

Conference Engrossed

fingerprint requirements; care facilities

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

# HOUSE BILL 2049

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.