12 1. When a group home, **NURSING SUPPORTED GROUP HOME** or intermediate
13 care facility for individuals with intellectual disabilities license has
14 been denied, suspended or revoked.

15 2. Of any other licensing action taken on a group home, **NURSING**
16 **SUPPORTED GROUP HOME** or intermediate care facility for individuals with
17 intellectual disabilities by the department of health services.

18 3. Of substantiated complaints regarding health and safety.

19 E. The division shall ensure that state-operated residential
20 settings that are owned or leased facilities operated by the division meet
21 the same standards as group homes unless they are required to be:

22 1. Licensed and certified as intermediate care facilities for
23 individuals with intellectual disabilities pursuant to 42 Code of Federal
24 Regulations part 483, subpart I. An intermediate care facility for
25 individuals with intellectual disabilities that is operated by the
26 division or a private entity is required to be licensed pursuant to
27 chapter 4 of this title and certified pursuant to 42 Code of Federal
28 Regulations part 483, subpart I.

29 2. **LICENSED AS A NURSING SUPPORTED GROUP HOME AS REQUIRED BY**
30 **CHAPTER 4 OF THIS TITLE.**

31 F. The department shall annually visit each adult developmental
32 home and child developmental home and inspect the premises used for the
33 care of children or vulnerable adults for sanitation, fire and other
34 actual and potential hazards. The department shall take any action it
35 deems necessary to carry out the duties imposed by this section, including
36 the denial of the application for licensure and the suspension or
37 revocation of the home's license.

38 Sec. 9. Section 36-595.01, Arizona Revised Statutes, is amended to
39 read:

40 **36-595.01. Access to facilities**

41 A group home, **NURSING SUPPORTED GROUP HOME**, adult developmental home
42 or child developmental home shall allow the following to inspect the
43 facility at reasonable times:

44 1. Parents and guardians of facility residents.

45 2. Members of the developmental disabilities advisory council.

1 3. Employees or agents of an Arizona nonprofit advocacy
2 organization that is a state chapter of a national advocacy organization,
3 that has affiliated local chapters within this state and that has
4 historical expertise with monitoring residential settings for persons with
5 intellectual and developmental disabilities.

6 Sec. 10. Department of health services; rulemaking exemption

7 For the purposes of this act, the department of health services is
8 exempt from the rulemaking requirements of title 41, chapters 6 and 6.1,
9 Arizona Revised Statutes, for eighteen months after the general effective
10 date of the fifty-fourth legislature, second regular session.

11 Sec. 11. Effective date

12 This act, except for section 36-401, Arizona Revised Statutes, as
13 amended by this act, section 36-425.07, Arizona Revised Statutes, as added
14 by this act, and section 10 of this act, is effective from and after June
15 30, 2021.