

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 ~~substantia~~ 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 ~~substantia~~ 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 ~~substantia~~ 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           ~~I.~~ 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.~~ K. 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           ~~K.~~ 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           ~~L.~~ 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.



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 LAPSING 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.