

Senate Engrossed

nursing-supported group homes; licensure

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **CHAPTER 60**

# **SENATE BILL 1085**

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~~ NOT more than four adults who are participants in the Arizona  
35 long-term care system pursuant to chapter 29, article 2 of this title or  
36 contracts for services with the United States department of veterans  
37 affairs and in which the sponsor or the manager resides with the residents  
38 and integrates the residents who are receiving adult foster care into that  
39 person's 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~~ PROFESSIONAL TO PROVIDE 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~~ ERECTING,  
15 ~~fabrication~~ FABRICATING or ~~installation of~~ INSTALLING a health care  
16 institution.

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

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

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

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

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

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

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

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

37           17. "Direction" means authoritative policy or procedural guidance  
38 ~~for the accomplishment of~~ TO ACCOMPLISH a function or activity.

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

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

44           20. "Freestanding urgent care center":

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

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

5 (ii) Claims to provide unscheduled medical services THAT ARE not  
6 otherwise routinely available in primary care physician offices.

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

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

12 (b) Does not include the following:

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

15 (ii) A qualifying community health center pursuant to section  
16 36-2907.06.

17 (iii) Any other health care institution licensed pursuant to this  
18 chapter.

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

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

27 22. "Health care institution" means every place, institution,  
28 building or agency, whether organized for profit or not, that provides  
29 facilities with medical services, nursing services, behavioral health  
30 services, health screening services, other health-related services,  
31 supervisory care services, personal care services or directed care  
32 services and includes home health agencies as defined in section 36-151,  
33 outdoor behavioral health care programs and hospice service agencies.  
34 ~~Health care institution does not include a community residential setting~~  
35 ~~as defined in section 36-551.~~

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

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

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

44 26. "Hospice service" means a program of palliative and supportive  
45 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 **PROVIDES** 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**  
37 **OPERATED BY A SERVICE PROVIDER UNDER CONTRACT WITH THE DEPARTMENT OF**  
38 **ECONOMIC 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~~ **IF** appropriate, with the delegated  
42 authority and responsibility to maintain proper standards of medical care  
43 and to 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 **THAT ARE** licensed by the department of  
13 economic 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 **WHO ARE** otherwise cared  
42 for in foster homes and in private homes to provide an interval of rest or  
43 relief of not more than thirty days to operators of foster homes or to  
44 family 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~~ DIRECTLY overseeing and  
6 ~~inspection of~~ INSPECTING 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~~ SELF-ADMINISTERING 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, 2022, 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~~ A PERSON meets the standards of personal independence and  
7 social 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":

27           (a) Means a residential setting in which persons with developmental  
28 disabilities live and are provided with appropriate supervision by the  
29 service provider responsible for ~~the operation of~~ OPERATING the  
30 residential setting. ~~Community residential setting~~

31           (b) Includes a child developmental home or an adult developmental  
32 home operated or contracted by the department or the department's  
33 contracted vendor, ~~or~~ a group home operated or contracted by the  
34 department OR A NURSING-SUPPORTED GROUP HOME CONTRACTED BY THE DEPARTMENT.

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

1 foregoing, the person giving the consent has been informed of and  
2 comprehends the method to be used in the proposed procedure.

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

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

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

12 (a) Is attributable to A cognitive disability, cerebral palsy,  
13 epilepsy or autism.

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

15 (c) Is likely to continue indefinitely.

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

18 (i) Self-care.

19 (ii) Receptive and expressive language.

20 (iii) Learning.

21 (iv) Mobility.

22 (v) Self-direction.

23 (vi) Capacity for independent living.

24 (vii) Economic self-sufficiency.

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

29 20. "Director" means the director of the department of economic  
30 security.

31 21. "Division" means the division of developmental disabilities in  
32 the department of economic security.

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

36 23. "Group home":

37 (a) Means a community residential setting for not more than six  
38 persons with developmental disabilities that is operated by a service  
39 provider under contract with the department and that provides room and  
40 board and daily habilitation and other assessed medically necessary  
41 services and supports to meet the needs of each person. ~~Group home~~

42 (b) Does not include an adult developmental home, a child  
43 developmental home, A NURSING-SUPPORTED GROUP HOME or an intermediate care  
44 facility for individuals with intellectual disabilities.

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

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

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

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

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

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

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

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

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

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

38           ~~33.~~ 34. "Physician" means a person who is licensed to practice  
39 pursuant to title 32, chapter 13 or 17.

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

1       ~~35.~~ 36. "Psychologist" means a person who is licensed pursuant to  
2 title 32, chapter 19.1.

3       ~~36.~~ 37. "Respite services" means services that provide a  
4 short-term or long-term interval of rest or relief to the care provider of  
5 a person with a developmental disability.

6       ~~37.~~ 38. "Responsible person" means the parent or guardian of a  
7 minor with a developmental disability, the guardian of an adult with a  
8 developmental disability or an adult with a developmental disability who  
9 is a client or an applicant for whom no guardian has been appointed.

10       ~~38.~~ 39. "Service provider" means a person or agency that provides  
11 services to clients pursuant to a contract, service agreement or qualified  
12 vendor agreement with the division.

13       ~~39.~~ 40. "State operated service center" means a state owned or  
14 leased facility that is operated by the department and that provides  
15 temporary residential care and space for child and adult services that  
16 include respite care, crisis intervention and diagnostic evaluation.

17       ~~40.~~ 41. "Subaverage general intellectual functioning" means  
18 measured intelligence on standardized psychometric instruments of two or  
19 more standard deviations below the mean for the tests used.

20       ~~41.~~ 42. "Substantial functional limitation" means a limitation so  
21 severe that extraordinary assistance from other people, programs, services  
22 or mechanical devices is required to assist the person in performing  
23 appropriate major life activities.

24       ~~42.~~ 43. "Supervision" means the process by which the activities of  
25 an individual with developmental disabilities are directed, influenced or  
26 monitored.

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

29       36-557. Community developmental disability services; service  
30               providers

31       A. The department may use state and federal monies THAT ARE  
32 appropriated or otherwise available to it for this purpose to assist in  
33 ~~the establishment~~ ESTABLISHING and ~~maintenance of~~ MAINTAINING local  
34 developmental disability services by public or private nonprofit or profit  
35 agencies. The monies may be expended as professional fees for service, in  
36 contracts for advancement or reimbursement or in another appropriate  
37 manner and may be used for any purpose necessary to ~~the provision of~~  
38 PROVIDE local developmental disability services. The monies may not be  
39 used for departmental salaries, care of persons with developmental  
40 disabilities by the department or any other purpose within the department,  
41 but may be used for consultation to the department in the interest of  
42 local programs.

43       B. A local public or private nonprofit or profit agency providing  
44 or intending to provide community developmental disability services and  
45 desiring to contract with the department ~~for the furnishing of~~ TO FURNISH

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

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

17 D. This article does not make the department or the state  
18 responsible for funding programs beyond the limits of legislative  
19 appropriation for the programs. This article does not require a SERVICE  
20 provider ~~of services~~ to provide unreimbursed services to the department or  
21 its clients.

22 E. Contracts to provide community developmental disability services  
23 shall require that:

24 1. The contractor is obligated to operate a program or service in  
25 strict accordance with the standards adopted for that program or service  
26 by the department.

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

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

38 4. All clients enrolled in programs have all the same specified  
39 rights as they would have if enrolled in a program operated directly by  
40 the state.

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

1 recommendation has been made to enroll the client in the particular  
2 program service.

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

5 G. Contracts ~~for the~~ TO purchase ~~of~~ residential care services other  
6 than those community residential settings licensed pursuant to this  
7 chapter, in addition to other general requirements applicable to purchase  
8 of care contractors, shall:

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

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

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

34 4. Except for group homes licensed by the department of health  
35 services, specify the health and safety and sanitation codes and other  
36 codes or standards applicable to the facility or to the operation of the  
37 facility by the contractor other than group homes.

38 5. Provide for mandatory periodic reports to be filed by the  
39 provider contractor with the department with respect to the operation of  
40 the facility.

41 6. Provide that the facility and the books and records of the  
42 facility and of the provider are subject to inspection at any time by  
43 employees of the department or designees of the department.

1           7. Provide that parents and guardians of persons with developmental  
2 disabilities residing at the facility, members of the developmental  
3 disabilities advisory council, and members of other recognized and ongoing  
4 advocacy groups for persons with developmental disabilities may inspect  
5 the facility at reasonable times.

6           H. Contracts for the purchase of residential care services shall  
7 require a community residential setting to be licensed pursuant to this  
8 chapter other than group homes AND NURSING-SUPPORTED GROUP HOMES THAT ARE  
9 licensed by the department of health services.

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

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

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

33          L. As a condition of contracts with any developmental disabilities  
34 service provider, the director shall require terms that conform with state  
35 and federal laws, title XIX statutes and regulations and quality  
36 standards. The director shall further require contract terms that ensure  
37 performance by the provider of the provisions of each contract executed  
38 pursuant to this article.

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



1 N. The division shall disclose to a service provider in the  
2 individual program plan, and in all meetings resulting from a response to  
3 a vendor call, any historical and behavioral information necessary for the  
4 SERVICE provider to be able to anticipate the client's future behaviors  
5 and needs, including summary information from the program review  
6 committee, unusual incident reports reviewed by the independent oversight  
7 committee and behavioral treatment plans. The division shall redact the  
8 client's identification from this information.

9 O. Service providers are authorized to engage in the following  
10 activities in accordance with a client's individual program plan:

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

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

14 3. Maintain medications and protocols for direct care.

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

17 P. The department may adopt rules establishing procedures for  
18 engaging in the activities listed in subsection O of this section.

19 Q. To protect the health and safety of a client, a SERVICE provider  
20 must notify the division within twenty-four hours if an emergency  
21 situation exists in which the SERVICE provider is unable to meet the  
22 health or safety needs of the client.

23 R. On notification of an emergency situation, the department shall  
24 hold an individual program plan meeting within fifteen days after  
25 notification to recommend any changes, including whether there is a need  
26 for temporary additional staffing to provide appropriate care for a  
27 client, and develop a plan within thirty days after notification to  
28 resolve the situation.

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

31 36-568. Group homes; intermediate care facilities; electronic  
32 monitoring; rules; policies; definition

33 A. A service provider that operates a group home, A  
34 NURSING-SUPPORTED GROUP HOME or an intermediate care facility for persons  
35 with ~~an~~ intellectual ~~disability~~ DISABILITIES may install, oversee and  
36 monitor electronic monitoring devices in common areas, including hallways,  
37 of the group home, NURSING-SUPPORTED GROUP HOME or intermediate care  
38 facility. The service provider may contract with a third party to  
39 install, oversee and monitor the electronic monitoring device.

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

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

44 2. Public disclosure that an electronic monitoring device is in use  
45 on the property.

1           3. The maintenance, storage and retention schedule of the  
2 electronic record.

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

5           5. How confidentiality and privacy are maintained.

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

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

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

13          C. The rules adopted pursuant to subsection B of this section may  
14 not:

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

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

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

27          E. For the purposes of this section, "electronic monitoring  
28 device":

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

32           2. Does not include an electronic, mechanical or other device that  
33 is specifically used for the nonconsensual interception of wire or  
34 electronic communications.

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

37          36-581. Definitions

38          In this article, unless the context otherwise requires:

39           1. "Developmental disability" means autism, cerebral palsy,  
40 epilepsy or A cognitive disability.

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

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

3           36-591. Adult developmental homes; child developmental homes;  
4           licensing; notification requirements; exception;  
5           annual inspection

6           A. An adult developmental home or child developmental home shall be  
7 licensed pursuant to this article.

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

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

12           1. Service providers ~~who~~ **THAT** enter into contracts with the  
13 division for group homes or intermediate care facilities for individuals  
14 with intellectual disabilities.

15           2. Any violation of health and safety standards observed during  
16 monitoring visits.

17           D. The department of health services shall immediately notify the  
18 division:

19           1. When **THE LICENSE OF** a group home, **NURSING-SUPPORTED GROUP HOME**  
20 or intermediate care facility for individuals with intellectual  
21 disabilities ~~license~~ has been denied, suspended or revoked.

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

25           3. Of substantiated complaints regarding health and safety.

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

29           1. Licensed and certified as intermediate care facilities for  
30 individuals with intellectual disabilities pursuant to 42 Code of Federal  
31 Regulations part 483, subpart I. An intermediate care facility for  
32 individuals with intellectual disabilities that is operated by the  
33 division or a private entity is required to be licensed pursuant to  
34 chapter 4 of this title and certified pursuant to 42 Code of Federal  
35 Regulations part 483, subpart I.

36           **2. LICENSED AS A NURSING-SUPPORTED GROUP HOME AS REQUIRED BY**  
37 **CHAPTER 4 OF THIS TITLE.**

38           F. The department shall annually visit each adult developmental  
39 home and child developmental home and inspect the premises used for the  
40 care of children or vulnerable adults for sanitation, fire and other  
41 actual and potential hazards. The department shall take any action it  
42 deems necessary to carry out the duties imposed by this section, including  
43 ~~the denial of~~ **DENYING** the application for licensure and ~~the suspension~~  
44 **SUSPENDING** or ~~revocation of~~ **REVOKING** the home's license.

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

3       36-595.01. Access to facilities

4       A group home, NURSING-SUPPORTED GROUP HOME, adult developmental home  
5 or child developmental home shall allow the following to inspect the  
6 facility at reasonable times:

7       1. Parents and guardians of facility residents.

8       2. Members of the developmental disabilities advisory council.

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

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

15       For the purposes of this act, the department of health services is  
16 exempt from the rulemaking requirements of title 41, chapters 6 and 6.1,  
17 Arizona Revised Statutes, for eighteen months after the general effective  
18 date of the fifty-fifth legislature, first regular session.

19       Sec. 11. Effective date

20       Except for section 36-401, Arizona Revised Statutes, as amended by  
21 this act, section 36-425.07, Arizona Revised Statutes, as added by this  
22 act, and section 10 of this act, this act is effective from and after  
23 June 30, 2022.

APPROVED BY THE GOVERNOR MARCH 18, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2021.