

REFERENCE TITLE: fingerprint requirements; care facilities

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

HB 2049

Introduced by
Representative Wilmeth

AN ACT

AMENDING SECTION 36-411, 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 36-411, Arizona Revised Statutes, is amended to
3 read:

4 36-411. Residential care institutions; nursing care
5 institutions; home health agencies; fingerprinting
6 requirements; exemptions; definitions

7 A. Except as provided in ~~subsections~~ SUBSECTION F, ~~G, H and I~~ of
8 this section, as a condition of licensure or continued licensure of a
9 residential care institution, a nursing care institution or a home health
10 agency and as a condition of employment in a residential care institution,
11 a nursing care institution or a home health agency, employees and owners
12 of residential care institutions, nursing care institutions or home health
13 agencies, ~~or~~ contracted persons OF RESIDENTIAL CARE INSTITUTIONS, NURSING
14 CARE INSTITUTIONS OR HOME HEALTH AGENCIES or volunteers OF RESIDENTIAL
15 CARE INSTITUTIONS, NURSING CARE INSTITUTIONS OR HOME HEALTH AGENCIES who
16 provide medical services, nursing services, behavioral health services,
17 health-related services, home health services or DIRECT supportive
18 services and who have not been subject to the fingerprinting requirements
19 of a health professional's regulatory board pursuant to title 32 shall
20 have valid fingerprint clearance cards that are issued pursuant to title
21 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance
22 card within twenty working days of employment or beginning volunteer work
23 OR CONTRACTED WORK.

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

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

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

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

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

41 E. Except as provided in subsection F of this section, a
42 residential care institution, nursing care institution or home health
43 agency shall not allow an employee to continue employment or a VOLUNTEER
44 OR contracted person to continue to provide medical services, nursing
45 services, behavioral health services, health-related services, home health

1 services or **DIRECT** supportive services if the person has been denied a
2 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1,
3 ~~or~~ has been denied approval pursuant to this section before May 7, 2001 OR
4 HAS HAD A FINGERPRINT CLEARANCE CARD SUSPENDED OR REVOKED.

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

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

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

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

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

41 ~~K.~~ H. For the purposes of this section:

42 ~~S.~~ 1. "DIRECT supportive services" ~~has the same meaning prescribed~~
43 ~~in section 36-151:~~

1 (a) MEANS SERVICES OTHER THAN HOME HEALTH SERVICES THAT PROVIDE
2 DIRECT INDIVIDUAL CARE AND THAT ARE NOT PROVIDED IN A COMMON AREA OF A
3 HEALTH CARE INSTITUTION, INCLUDING:

4 (i) ASSISTANCE WITH AMBULATING, BATHING, TOILETING, GROOMING,
5 EATING AND GETTING IN AND OUT OF A BED OR CHAIR.

6 (ii) ASSISTANCE WITH SELF-ADMINISTRATION OF MEDICATION.

7 (iii) JANITORIAL, MAINTENANCE, HOUSEKEEPING OR OTHER SERVICES
8 PROVIDED IN A RESIDENT'S ROOM.

9 (iv) TRANSPORTATION SERVICES, INCLUDING VAN SERVICES.

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

13 ~~1.~~ 2. "Direct visual supervision" means ~~continuous~~ visual
14 oversight of the supervised person that does not require the supervisor to
15 be in a superior organizational role to the person being supervised.

16 ~~2.~~ 3. "Home health services" has the same meaning prescribed in
17 section 36-151.