

REFERENCE TITLE: **health care institutions; regulation**

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1655

Introduced by
Senator Hatathlie

AN ACT

AMENDING SECTIONS 36-405, 36-413, 36-414, 36-422, 36-422.01, 36-424 AND 36-425, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-425.10 AND 36-425.11; AMENDING SECTIONS 36-431.01 AND 36-431.02, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-431.03 AND 36-431.04; 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 36-405, Arizona Revised Statutes, is amended to
3 read:

4 **36-405. Powers and duties of the director**

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

25 B. The director, by rule, may:

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

35 2. Prescribe standards for determining a health care institution's
36 ~~substantial~~ compliance with licensure requirements.

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

38 4. Prescribe standards for selecting health care-related
39 demonstration projects.

40 5. Establish nonrefundable application and licensing fees for
41 health care institutions, including a grace period and a fee for the late
42 payment of licensing fees.

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

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

4 7. ESTABLISH AN ADDITIONAL MONITORING FEE FOR HEALTH CARE
5 INSTITUTIONS THAT ARE NOT IN COMPLIANCE WITH THE REQUIREMENTS OF THIS
6 CHAPTER AND THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

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

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

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

19 Sec. 2. Section 36-413, Arizona Revised Statutes, is amended to
20 read:

21 36-413. Nutrition and feeding assistants; training programs;
22 regulation; civil penalty; definition

23 A. The department may adopt rules to prescribe minimum standards
24 for training programs for nutrition and feeding assistants in licensed
25 skilled nursing facilities, including instructor qualifications, and may
26 grant, deny, suspend and revoke approval of any training program that
27 violates these standards. These standards must include:

- 28 1. Screening requirements.
- 29 2. Initial qualifications.
- 30 3. Continuing education requirements.
- 31 4. Testing requirements to ~~assure~~ ENSURE competency.
- 32 5. Supervision requirements.
- 33 6. Requirements for additional training based on patient needs.
- 34 7. Maintenance of records.
- 35 8. Special feeding requirements based on level of care.

36 B. Pursuant to section 36-431.01, the department ~~may~~ SHALL impose a
37 civil penalty on a training program that violates standards adopted by the
38 department.

39 C. If the department adopts standards for training programs
40 pursuant to subsection A of this section, the department, as part of its
41 routine inspection of a health care facility that provides a training
42 program, shall determine the facility's compliance with these standards.

43 D. For the purposes of this section, "nutrition and feeding
44 assistant" has the same meaning as paid feeding assistant as defined in 42
45 Code of Federal Regulations part 483 and section 488.301.

1 Sec. 3. Section 36-414, Arizona Revised Statutes, is amended to
2 read:

3 **36-414. Health services licensing fund; exemption**
4 A. The health services licensing fund is established consisting of
5 monies deposited pursuant to sections 30-654, 32-1308, 32-2805, 36-405,
6 36-431.01, 36-765.05, 36-766.06, 36-851.01, 36-882, 36-897.01, ~~and~~ 36-1903
7 **AND 36-2063.** The department of health services shall administer the fund.

8 B. Monies in the fund are subject to legislative appropriation.

9 C. Monies in the fund are exempt from the provisions of section
10 35-190 relating to lapsing of appropriations.

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

13 **36-422. Application for license; notification of proposed**
14 **change in status; joint licenses; definitions**

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

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

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

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

24 (c) The name of the governing authority. The applicant shall be
25 the governing authority having the operative ownership of, or the
26 governmental agency charged with the administration of, the health care
27 institution sought to be licensed. If the applicant is a partnership that
28 is not a limited partnership, the partners shall apply jointly, and the
29 partners are jointly the governing authority for purposes of this article.

30 (d) The name and business or residential address of each
31 controlling person and an affirmation that none of the controlling persons
32 has been denied a license or certificate by a health profession regulatory
33 board pursuant to title 32 or by a state agency pursuant to chapter 6,
34 article 7 or chapter 17 of this title or a license to operate a health
35 care institution in this state or another state or has had a license or
36 certificate issued by a health profession regulatory board pursuant to
37 title 32 or issued by a state agency pursuant to chapter 6, article 7 or
38 chapter 17 of this title or a license to operate a health care institution
39 revoked. If a controlling person has been denied a license or certificate
40 by a health profession regulatory board pursuant to title 32 or by a state
41 agency pursuant to chapter 6, article 7 or chapter 17 of this title or a
42 license to operate a health care institution in this state or another
43 state or has had a health care professional license or a license to
44 operate a health care institution revoked, the controlling person shall

1 include in the application a comprehensive description of the
2 circumstances for the denial or the revocation.

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

5 (f) The types and extent of the health care services to be
6 provided, including emergency services, community health services and
7 services to indigent patients.

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

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

12 2. The attestation required by section 36-421, subsection A.

13 3. The applicable application fee.

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

16 1. If the applicant is an individual, the owner of the health care
17 institution.

18 2. If the applicant is a partnership, limited liability company or
19 corporation, two of the officers of the corporation or managing members of
20 the partnership or limited liability company or the sole member of the
21 limited liability company if it has only one member.

22 3. If the applicant is a governmental unit, the head of the
23 governmental unit.

24 C. An application for licensure shall be submitted at least sixty
25 but not more than one hundred twenty days before the anticipated date of
26 operation. An application for a ~~substantial~~ compliance survey submitted
27 pursuant to section 36-425, subsection G shall be submitted at least
28 thirty days before the date on which the ~~substantial~~ compliance survey is
29 requested.

30 D. If a current licensee intends to terminate the operation of a
31 licensed health care institution or if a change of ownership is planned,
32 the current licensee shall notify the director in writing at least thirty
33 days before the termination of operation or change in ownership is to take
34 place. The current licensee is responsible for preventing any
35 interruption of services required to sustain the life, health and safety
36 of the patients or residents. A new owner shall not begin operating the
37 health care institution until the director issues a license to the new
38 owner.

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

43 F. If a person operates a hospital in a county with a population of
44 more than five hundred thousand persons in a setting that includes
45 satellite facilities of the hospital that are located separately from the

1 main hospital building, the department at the request of the applicant or
2 licensee shall issue a single group license to the hospital and its
3 designated satellite facilities located within one-half mile of the main
4 hospital building if all of the facilities meet or exceed department
5 licensure requirements for the designated facilities. At the request of
6 the applicant or licensee, the department shall also issue a single group
7 license that includes the hospital and its designated satellite facilities
8 that are located farther than one-half mile from the main hospital
9 building if all of these facilities meet or exceed applicable department
10 licensure requirements. Each facility included under a single group
11 license is subject to the department's licensure requirements that are
12 applicable to that category of facility. Subject to compliance with
13 applicable licensure or accreditation requirements, the department shall
14 reissue individual licenses for the facility of a hospital located in
15 separate buildings from the main hospital building when requested by the
16 hospital. This subsection does not apply to nursing care institutions and
17 residential care institutions. The department is not limited in
18 conducting inspections of an accredited health care institution to ensure
19 that the institution meets department licensure requirements. If a person
20 operates a hospital in a county with a population of five hundred thousand
21 persons or less in a setting that includes satellite facilities of the
22 hospital that are located separately from the main hospital building, the
23 department at the request of the applicant or licensee shall issue a
24 single group license to the hospital and its designated satellite
25 facilities located within thirty-five miles of the main hospital building
26 if all of the facilities meet or exceed department licensure requirements
27 for the designated facilities. At the request of the applicant or
28 licensee, the department shall also issue a single group license that
29 includes the hospital and its designated satellite facilities that are
30 located farther than thirty-five miles from the main hospital building if
31 all of these facilities meet or exceed applicable department licensure
32 requirements.

33 G. If a county with a population of more than one million persons
34 or a special health care district in a county with a population of more
35 than one million persons operates an accredited hospital that includes the
36 hospital's accredited facilities that are located separately from the main
37 hospital building and the accrediting body's standards as applied to all
38 facilities meet or exceed the department's licensure requirements, the
39 department shall issue a single license to the hospital and its facilities
40 if requested to do so by the hospital. If a hospital complies with
41 applicable licensure or accreditation requirements, the department shall
42 reissue individual licenses for each hospital facility that is located in
43 a separate building from the main hospital building if requested to do so
44 by the hospital. This subsection does not limit the department's duty to
45 inspect a health care institution to determine its compliance with

1 department licensure standards. This subsection does not apply to nursing
2 care institutions and residential care institutions.

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

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

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

14 K. Except for an outpatient treatment center that provides dialysis
15 services or abortion procedures or that is exempt from licensure pursuant
16 to section 36-402, subsection A, paragraph 12, a person wishing to begin
17 operating an outpatient treatment center before a licensing inspection is
18 completed shall submit all of the following:

19 1. The license application required pursuant to this section.

20 2. All applicable application and license fees.

21 3. A written request for a temporary license that includes:

22 (a) The anticipated date of operation.

23 (b) An attestation signed by the applicant that the applicant and
24 the facility comply with and will continue to comply with the applicable
25 licensing statutes and rules.

26 L. Within seven days after the department's receipt of the items
27 required in subsection K of this section, but not before the anticipated
28 operation date submitted pursuant to subsection C of this section, the
29 department shall issue a temporary license that includes:

30 1. The name of the facility.

31 2. The name of the licensee.

32 3. The facility's class or subclass.

33 4. The temporary license's effective date.

34 5. The location of the licensed premises.

35 M. A facility may begin operating on the effective date of the
36 temporary license.

37 N. The director may cease the issuance of temporary licenses at any
38 time if the director believes that public health and safety is endangered.

39 O. An outpatient treatment center that is exempt from licensure
40 pursuant to section 36-402, subsection A, paragraph 12 is subject to
41 reasonable inspection by the department if the director has reasonable
42 cause to believe that patient harm is or may be occurring at that
43 outpatient treatment center. A substantiated complaint that harm is
44 occurring at an exempt outpatient treatment center is a violation of this

1 chapter against the license of the hospital listed in the notice required
2 by section 36-402, subsection A, paragraph 12.

3 P. Each hospital that is licensed pursuant to this chapter shall
4 provide to and maintain with the department a current list of exempt
5 outpatient treatment centers that have the same direct owner or indirect
6 owner as the hospital.

7 Q. For the purposes of this section:

8 1. "Accredited" means accredited by a nationally recognized
9 accreditation organization.

10 2. "Satellite facility" means an outpatient facility at which the
11 hospital provides outpatient medical services.

12 Sec. 5. Section 36-422.01, Arizona Revised Statutes, is amended to
13 read:

14 36-422.01. Health care institutions; termination of
15 operation; medical records; civil penalties;
16 definition

17 A. In addition to the requirements prescribed in section 36-422,
18 subsection D, if a current licensee intends to terminate the operation of
19 a licensed health care institution, the current licensee shall do one of
20 the following before the health care institution ceases operation:

21 1. Provide each patient of the health care institution with the
22 patient's medical records.

23 2. Transfer the health care institution's medical records to a
24 third-party entity to ensure patient access to the medical records.

25 B. If a patient or a patient's health care decision maker requests
26 access to or copies of the patient's medical records, the health care
27 institution or third-party entity in possession of the medical records
28 shall provide access to or copies of the medical records to the patient or
29 the patient's health care decision maker in accordance with title 12,
30 chapter 13, article 7.1.

31 C. A licensee that fails to comply with subsection A of this
32 section is subject to a civil penalty of not more than \$10,000. The
33 director may use a licensee's failure to comply with subsection A of this
34 section as grounds to deny a subsequent license pursuant to section
35 36-425, subsection ~~K~~ L.

36 D. For the purposes of this section, "medical record" has the same
37 meaning prescribed in section 36-2201.

38 Sec. 6. Section 36-424, Arizona Revised Statutes, is amended to
39 read:

40 36-424. Inspections; suspension or revocation of license;
41 report to board of examiners of nursing care
42 institution administrators and assisted living
43 facility managers

44 A. Except as provided in subsection B of this section, the director
45 shall inspect the premises of the health care institution and investigate

1 the character and other qualifications of the applicant to ascertain
2 whether the applicant and the health care institution are in ~~substantial~~
3 compliance with the requirements of this chapter and the rules established
4 pursuant to this chapter. The director may prescribe rules regarding
5 department background investigations into an applicant's character and
6 qualifications.

7 B. The director may accept proof that a health care institution is
8 an accredited hospital or is an accredited health care institution in lieu
9 of all compliance inspections required by this chapter if the director
10 receives a copy of the health care institution's accreditation report for
11 the licensure period and the health care institution is accredited by an
12 independent, nonprofit accrediting organization approved by the secretary
13 of the United States department of health and human services. If the
14 health care institution's accreditation report is not valid for the entire
15 licensure period, the department may conduct a compliance inspection of
16 the health care institution during the time period the department does not
17 have a valid accreditation report for the health care institution. For
18 the purposes of this subsection, each licensed premises of a health care
19 institution must have its own accreditation report. The director may not
20 accept an accreditation report in lieu of a compliance inspection of:

21 1. An intermediate care facility for individuals with intellectual
22 disabilities.

23 2. A nursing-supported group home.

24 3. A health care institution if the health care institution has
25 been subject to an enforcement action pursuant to section 36-427 or
26 36-431.01 **OR TO A CRIMINAL PENALTY PURSUANT TO TITLE 13** within the **year**
27 preceding ~~the annual licensing fee anniversary date~~ **FIVE YEARS.**

28 4. **A RESIDENTIAL CARE INSTITUTION.**

29 C. On a determination by the director that there is reasonable
30 cause to believe a health care institution is not adhering to the
31 licensing requirements of this chapter, the director and any duly
32 designated employee or agent of the director, including county health
33 representatives and county or municipal fire inspectors, consistent with
34 standard medical practices, may enter on and into the premises of any
35 health care institution that is licensed or required to be licensed
36 pursuant to this chapter at any reasonable time for the purpose of
37 determining the state of compliance with this chapter, the rules adopted
38 pursuant to this chapter and local fire ordinances or rules. Any
39 application for licensure under this chapter constitutes permission for
40 and complete acquiescence in any entry or inspection of the premises
41 during the pendency of the application and, if licensed, during the term
42 of the license. If an inspection reveals that the health care institution
43 is not adhering to the licensing requirements established pursuant to this
44 chapter, the director may take action authorized by this chapter. Any
45 health care institution, including an accredited hospital, whose license

1 has been suspended or revoked in accordance with this section is subject
2 to inspection on application for relicensure or reinstatement of license.

3 D. The director shall immediately report to the board of examiners
4 of nursing care institution administrators and assisted living facility
5 managers information identifying that a nursing care institution
6 administrator's conduct may be grounds for disciplinary action pursuant to
7 section 36-446.07.

8 Sec. 7. Section 36-425, Arizona Revised Statutes, is amended to
9 read:

10 36-425. Inspections; issuance of license; posting
11 requirements; provisional license; violation;
12 classification; civil penalty; denial of license

13 A. On receipt of a properly completed application for a health care
14 institution license, the director shall conduct an inspection of the
15 health care institution as prescribed by this chapter. If an application
16 for a license is submitted due to a planned change of ownership, the
17 director shall determine the need for an inspection of the health care
18 institution. Based on the results of the inspection and after the
19 submission of the applicable licensing fee, the director shall either deny
20 the license or issue a regular or provisional license. A license issued
21 by the department shall be posted in a conspicuous location in the
22 reception area of that **HEALTH CARE** institution.

23 B. The director shall issue a license if the director determines
24 that an applicant and the health care institution for which the license is
25 sought **substantially comply** **COMPLIES** with the requirements of this chapter
26 and rules adopted pursuant to this chapter **and the applicant agrees to**
27 **carry out a plan acceptable to the director to eliminate any deficiencies**.
28 The director shall not require a health care institution that was
29 designated as a critical access hospital to make any modifications
30 required by this chapter or rules adopted pursuant to this chapter in
31 order to obtain an amended license with the same licensed capacity the
32 health care institution had before it was designated as a critical access
33 hospital if all of the following are true:

34 1. The health care institution has subsequently terminated its
35 critical access hospital designation.

36 2. The licensed capacity of the health care institution does not
37 exceed its licensed capacity before its designation as a critical access
38 hospital.

39 3. The health care institution remains in compliance with the
40 applicable codes and standards that were in effect at the time the
41 facility was originally licensed with the higher licensed capacity.

1 C. A health care institution license does not expire and remains
2 valid unless:

3 1. The department subsequently revokes or suspends the license.
4 2. The license is considered void because the licensee did not pay
5 the licensing fee, ANY CIVIL PENALTIES OR THE PROVIDER AGREEMENT FEES
6 ASSESSED before the licensing fee due date.

7 D. Except as provided in section 36-424, subsection B and
8 subsection E of this section, the department shall conduct a compliance
9 inspection of a health care institution to determine compliance with this
10 chapter and rules adopted pursuant to this chapter at least once annually.

11 E. If the department determines a facility to be deficiency free on
12 a compliance survey, the department shall not conduct a compliance survey
13 of that facility for twenty-four months after the date of the deficiency
14 free survey. This subsection does not:

15 1. Prohibit the department from enforcing licensing requirements as
16 authorized by section 36-424.

17 2. **APPLY TO RESIDENTIAL CARE INSTITUTIONS.**

18 F. A hospital licensed as a rural general hospital may provide
19 intensive care services.

20 G. The director shall issue a provisional license for a period of
21 not more than one year if an inspection or investigation of a currently
22 licensed health care institution ~~or a health care institution for which an~~
23 ~~applicant is seeking a license~~ reveals that the **HEALTH CARE** institution is
24 not in ~~substantial~~ compliance with department licensure requirements and
25 the director believes that the immediate interests of the patients and the
26 general public are best served if the **HEALTH CARE** institution is given an
27 opportunity to correct deficiencies. The ~~applicant or~~ licensee shall
28 agree to carry out a **CORRECTIVE ACTION** plan to eliminate deficiencies that
29 is acceptable to the director. The director shall not issue consecutive
30 provisional licenses to a single health care institution. The director
31 shall not issue a license to the current licensee or a successor applicant
32 before the expiration of the provisional license unless the health care
33 institution submits an application for a ~~substantial~~ compliance survey and
34 is found to be in ~~substantial~~ compliance. The director may issue a
35 license only if the director determines that the **HEALTH CARE** institution
36 is in ~~substantial~~ compliance with the licensure requirements of the
37 department and this chapter. This subsection does not prevent the
38 director from taking action to protect the safety of patients pursuant to
39 section 36-427.

40 H. A RESIDENTIAL CARE INSTITUTION THAT OPERATES IN THIS STATE
41 WITHOUT A LICENSE IN VIOLATION OF THIS CHAPTER IS GUILTY OF A CLASS 6
42 FELONY AND THE DIRECTOR SHALL ASSESS A CIVIL PENALTY OF AT LEAST \$5,000
43 AND NOT MORE THAN \$10,000 FOR EACH VIOLATION. EACH DAY THE RESIDENTIAL
44 CARE INSTITUTION OPERATES WITHOUT A LICENSE IS A SEPARATE VIOLATION.

1 ~~H.~~ I. Subject to the confidentiality requirements of articles 4
2 and 5 of this chapter, title 12, chapter 13, article 7.1 and section
3 12-2235, the licensee shall keep current department inspection reports at
4 the health care institution. Unless federal law requires otherwise, the
5 licensee shall post in a conspicuous location a notice that identifies the
6 location at that **HEALTH CARE** institution where the inspection reports are
7 available for review.

8 ~~T.~~ J. A health care institution shall immediately notify the
9 department in writing when there is a change of the chief administrative
10 officer specified in section 36-422, subsection A, paragraph 1,
11 subdivision (g).

12 J. When the department issues an original license or an
13 original provisional license to a health care institution, it shall notify
14 the owners and lessees of any agricultural land within one-fourth mile of
15 the health care institution. The health care institution shall provide
16 the department with the names and addresses of owners or lessees of
17 agricultural land within one-fourth mile of the proposed health care
18 institution.

19 L. In addition to the grounds for denial of licensure
20 prescribed pursuant to subsection A of this section, the director ~~may~~
21 SHALL deny a license because an applicant or anyone in a business
22 relationship with the applicant, including stockholders and controlling
23 persons, has had a license to operate a health care institution denied,
24 revoked or suspended or a license or certificate issued by a health
25 profession regulatory board pursuant to title 32 or issued by a state
26 agency pursuant to chapter 6, article 7 or chapter 17 of this title
27 denied, revoked or suspended or has a licensing history of recent serious
28 violations occurring in this state or in another state that posed a direct
29 risk to the life, health or safety of patients or residents.

30 ~~t.~~ M. In addition to the requirements of this chapter, the
31 director may prescribe by rule other licensure requirements.

32 Sec. 8. Title 36, chapter 4, article 2, Arizona Revised Statutes,
33 is amended by adding sections 36-425.10 and 36-425.11, to read:

34 36-425.10. Behavioral health residential facilities;
35 admittance; notification of family; conditions
36 for transportation

37 A. WHEN A RESIDENT IS ADMITTED FOR INITIAL EVALUATION, A BEHAVIORAL
38 HEALTH RESIDENTIAL FACILITY SHALL NOTIFY THE RESIDENT'S FAMILY OR NEXT OF
39 KIN WITHIN SEVENTY-TWO HOURS AFTER THE INITIAL EVALUATION. THE
40 NOTIFICATION SHALL BE DOCUMENTED IN THE RESIDENT'S MEDICAL RECORD.

41 B. A BEHAVIORAL HEALTH RESIDENTIAL FACILITY MAY NOT COORDINATE,
42 FACILITATE, ARRANGE FOR OR SOLICIT TRANSPORTATION OF A PERSON TO THE
43 BEHAVIORAL HEALTH RESIDENTIAL FACILITY IF THE PERSON IS INTOXICATED OR
44 UNDER THE INFLUENCE OF ALCOHOL OR OTHER SUBSTANCES, UNLESS THE PERSON IS

1 REFERRED BY AN APPROVED PROVIDER OF A TRIBAL HEALTH CARE PROGRAM OR A
2 REGIONAL BEHAVIORAL HEALTH AUTHORITY OR IS COURT-ORDERED.

3 36-425.11. Behavioral health residential facilities; resident
4 discharge; transportation; documentation

5 A BEHAVIORAL HEALTH RESIDENTIAL FACILITY SHALL INQUIRE, BOTH
6 VERBALLY AND IN WRITING, WHETHER A RESIDENT WANTS TO BE TRANSPORTED TO THE
7 RESIDENT'S PLACE OF RESIDENCE OR AN ALTERNATIVE SAFE LIVING SPACE IN THIS
8 STATE AS REQUESTED BY THE RESIDENT AFTER DISCHARGE FROM THE BEHAVIORAL
9 HEALTH RESIDENTIAL FACILITY. THE RESIDENT'S WISHES REGARDING
10 TRANSPORTATION SHALL BE DOCUMENTED ON A FORM PRESCRIBED BY THE DEPARTMENT,
11 SIGNED BY THE RESIDENT AND RETAINED IN THE RESIDENT'S MEDICAL RECORD. THE
12 BEHAVIORAL HEALTH RESIDENTIAL FACILITY SHALL ENSURE SAFE AND RELIABLE
13 TRANSPORTATION, AS DETERMINED BY THE DEPARTMENT, FOR A RESIDENT WHO WISHES
14 TO BE TRANSPORTED TO THE RESIDENT'S PLACE OF RESIDENCE OR AN ALTERNATIVE
15 SAFE LIVING SPACE IN THIS STATE AS REQUESTED BY THE RESIDENT ON DISCHARGE.

16 Sec. 9. Section 36-431.01, Arizona Revised Statutes, is amended to
17 read:

18 36-431.01. Violations; civil penalties; enforcement; use of
19 monies

20 A. The director ~~may~~ SHALL assess a civil penalty against a person
21 who violates this chapter or a rule adopted pursuant to this chapter in an
22 amount of ~~not to exceed five hundred dollars~~ AT LEAST \$5,000 AND NOT MORE
23 THAN \$10,000 for each violation. Each day that a violation occurs
24 constitutes a separate violation.

25 B. The director ~~may~~ SHALL issue a notice of assessment that shall
26 include the ~~proposed~~ amount of the assessment. A person may appeal the
27 assessment by requesting a hearing pursuant to title 41, chapter 6,
28 article 10. When an assessment is appealed, the director shall take no
29 further action to enforce and collect the assessment until after the
30 hearing.

31 C. In determining the AMOUNT OF THE civil penalty pursuant to
32 subsection A of this section, the department shall consider the following:

- 33 1. Repeated violations of statutes or rules.
- 34 2. Patterns of noncompliance.
- 35 3. Types of violations.
- 36 4. THE severity of violations.
- 37 5. THE potential for and occurrences of actual harm.
- 38 6. Threats to health and safety.
- 39 7. THE number of persons affected by the violations.
- 40 8. THE number of violations.
- 41 9. THE size of the facility.
- 42 10. THE length of time that the violations have been occurring.

11. THE NUMBER OF INJURIES CAUSED.

12. THE SEVERITY OF THE INJURIES CAUSED.

13. THE NUMBER OF DEATHS CAUSED.

14. THE CAUSE OF DEATHS.

5 D. Pursuant to interagency agreement specified in section 36-409,
6 the director ~~may~~ SHALL assess a civil penalty, including interest, in
7 accordance with 42 United States Code section 1396r. A person may appeal
8 this assessment by requesting a hearing before the director in accordance
9 with subsection B of this section. Civil penalty amounts may be
10 established by rules adopted by the director that conform to guidelines or
11 regulations adopted by the secretary of the United States department of
12 health and human services pursuant to 42 United States Code section 1396r.

13 E. Actions to enforce the collection of penalties assessed pursuant
14 to subsections A and D of this section shall be brought by the attorney
15 general or the county attorney in the name of the state in the justice
16 court or the superior court in the county in which the violation occurred.

17 F. Penalties assessed under subsection D of this section are in
18 addition to and not in limitation of other penalties imposed pursuant to
19 this chapter. All civil penalties and interest assessed pursuant to
20 subsection D of this section shall be deposited, PURSUANT TO SECTIONS
21 35-146 AND 35-147, in the nursing care institution resident protection
22 revolving fund established by section 36-431.02. The director shall use
23 these monies for the purposes prescribed by 42 United States Code section
24 1396r, including payment for the costs of relocation of residents to other
25 facilities, maintenance of operation of a facility pending correction of
26 the deficiencies or closure and reimbursement of residents for personal
27 monies lost.

28 G. The department shall ~~transmit~~ DEPOSIT penalties assessed under
29 subsection A of this section ~~to~~ IN the ~~state general fund~~ FOLLOWING FUNDS
30 AS FOLLOWS:

31 1. EIGHTY PERCENT IN THE INDIGENOUS PEOPLES PROTECTION REVOLVING
32 FUND ESTABLISHED BY SECTION 36-431.03.

33 2. FIVE PERCENT IN THE HEALTH SERVICES LICENSING FUND ESTABLISHED
34 BY SECTION 36-414. THE DEPARTMENT SHALL USE THE MONIES DEPOSITED IN THE
35 HEALTH SERVICES LICENSING FUND PURSUANT TO THIS PARAGRAPH FOR INSPECTIONS
36 AND ENFORCEMENT RELATING TO RESIDENTIAL CARE INSTITUTIONS.

37 3. FIFTEEN PERCENT IN THE NURSING CARE INSTITUTION RESIDENT
38 PROTECTION REVOLVING FUND ESTABLISHED BY SECTION 36-431.02.

39 Sec. 10. Section 36-431.02, Arizona Revised Statutes, is amended to
40 read:

41 36-431.02. Nursing care institution resident protection
42 revolving fund; use; nonreversion

43 A. The nursing care institution resident protection revolving fund
44 is established. The fund consists of monies received from civil penalties
45 collected by the director pursuant to section 36-431.01, ~~subsection B~~.

1 B. The director shall use monies in the fund for the purposes
2 prescribed in section 36-431.01, subsection F, subject to legislative
3 appropriation.

4 C. Monies in the fund are exempt from the provisions of section
5 35-190 relating to the lapsing of appropriations.

6 Sec. 11. Title 36, chapter 4, article 2, Arizona Revised Statutes,
7 is amended by adding sections 36-431.03 and 36-431.04, to read:

8 36-431.03. Indigenous peoples protection revolving fund

9 A. THE INDIGENOUS PEOPLES PROTECTION REVOLVING FUND IS ESTABLISHED
10 TO SUPPORT RESILIENCY AND HEALING OF INDIGENOUS PEOPLES IN THIS STATE.
11 THE FUND CONSISTS OF MONIES DEPOSITED PURSUANT TO SECTION 36-431.01.
12 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE
13 PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSLING OF APPROPRIATIONS.
14 THE DIRECTOR SHALL ADMINISTER THE FUND.

15 B. THE MONIES IN THE FUND SHALL BE USED ANNUALLY AS FOLLOWS:

16 1. FORTY PERCENT SHALL BE TRANSFERRED TO TRIBAL COLLEGES IN THIS
17 STATE FOR PROGRAMMING IN SOCIAL WORK AND BEHAVIORAL HEALTH.

18 2. TWENTY PERCENT SHALL PROVIDE RESTITUTION PAYMENTS FOR FAMILIES
19 OF DECEASED VICTIMS OF THIS STATE'S BEHAVIORAL HEALTH SYSTEM AND SOBER
20 LIVING HOMES. EACH FAMILY OF A DECEASED VICTIM SHALL RECEIVE A MINIMUM OF
21 \$3,000 AND THE REPATRIATION OF THE VICTIM'S HUMAN REMAINS AND EXPENSES.

22 3. FORTY PERCENT SHALL BE DISTRIBUTED TO TRIBAL COMMUNITIES FOR
23 BEHAVIORAL HEALTH TREATMENT SERVICES AND PROGRAMS OR RESIDENTIAL HOMES,
24 INCLUDING BEHAVIORAL HEALTH RESIDENTIAL FACILITIES, SOBER LIVING HOMES AND
25 TRANSITIONAL HOMES.

26 36-431.04. Legal action or sale; effect on licensure

27 A. THE DEPARTMENT SHALL NOT APPROVE AN APPLICATION FOR LICENSURE OF
28 A CURRENTLY LICENSED HEALTH CARE INSTITUTION WHILE ANY ENFORCEMENT OR
29 COURT ACTION RELATED TO HEALTH CARE INSTITUTION LICENSURE IS PENDING
30 AGAINST THAT HEALTH CARE INSTITUTION'S CURRENT LICENSEE.

31 B. THE DIRECTOR SHALL CONTINUE TO PURSUE ANY COURT, ADMINISTRATIVE
32 OR ENFORCEMENT ACTION AGAINST THE LICENSEE EVEN THOUGH THE HEALTH CARE
33 INSTITUTION IS IN THE PROCESS OF BEING SOLD OR TRANSFERRED TO A NEW OWNER.

34 C. THE DEPARTMENT SHALL NOT APPROVE A CHANGE IN OWNERSHIP UNLESS
35 THE DEPARTMENT DETERMINES THAT THERE HAS BEEN A TRANSFER OF ALL LEGAL AND
36 EQUITABLE INTERESTS, CONTROL AND AUTHORITY IN THE HEALTH CARE INSTITUTION
37 SO THAT PERSONS OTHER THAN THE TRANSFERRING LICENSEE, THAT LICENSEE'S
38 AGENT OR OTHER PARTIES EXERCISING AUTHORITY OR SUPERVISION OVER THE HEALTH
39 CARE INSTITUTION'S DAILY OPERATIONS OR STAFF ARE RESPONSIBLE FOR AND HAVE
40 CONTROL OVER THE HEALTH CARE INSTITUTION.

1 Sec. 12. Rulemaking exemption: intent

2 A. Notwithstanding any other law, for the purposes of this act and
3 amending the rules relating to residential care institutions, the
4 department of health services is exempt from the rulemaking requirements
5 of title 41, chapters 6 and 6.1, Arizona Revised Statutes, through June
6 30, 2025.

7 B. The legislature intends for the department of health services to
8 review and amend the rules for behavioral health residential facilities to
9 ensure that there are adequate and proper requirements for staffing, care
10 and oversight.