State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 258

HOUSE BILL 2049

AN ACT

AMENDING SECTION 36-411, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-411, Arizona Revised Statutes, is amended to read:

36-411. Residential care institutions; nursing care institutions; home health agencies; fingerprinting requirements; exemptions; definitions

A. Except as provided in subsections SUBSECTION F, G, H and I of this section, as a condition of licensure or continued licensure of a residential care institution, a nursing care institution or a home health agency and as a condition of employment in a residential care institution, a nursing care institution or a home health agency, employees and owners of residential care institutions, nursing care institutions or home health agencies, or contracted persons of residential care institutions, nursing care institutions of health care institutions, or home health agencies who provide medical services, nursing services, behavioral health services, health-related services, home health services or direct supportive services and who have not been subject to the fingerprinting requirements of a health professional's regulatory board pursuant to title 32 shall have valid fingerprint clearance cards that are issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance card within twenty working days of employment or beginning volunteer work or contracted work.

B. A health professional who has complied with the fingerprinting requirements of the health professional's regulatory board as a condition of licensure or certification pursuant to title 32 is not required to submit an additional set of fingerprints to the department of public safety pursuant to this section.

C. Owners shall make documented, good faith efforts to:

1. Contact previous employers to obtain information or recommendations that may be relevant to a person's fitness to work in a residential care institution, nursing care institution or home health agency.

2. Verify the current status of a person's fingerprint clearance card.

D. An employee, an owner, a contracted person or a volunteer or a facility on behalf of the employee, the owner, the contracted person or the volunteer shall submit a completed application that is provided by the department of public safety within twenty days after the date the person begins work or volunteer service.

E. Except as provided in subsection F of this section, a residential care institution, nursing care institution or home health agency shall not allow an employee to continue employment or a VOLUNTEER OR contracted person to continue to provide medical services, nursing services, behavioral health services, health-related services, home health...
services or DIRECT supportive services if the person has been denied a
fingerprint clearance card pursuant to title 41, chapter 12, article 3.1, or
has been denied approval pursuant to this section before May 7, 2001 OR
HAS HAD A FINGERPRINT CLEARANCE CARD SUSPENDED OR REVOKED.

F. An employee, VOLUNTEER or contractor OF A RESIDENTIAL CARE
INSTITUTION, NURSING CARE INSTITUTION OR HOME HEALTH AGENCY who is
eligible pursuant to section 41-1758.07, subsection C to petition the
board of fingerprinting for a good cause exception and who provides
documentation of having applied for a good cause exception pursuant to
section 41-619.55 but who has not yet received a decision is exempt from
the fingerprinting requirements of this section if the person provides
MEDICAL SERVICES, NURSING SERVICES, BEHAVIORAL HEALTH SERVICES,
HEALTH-RELATED SERVICES, HOME HEALTH SERVICES OR DIRECT SUPPORTIVE
services to residents or patients while under the direct visual
supervision of an owner or employee who has a valid fingerprint clearance
card.

G. A residential care institution, nursing care institution or home
health agency shall require that an owner or employee who has a valid
fingerprint clearance card provide direct visual supervision of a
volunteer who provides services to residents or patients unless the
volunteer has a valid fingerprint clearance card.

H. Notwithstanding the requirements of section 41-1758.02,
subsection B, an employee of a residential care institution, home health
agency or nursing care institution, after meeting the fingerprinting and
criminal records check requirements of this section, is not required to
meet the fingerprinting and criminal records check requirements of this
section again if that person remains employed by the same employer or
changes employment within two years after satisfying the requirements of
this section. For the purposes of this subsection, if the employer
changes through sale, lease or operation of law, a person is deemed to be
employed by the same employer if that person remains employed by the new
employer.

I. Notwithstanding the requirements of section 41-1758.02,
subsection B, a person who has received approval pursuant to this section
before May 7, 2001 and who remains employed by the same employer is not
required to apply for a fingerprint clearance card.

J. G. If a person's employment record contains a six-month or
longer time frame during which the person was not employed by any
employer, a completed application with a new set of fingerprints shall be
submitted to the department of public safety.

K. H. For the purposes of this section:

1. "DIRECT supportive services" has the same meaning prescribed
in section 36-1511:
(a) MEANS SERVICES OTHER THAN HOME HEALTH SERVICES THAT PROVIDE DIRECT INDIVIDUAL CARE AND THAT ARE NOT PROVIDED IN A COMMON AREA OF A HEALTH CARE INSTITUTION, INCLUDING:

(i) ASSISTANCE WITH AMBULATING, BATHING, TOILETING, GROOMING, EATING AND GETTING IN AND OUT OF A BED OR CHAIR.
(ii) ASSISTANCE WITH SELF-ADMINISTRATION OF MEDICATION.
(iii) JANITORIAL, MAINTENANCE, HOUSEKEEPING OR OTHER SERVICES PROVIDED IN A RESIDENT'S ROOM.
(iv) TRANSPORTATION SERVICES, INCLUDING VAN SERVICES.

(b) DOES NOT INCLUDE SERVICES PROVIDED BY PERSONS CONTRACTED DIRECTLY BY A RESIDENT OR THE RESIDENT'S FAMILY IN A HEALTH CARE INSTITUTION.

1. "Direct visual supervision" means continuous visual oversight of the supervised person that does not require the supervisor to be in a superior organizational role to the person being supervised.

2. "Home health services" has the same meaning prescribed in section 36-151.

APPROVED BY THE GOVERNOR MAY 27, 2022.