

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2139

AN ACT

AMENDING SECTION 36-401, 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 accredited
10 by a nationally recognized commission on hospital accreditation.

11 3. "Adaptive services" means medical services that are provided on an
12 outpatient basis.

13 4. "Adult day health care facility" means a facility that provides
14 adult day health services during a portion of a continuous twenty-four hour
15 period for compensation on a regular basis for five or more adults not
16 related to the proprietor.

17 5. "Adult day health services" means a program that provides planned
18 care supervision and activities, personal care, personal living skills
19 training, meals and health monitoring in a group setting during a portion of
20 a continuous twenty-four hour period. Adult day health services may also
21 include preventive, therapeutic and restorative health related services that
22 do not include behavioral health services.

23 6. "Adult foster care" means a residential setting that provides room
24 and board and adult foster care services for at least one and no more than
25 four adults who are participants in the Arizona long-term care system
26 pursuant to chapter 29, article 2 of this title and in which the sponsor or
27 the manager resides with the residents and integrates the residents who are
28 receiving adult foster care into that person's family.

29 7. "Adult foster care services" means supervision, assistance with
30 eating, bathing, toileting, dressing, self-medication and other routines of
31 daily living or services authorized by section 36-2939, subsection C and
32 rules adopted pursuant to that section.

33 8. "Ambulatory person" means any individual, including one who uses a
34 cane or other ambulatory support device, who is physically and mentally
35 capable under emergency conditions of finding a way to safety without
36 assistance.

37 9. "Assisted living center" means an assisted living facility that
38 provides resident rooms or residential units to eleven or more residents.

39 10. "Assisted living facility" means a residential care institution,
40 including adult foster care, that provides or contracts to provide
41 supervisory care services, personal care services or directed care services
42 on a continuing basis.

43 11. "Assisted living home" means an assisted living facility that
44 provides resident rooms to ten or fewer residents.

- 1 12. "Capital expenditure" means the acquisition by lease or purchase of
2 a capital asset in the nature of buildings, fixtures or durable equipment.
- 3 13. "Construction" means the building, erection, fabrication or
4 installation of a health care institution.
- 5 14. "Continuous" means available at all times without cessation, break
6 or interruption.
- 7 15. "Controlling person" means a person who:
8 (a) Through ownership, has the power to vote at least ten per cent of
9 the outstanding voting securities.
- 10 (b) If the applicant or licensee is a partnership, is the general
11 partner or a limited partner who holds at least ten per cent of the voting
12 rights of the partnership.
- 13 (c) If the applicant or licensee is a corporation, an association or a
14 limited liability company, is the president, the chief executive officer, the
15 incorporator or any person who owns or controls at least ten per cent of the
16 voting securities. For the purposes of this subdivision, corporation does
17 not include nonprofit corporations.
- 18 (d) Holds a beneficial interest in ten per cent or more of the
19 liabilities of the applicant or the licensee.
- 20 16. "Department" means the department of health services.
- 21 17. "Directed care services" means programs and services, including
22 personal care services, that are provided to persons who are incapable of
23 recognizing danger, summoning assistance, expressing need or making basic
24 care decisions.
- 25 18. "Direction" means authoritative policy or procedural guidance for
26 the accomplishment of a function or activity.
- 27 19. "Director" means the director of the department of health services.
- 28 20. "Facilities" means buildings that are used by a health care
29 institution for providing any of the types of services as defined in this
30 chapter.
- 31 21. "Freestanding urgent care center":
32 (a) Means an outpatient treatment center that, regardless of its
33 posted or advertised name, meets any of the following requirements:
34 (i) Is open twenty-four hours a day, excluding at its option weekends
35 or certain holidays, but is not licensed as a hospital.
36 (ii) Claims to provide unscheduled medical services not otherwise
37 routinely available in primary care physician offices.
38 (iii) By its posted or advertised name, gives the impression to the
39 public that it provides medical care for urgent, immediate or emergency
40 conditions.
41 (iv) Routinely provides ongoing unscheduled medical services for more
42 than eight consecutive hours for an individual patient.
- 43 (b) Does not include the following:
44 (i) A medical facility that is licensed under a hospital's license and
45 that uses the hospital's medical provider number.

1 (ii) A qualifying community health center pursuant to section
2 36-2907.06.

3 (iii) Any other health care institution licensed pursuant to this
4 chapter.

5 (iv) A physician's office that offers extended hours or same day
6 appointments to existing and new patients and that does not meet the
7 requirements of subdivision (a), item (i), (iii) or (iv). For the purposes
8 of this item, "physician" means a person licensed pursuant to title 32,
9 chapter 13 or 17.

10 22. "Governing authority" means the individual, agency, group or
11 corporation, appointed, elected or otherwise designated, in which the
12 ultimate responsibility and authority for the conduct of the health care
13 institution are vested.

14 23. "Health care institution" means every place, institution, building
15 or agency, whether organized for profit or not, that provides facilities with
16 medical services, nursing services, health screening services, other
17 health-related services, supervisory care services, personal care services or
18 directed care services and that includes home health agencies as defined in
19 section 36-151 and hospice service agencies.

20 24. "Health-related services" means services, other than medical, that
21 pertain to general supervision, protective, preventive and personal care
22 services, supervisory care services or directed care services.

23 25. "Health screening services" means the acquisition, analysis and
24 delivery of health-related data of individuals to aid in the determination of
25 the need for medical services.

26 26. "Hospice" means a hospice service agency or the provision of
27 hospice services in an inpatient facility.

28 27. "Hospice service" means a program of palliative and supportive care
29 for terminally ill persons and their families or caregivers.

30 28. "Hospice service agency" means an agency or organization, or a
31 subdivision of that agency or organization, that is engaged in providing
32 hospice services at the place of residence of its clients.

33 29. "Inpatient beds" or "resident beds" means accommodations with
34 supporting services, such as food, laundry and housekeeping, for patients or
35 residents who generally stay in excess of twenty-four hours.

36 30. "Licensed capacity" means the total number of persons for whom the
37 health care institution is authorized by the department to provide services
38 as required pursuant to this chapter if the person is expected to stay in the
39 health care institution for more than twenty-four hours. For a hospital,
40 licensed capacity means only those beds specified on the hospital license.

41 31. "Medical services" means the services that pertain to medical care
42 and that are performed at the direction of a physician on behalf of patients
43 by physicians, dentists, nurses and other professional and technical
44 personnel.

1 32. "Modification" means the substantial improvement, enlargement,
2 reduction, ~~OR~~ alteration of or other change in a health care institution.

3 33. "Nonproprietary institution" means any health care institution that
4 is organized and operated exclusively for charitable purposes, no part of the
5 net earnings of which inures to the benefit of any private shareholder or
6 individual, or that is operated by the state or any political subdivision of
7 the state.

8 34. "Nursing care institution" means a health care institution that
9 provides inpatient beds or resident beds and nursing services to persons who
10 need nursing services on a continuing basis but who do not require hospital
11 care or direct daily care from a physician.

12 35. "Nursing services" means those services that pertain to the
13 curative, restorative and preventive aspects of nursing care and that are
14 performed at the direction of a physician by or under the supervision of a
15 registered nurse licensed in this state.

16 36. "Organized medical staff" means a formal organization of
17 physicians, and dentists where appropriate, with the delegated authority and
18 responsibility to maintain proper standards of medical care and to plan for
19 continued betterment of that care.

20 37. "Outpatient surgical center" means a type of health care
21 institution with facilities and limited hospital services for the diagnosis
22 or treatment of patients by surgery whose recovery, in the concurring
23 opinions of the surgeon and the anesthesiologist, does not require inpatient
24 care in a hospital.

25 38. "Personal care services" means assistance with activities of daily
26 living that can be performed by persons without professional skills or
27 professional training and ~~that~~ includes the coordination or provision of
28 intermittent nursing services and the administration of medications and
29 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as
30 otherwise provided by law.

31 39. "Physician" means any person who is licensed pursuant to title 32,
32 chapter 13 or 17.

33 40. "PRIVATE OFFICE OR CLINIC" MEANS A FACILITY IN WHICH EACH
34 CONTROLLING PERSON:

35 (a) IS A HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO TITLE 32.

36 (b) CAN PROVIDE HEALTH CARE INDEPENDENTLY UNDER THAT PERSON'S SCOPE OF
37 PRACTICE.

38 (c) PARTICIPATES IN AND IS PROFESSIONALLY RESPONSIBLE FOR PATIENT CARE
39 IN THE FACILITY.

40 ~~40-~~ 41. "Residential care institution" means a health care institution
41 other than a hospital or a nursing care institution that provides resident
42 beds or residential units, supervisory care services, personal care services,
43 directed care services or health-related services for persons who do not need
44 inpatient nursing care.

1 ~~41.~~ 42. "Residential unit" means a private apartment, unless otherwise
2 requested by a resident, that includes a living and sleeping space, kitchen
3 area, private bathroom and storage area.

4 ~~42.~~ 43. "Respite care services" means services that are provided by a
5 licensed health care institution to persons otherwise cared for in foster
6 homes and in private homes to provide an interval of rest or relief of not
7 more than thirty days to operators of foster homes or to family members.

8 ~~43.~~ 44. "Substantial compliance" means that the nature or number of
9 violations revealed by any type of inspection or investigation of a licensed
10 health care institution does not pose a direct risk to the life, health or
11 safety of patients or residents.

12 ~~44.~~ 45. "Supervision" means direct overseeing and inspection of the
13 act of accomplishing a function or activity.

14 ~~45.~~ 46. "Supervisory care services" means general supervision,
15 including daily awareness of resident functioning and continuing needs, the
16 ability to intervene in a crisis and assistance in the self-administration of
17 prescribed medications.

18 ~~46.~~ 47. "Unscheduled medical services" means medically necessary
19 periodic health care services that are unanticipated or cannot reasonably be
20 anticipated and that require medical evaluation or treatment before the next
21 business day.

22 B. If there are fewer than four Arizona long-term care system
23 participants receiving adult foster care in an adult foster care home,
24 nonparticipating adults may receive other types of services that are
25 authorized by law to be provided in the adult foster care home as long as the
26 number of adults served, including the Arizona long-term care system
27 participants, does not exceed four.

28 C. Nursing care services may be provided by the adult foster care
29 licensee if the licensee is a nurse who is licensed pursuant to title 32,
30 chapter 15 and the services are limited to those allowed pursuant to
31 law. The licensee shall keep a record of nursing services rendered.