

health care institutions; architectural plans

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 34
SENATE BILL 1203

AN ACT

REPEALING SECTION 36-405, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 10; AMENDING SECTION 36-405, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 363, SECTION 1; AMENDING SECTIONS 36-421 AND 36-422, 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. Repeal

3 Section 36-405, Arizona Revised Statutes, as amended by Laws 2021,
4 chapter 405, section 10, is repealed.

5 Sec. 2. Section 36-405, Arizona Revised Statutes, as amended by
6 Laws 2021, chapter 363, section 1, is amended to read:

7 36-405. Powers and duties of the director

8 A. The director shall adopt rules to establish minimum standards
9 and requirements for constructing, modifying and licensing health care
10 institutions necessary to ensure the public health, safety and welfare.
11 The standards and requirements shall relate to the construction,
12 equipment, sanitation, staffing for medical, nursing and personal care
13 services, and recordkeeping pertaining to administering medical, nursing,
14 behavioral health and personal care services, in accordance with generally
15 accepted practices of health care. The standards shall require that a
16 physician who is licensed pursuant to title 32, chapter 13 or 17 medically
17 discharge patients from surgery and shall allow an outpatient surgical
18 center to require that either an anesthesia provider who is licensed
19 pursuant to title 32, chapter 13, 15 or 17 or a physician who is licensed
20 pursuant to title 32, chapter 13 or 17 remain present on the premises
21 until all patients are discharged from the recovery room. Except as
22 otherwise provided in this subsection, the director shall use the current
23 standards adopted by the joint commission on accreditation of hospitals
24 and the commission on accreditation of the American osteopathic
25 association or those adopted by any recognized accreditation organization
26 approved by the department as guidelines in prescribing minimum standards
27 and requirements under this section.

28 B. The director, by rule, may:

29 1. Classify and subclassify health care institutions according to
30 character, size, range of services provided, medical or dental specialty
31 offered, duration of care and standard of patient care required for the
32 purposes of licensure. Classes of health care institutions may include
33 hospitals, infirmaries, outpatient treatment centers, health screening
34 services centers and residential care facilities. Whenever the director
35 reasonably deems distinctions in rules and standards to be appropriate
36 among different classes or subclasses of health care institutions, the
37 director may make such distinctions.

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

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

41 4. Prescribe standards for selecting health care-related
42 demonstration projects.

1 5. Establish nonrefundable application and licensing fees for
2 health care institutions, including a grace period and a fee for the late
3 payment of licensing fees, ~~and fees for architectural plans and~~
4 ~~specifications reviews.~~

5 6. Establish a process for the department to notify a licensee of
6 the licensee's licensing fee due date.

7 7. Establish a process for a licensee to request a different
8 licensing fee due date, including any limits on the number of requests by
9 the licensee.

10 C. The director, by rule, shall adopt licensing provisions that
11 facilitate the colocation and integration of outpatient treatment centers
12 that provide medical, nursing and health-related services with behavioral
13 health services consistent with article 3.1 of this chapter.

14 D. Ninety percent of the fees collected pursuant to this section
15 shall be deposited, pursuant to sections 35-146 and 35-147, in the health
16 services licensing fund established by section 36-414 and ten percent of
17 the fees collected pursuant to this section shall be deposited, pursuant
18 to sections 35-146 and 35-147, in the state general fund.

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

22 Sec. 3. Section 36-421, Arizona Revised Statutes, is amended to
23 read:

24 36-421. Construction or modification of a health care
25 institution

26 A. A license application for a health care institution shall
27 include, ~~architectural plans and specifications or the department's~~
28 ~~approval of~~ ON A FORM PROVIDED BY THE DEPARTMENT, A NOTARIZED ATTESTATION
29 FROM AN ARCHITECT REGISTERED PURSUANT TO TITLE 32, CHAPTER 1 THAT VERIFIES
30 the architectural plans and specifications MEET OR EXCEED STANDARDS
31 ADOPTED BY THE DEPARTMENT. These plans and specifications shall meet the
32 minimum standards for licensure within the class or subclass of health
33 care institution for which it is intended. The application shall include
34 the name and address of each owner and lessee of any agricultural land
35 that is regulated pursuant to section 3-365.

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

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

42 D. A health care institution or its facility shall not be licensed
43 if it is located on property that is less than four hundred feet from
44 agricultural land that is regulated pursuant to section 3-365, except that
45 the owner of the agricultural land may agree to comply with the buffer

1 zone requirements of section 3-365. If the owner agrees in writing to
2 comply with the buffer zone requirements and records the agreement in the
3 office of the county recorder as a restrictive covenant running with the
4 title to the land, the health care institution or facility may be licensed
5 and located within the affected buffer zone. The agreement may include
6 any stipulations regarding the health care institution or facility,
7 including conditions for future expansion of the health care institution
8 or facility and changes in the operational status of the health care
9 institution or facility that will result in a breach of the agreement.
10 This subsection does not apply to the issuance of a license for a health
11 care institution located in the same location for which a health care
12 institution license was previously issued.

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

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

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

26 H. A nursing-supported group home is not required to comply with
27 the zoning standards for a health care institution prescribed by the
28 department.

29 I. For the purposes of this section, health care institution does
30 not include a home health agency or a hospice service agency.

31 Sec. 4. Section 36-422, Arizona Revised Statutes, is amended to
32 read:

33 36-422. Application for license; notification of proposed
34 change in status; joint licenses; definitions

35 A. A person who wishes to apply for a license to operate a health
36 care institution pursuant to this chapter shall submit to the department
37 all of the following:

38 1. An application on a written or electronic form that is
39 prescribed, prepared and furnished by the department and that contains all
40 of the following:

41 (a) The name and location of the health care institution.

42 (b) Whether the health care institution is to be operated as a
43 proprietary or nonproprietary institution.

1 (c) The name of the governing authority. The applicant shall be
2 the governing authority having the operative ownership of, or the
3 governmental agency charged with the administration of, the health care
4 institution sought to be licensed. If the applicant is a partnership that
5 is not a limited partnership, the partners shall apply jointly, and the
6 partners are jointly the governing authority for purposes of this article.

7 (d) The name and business or residential address of each
8 controlling person and an affirmation that none of the controlling persons
9 has been denied a license or certificate by a health profession regulatory
10 board pursuant to title 32 or by a state agency pursuant to chapter 6,
11 article 7 or chapter 17 of this title or a license to operate a health
12 care institution in this state or another state or has had a license or
13 certificate issued by a health profession regulatory board pursuant to
14 title 32 or issued by a state agency pursuant to chapter 6, article 7 or
15 chapter 17 of this title or a license to operate a health care institution
16 revoked. If a controlling person has been denied a license or certificate
17 by a health profession regulatory board pursuant to title 32 or by a state
18 agency pursuant to chapter 6, article 7 or chapter 17 of this title or a
19 license to operate a health care institution in this state or another
20 state or has had a health care professional license or a license to
21 operate a health care institution revoked, the controlling person shall
22 include in the application a comprehensive description of the
23 circumstances for the denial or the revocation.

24 (e) The class or subclass of health care institution to be
25 established or operated.

26 (f) The types and extent of the health care services to be
27 provided, including emergency services, community health services and
28 services to indigent patients.

29 (g) The name and qualifications of the chief administrative officer
30 implementing direction in that specific health care institution.

31 (h) Other pertinent information required by the department for the
32 proper administration of this chapter and department rules.

33 2. ~~The architectural plans and specifications or the department's~~
34 ~~approval of the architectural plans and specifications~~ ATTESTATION
35 required by section 36-421, subsection A.

36 3. The applicable application fee.

37 B. An application submitted pursuant to this section shall contain
38 the written or electronic signature of:

39 1. If the applicant is an individual, the owner of the health care
40 institution.

41 2. If the applicant is a partnership, limited liability company or
42 corporation, two of the officers of the corporation or managing members of
43 the partnership or limited liability company or the sole member of the
44 limited liability company if it has only one member.

1 3. If the applicant is a governmental unit, the head of the
2 governmental unit.

3 C. An application for licensure shall be submitted at least sixty
4 but not more than one hundred twenty days before the anticipated date of
5 operation. An application for a substantial compliance survey submitted
6 pursuant to section 36-425, subsection G shall be submitted at least
7 thirty days before the date on which the substantial compliance survey is
8 requested.

9 D. If a current licensee intends to terminate the operation of a
10 licensed health care institution or if a change of ownership is planned,
11 the current licensee shall notify the director in writing at least thirty
12 days before the termination of operation or change in ownership is to take
13 place. The current licensee is responsible for preventing any
14 interruption of services required to sustain the life, health and safety
15 of the patients or residents. A new owner shall not begin operating the
16 health care institution until the director issues a license to the new
17 owner.

18 E. A licensed health care institution for which operations have not
19 been terminated for more than thirty days may be relicensed pursuant to
20 the codes and standards for architectural plans and specifications that
21 were applicable under its most recent license.

22 F. If a person operates a hospital in a county with a population of
23 more than five hundred thousand persons in a setting that includes
24 satellite facilities of the hospital that are located separately from the
25 main hospital building, the department at the request of the applicant or
26 licensee shall issue a single group license to the hospital and its
27 designated satellite facilities located within one-half mile of the main
28 hospital building if all of the facilities meet or exceed department
29 licensure requirements for the designated facilities. At the request of
30 the applicant or licensee, the department shall also issue a single group
31 license that includes the hospital and not more than ten of its designated
32 satellite facilities that are located farther than one-half mile from the
33 main hospital building if all of these facilities meet or exceed
34 applicable department licensure requirements. Each facility included
35 under a single group license is subject to the department's licensure
36 requirements that are applicable to that category of facility. Subject to
37 compliance with applicable licensure or accreditation requirements, the
38 department shall reissue individual licenses for the facility of a
39 hospital located in separate buildings from the main hospital building
40 when requested by the hospital. This subsection does not apply to nursing
41 care institutions and residential care institutions. The department is
42 not limited in conducting inspections of an accredited health care
43 institution to ensure that the institution meets department licensure
44 requirements. If a person operates a hospital in a county with a
45 population of five hundred thousand persons or less in a setting that

1 includes satellite facilities of the hospital that are located separately
2 from the main hospital building, the department at the request of the
3 applicant or licensee shall issue a single group license to the hospital
4 and its designated satellite facilities located within thirty-five miles
5 of the main hospital building if all of the facilities meet or exceed
6 department licensure requirements for the designated facilities. At the
7 request of the applicant or licensee, the department shall also issue a
8 single group license that includes the hospital and not more than ten of
9 its designated satellite facilities that are located farther than
10 thirty-five miles from the main hospital building if all of these
11 facilities meet or exceed applicable department licensure requirements.

12 G. If a county with a population of more than one million persons
13 or a special health care district in a county with a population of more
14 than one million persons operates an accredited hospital that includes the
15 hospital's accredited facilities that are located separately from the main
16 hospital building and the accrediting body's standards as applied to all
17 facilities meet or exceed the department's licensure requirements, the
18 department shall issue a single license to the hospital and its facilities
19 if requested to do so by the hospital. If a hospital complies with
20 applicable licensure or accreditation requirements, the department shall
21 reissue individual licenses for each hospital facility that is located in
22 a separate building from the main hospital building if requested to do so
23 by the hospital. This subsection does not limit the department's duty to
24 inspect a health care institution to determine its compliance with
25 department licensure standards. This subsection does not apply to nursing
26 care institutions and residential care institutions.

27 H. An applicant or licensee must notify the department within
28 thirty days after any change regarding a controlling person and provide
29 the information and affirmation required pursuant to subsection A,
30 paragraph 1, subdivision (d) of this section.

31 I. A behavioral health residential facility that provides services
32 to children must notify the department within thirty days after the
33 facility begins contracting exclusively with the federal government,
34 receives only federal monies and does not contract with this state.

35 J. This section does not limit the application of federal laws and
36 regulations to an applicant or licensee that is certified as a medicare or
37 an Arizona health care cost containment system provider under federal law.

38 K. Except for an outpatient treatment center providing dialysis
39 services or abortion procedures, a person wishing to begin operating an
40 outpatient treatment center before a licensing inspection is completed
41 shall submit all of the following:

- 42 1. The license application required pursuant to this section.
- 43 2. All applicable application and license fees.
- 44 3. A written request for a temporary license that includes:
 - 45 (a) The anticipated date of operation.

- 1 (b) An attestation signed by the applicant that the applicant and
2 the facility comply with and will continue to comply with the applicable
3 licensing statutes and rules.
- 4 L. Within seven days after the department's receipt of the items
5 required in subsection K of this section, but not before the anticipated
6 operation date submitted pursuant to subsection C of this section, the
7 department shall issue a temporary license that includes:
- 8 1. The name of the facility.
 - 9 2. The name of the licensee.
 - 10 3. The facility's class or subclass.
 - 11 4. The temporary license's effective date.
 - 12 5. The location of the licensed premises.
- 13 M. A facility may begin operating on the effective date of the
14 temporary license.
- 15 N. The director may cease the issuance of temporary licenses at any
16 time if the director believes that public health and safety is endangered.
- 17 O. For the purposes of this section:
- 18 1. "Accredited" means accredited by a nationally recognized
19 accreditation organization.
 - 20 2. "Satellite facility" means an outpatient facility at which the
21 hospital provides outpatient medical services.

APPROVED BY THE GOVERNOR MARCH 23, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2022.