

REFERENCE TITLE: state hospital; transfer; AHCCCS

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1391

Introduced by
Senator Barto

AN ACT

AMENDING SECTIONS 36-103.01, 36-137, 36-201, 36-202, 36-210, 36-503.03, 36-545.01, 36-545.08 AND 36-3410, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE HOSPITAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-103.01, Arizona Revised Statutes, is amended
3 to read:
4 36-103.01. Governmental units succeeded; statutory references
5 to succeeded governmental units
6 A. The department succeeds to the authority, powers, duties and
7 responsibilities of the following:
8 1. State department of health.
9 2. Arizona health planning authority.
10 3. Crippled children's services.
11 ~~4. Arizona state hospital.~~
12 ~~5.~~ 4. Anatomy board.
13 B. In the Arizona Revised Statutes, references to the agencies and
14 departments listed in subsection A of this section shall be deemed to be
15 references to the department of health services or its appropriate
16 organizational units.
17 C. In the Arizona Revised Statutes, references to the state board
18 of health, when used in the context of and in connection with the adoption
19 of rules, the appellate or original review of administrative decisions, or
20 the approval of decisions by department officers, shall be references to
21 the director of the department of health services. In all other places,
22 references to the state board of health shall be references to the
23 department of health services.
24 D. In this title, and in the Arizona Revised Statutes, references
25 to the commissioner of health shall be references to the director of the
26 department of health services.
27 Sec. 2. Section 36-137, Arizona Revised Statutes, is amended to
28 read:
29 36-137. Annual report of director
30 The director shall submit annually to the governor, the president of
31 the senate and the speaker of the house of representatives a copy of the
32 annual report setting forth:
33 1. The condition of public health in the state.
34 2. The activities of the department during the preceding fiscal
35 year.
36 3. The work done in each county.
37 4. The character and extent of all diseases reported.
38 5. The expenditures of the department and of each county or
39 district health department.
40 6. Recommendations the director deems advisable for protection of
41 the public health.
42 ~~7. The financial statement of the affairs of the Arizona state~~
43 ~~hospital.~~

1 ~~8-~~ 7. The operations and administration of the program of service
2 for children with a physical disability or who are suffering from
3 conditions that lead to a physical disability.

4 Sec. 3. Section 36-201, Arizona Revised Statutes, is amended to
5 read:

6 36-201. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Chief medical officer" means the chief medical officer of the
9 state hospital.

10 2. "Department" means the ~~department of health services~~ ARIZONA
11 HEALTH CARE COST CONTAINMENT SYSTEM.

12 3. "Director" means the director of the ~~department of health~~
13 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

14 4. "Employee" means an officer or employee of the state hospital.

15 5. "State hospital" means Arizona state hospital.

16 6. "Superintendent" means the superintendent of the state hospital.

17 Sec. 4. Section 36-202, Arizona Revised Statutes, is amended to
18 read:

19 36-202. State hospital for the mentally disordered; official
20 name; purpose; facilities and equipment

21 A. A state hospital shall be maintained for the care and treatment
22 of persons with mental disorders and persons with other personality
23 disorders or emotional conditions who will benefit from care and
24 treatment. Admissions to the state hospital shall be in accordance with
25 law. The hospital shall be called the Arizona state hospital.

26 B. Subject to legislative appropriation, the state hospital may
27 provide services to persons suffering from alcoholism and to persons
28 suffering from drug abuse.

29 C. The state hospital shall have adequate facilities and equipment
30 for enlightened and scientific treatment of nervous and mental diseases in
31 accordance with approved methods of mental therapeutics. The facilities
32 shall include, among other things:

33 1. Facilities for medical and psychiatric treatment with special
34 attention to occupational therapy and other special therapies.

35 2. Facilities for proper segregation and care of child patients.

36 3. Facilities for recreation and physical training.

37 4. An institutional library for the use of patients.

38 5. A properly equipped dental department.

39 6. A properly equipped laboratory and x-ray department.

40 7. A patient tracking system approved by the director that monitors
41 individual progress on an inpatient basis and ensures suitable aftercare
42 placement.

43 D. The state hospital shall be under the charge and control of the
44 director of the department ~~of health services~~, pursuant to this article.

1 Sec. 5. Section 36-210, Arizona Revised Statutes, is amended to
2 read:

3 36-210. Expenditures

4 A. This article does not give the director or any employee
5 authority to create a debt or obligation in excess of the amount
6 appropriated by the legislature to carry out ~~its~~ THE provisions OF THIS
7 ARTICLE. If monies are not appropriated to carry out the purpose of this
8 article, the director shall submit recommendations to the legislature,
9 with a statement of the cost when an improvement is requested.

10 B. Except as provided by subsection D of this section, the director
11 of the department of administration shall not issue a warrant for
12 expenditures by the state hospital in excess of the estimate contained in
13 the monthly financial statement unless the superintendent submits a
14 written request that is approved in writing by the director of the
15 ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
16 ADMINISTRATION and that states the reasons for the request. The director
17 of the department of administration shall not issue warrants in excess of
18 the amount available for the current quarter.

19 C. If a patient in the state hospital requires a health care
20 service that the state hospital or a facility or provider contracted by
21 the state hospital cannot provide, the ~~department of health services~~
22 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM shall pay approved claims from
23 a facility or provider that provides these required services as follows:

24 1. For inpatient and outpatient hospital services, the state shall
25 reimburse at a level that does not exceed the reimbursement methodology
26 established in section 36-2903.01, subsection G.

27 2. For health and medical services, the state shall reimburse
28 providers at a level that does not exceed the capped fee-for-service
29 schedule that is adopted by the Arizona health care cost containment
30 system administration pursuant to chapter 29, article 1 of this title and
31 that is in effect at the time the service is delivered.

32 D. Monies appropriated for capital investment may be ~~expended~~ SPENT
33 at any time during the fiscal period for which the monies are appropriated
34 as directed by the director.

35 Sec. 6. Section 36-503.03, Arizona Revised Statutes, is amended to
36 read:

37 36-503.03. Civil commitment treatment population; cap

38 The Arizona state hospital shall collect census data for adult civil
39 commitment treatment programs to establish maximum capacity and the
40 allocation formula required by section 36-206, subsection D. The Arizona
41 state hospital or the ~~department of health services~~ ARIZONA HEALTH CARE
42 COST CONTAINMENT SYSTEM is not required to provide civil commitment
43 treatment that exceeds the funded capacity. If the Arizona state hospital
44 reaches its funded capacity in civil commitment treatment programs, the
45 superintendent of the state hospital shall establish a waiting list for

1 admission based on the date of the court order issued pursuant to this
2 section.

3 Sec. 7. Section 36-545.01, Arizona Revised Statutes, is amended to
4 read:

5 36-545.01. Payment of costs and expenses; ability to pay;
6 power and duty of court; acceptance of other
7 benefits; per capita cost limitation; guardians;
8 parental liability; lien; duty of county
9 attorney

10 A. When a patient is admitted to the state hospital for
11 court-ordered treatment pursuant to article 5 of this chapter or pursuant
12 to section 13-3992, the business manager of the state hospital shall
13 inquire into the ability of the patient to pay the costs of examination,
14 maintenance and treatment. The business manager shall file with the clerk
15 of the court a written report of the manager's findings and the basis of
16 those findings.

17 B. If the patient is able to pay all or any portion of the charges,
18 the court shall order the payment of the amount the patient can afford of
19 the per capita cost for examination, treatment and maintenance as
20 estimated by the superintendent. The court, on petition of an interested
21 person and at a hearing of which all concerned parties have received
22 notice, may increase or decrease the maintenance charge payable by the
23 patient or the patient's estate.

24 C. Notwithstanding subsection B of this section, any federal,
25 state, public or private medical benefits that are payable to the state
26 hospital where the patient is receiving care and treatment or that are
27 payable to the patient may be accepted by the state hospital without a
28 court order, except that the state hospital shall not accept any benefits
29 that alone or in addition to any amounts payable pursuant to subsection B
30 of this section exceed the per capita cost for the patient.

31 D. The court, if necessary, may appoint a conservator of the
32 patient to carry out this section. If a conservator is appointed, the
33 clerk of the court shall file a certificate so stating. All proceedings
34 relating to that conservatorship shall be had as provided by law for
35 conservators of estates. The conservator shall pay the amount ordered by
36 the court pursuant to subsection B of this section.

37 E. If the patient is a minor, the business manager of the state
38 hospital shall inquire into the ability of the minor's parents to bear
39 charges pursuant to this section. All obligations, charges and liens that
40 may be imposed on a patient pursuant to this section shall be imposed on
41 the minor's parents if it is determined that the parents have the ability
42 to pay.

1 F. The charges fixed by the court as provided by this section and
2 ordered paid by the patient or the patient's estate, on filing with the
3 county recorder, become a lien on the property of the patient or the
4 patient's estate.

5 G. The county attorney of each county, on an order of a judge of
6 the superior court, shall enforce the lien and collect the charges from
7 the person ordered to pay if the charges become delinquent.

8 H. Costs of examination, treatment and maintenance shall not be
9 charged to any patient found by a court of competent jurisdiction to be
10 unlawfully detained.

11 I. Notwithstanding section 36-545.02, the ~~department~~ ARIZONA HEALTH
12 CARE COST CONTAINMENT SYSTEM shall deposit, pursuant to sections 35-146
13 and 35-147, monies collected through contracts entered into pursuant to
14 section 36-3410 in the Arizona state hospital fund established by section
15 36-545.08. The ~~department~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
16 shall use these monies ~~for the treatment of TO TREAT~~ patients at the state
17 hospital or ~~for the placement of TO PLACE~~ clients in the community.

18 Sec. 8. Section 36-545.08, Arizona Revised Statutes, is amended to
19 read:

20 36-545.08. Arizona state hospital fund; purpose

21 A. The Arizona state hospital fund is established for the purposes
22 prescribed in section 36-545.01, subsection I. The ~~department of health~~
23 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM shall administer the
24 fund. The fund consists of the following:

25 1. Monies reimbursed by the federal government under title XIX of
26 the social security act for services provided at the state hospital.

27 2. Monies collected pursuant to section 36-3410 for services to
28 clients at the state hospital.

29 3. Monies collected from counties for the cost of a defendant's
30 inpatient competency restoration treatment.

31 B. The ~~department~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM shall
32 deposit monies collected pursuant to subsection A of this section into
33 three separate accounts.

34 C. Monies in the fund deposited under subsection A, paragraphs 1
35 and 3 of this section are subject to legislative appropriation and are
36 designated for state hospital operations. Monies in the fund deposited
37 under subsection A, paragraph 2 of this section are a continuing
38 appropriation and are exempt from the provisions of section 35-190
39 relating to lapsing of appropriations. Monies in the fund deposited under
40 subsection A, paragraph 3 of this section remaining unexpended and
41 unencumbered at the end of the fiscal year revert to the state general
42 fund. Monies in the fund deposited under subsection A, paragraph 1 of
43 this section are exempt from the provisions of section 35-190 relating to
44 lapsing of appropriations.

1 Sec. 9. Section 36-3410, Arizona Revised Statutes, is amended to
2 read:

3 36-3410. Regional behavioral health authorities; contracts;
4 monthly summaries; inspection; copying fee;
5 children's behavioral health and seriously
6 mentally ill services

7 A. If the administration contracts with behavioral health
8 contractors that would act as regional behavioral health authorities or
9 directly with a service provider for behavioral health services, the
10 administration and each behavioral health contractor or service provider
11 shall prepare and make available monthly summary statements, in a format
12 prescribed by the administration, that separately detail by title XIX and
13 nontitle XIX and by service category and service type, as defined by
14 contract with the administration, the number of clients served, the units
15 of service provided and the state and federal monies distributed through
16 the administration to each regional behavioral health authority or direct
17 contract service provider and the amounts distributed by each regional
18 behavioral health authority or direct contract service provider to its
19 subcontractors. The director may require additional information in the
20 monthly statement that the director determines to be critical for proper
21 regulation and oversight of the regional behavioral health authority or
22 the direct contract service provider.

23 B. For services provided directly by a regional behavioral health
24 authority, the maximum reimbursement to that regional behavioral health
25 authority shall be thirty percent above the Arizona health care cost
26 containment system ~~fee for service~~ FEE-FOR-SERVICE rate for the particular
27 service rendered.

28 C. Except as provided in subsections D and E of this section,
29 behavioral health contractors under contract with the administration to
30 act as regional behavioral health authorities may perform only managed
31 care functions. Regional behavioral health authorities and their
32 subsidiaries shall not deliver behavioral health services directly to
33 clients.

34 D. If a direct services behavioral health provider experiences
35 contract performance failure, the regional behavioral health authority,
36 after receiving approval from the administration, may provide direct care
37 services for only as long as necessary to ensure delivery of uninterrupted
38 care to clients and either:

39 1. Accomplish the orderly transition of those members to a new
40 provider or other existing providers.

41 2. Until the provider in question reorganizes or otherwise corrects
42 the contract performance failure.

43 E. Subsection C of this section does not apply to a regional
44 behavioral health authority operated by a federally recognized Indian
45 tribe.

1 F. In the contracts specified under subsection A of this section,
2 the administration may include a provision to charge, ~~payable to the~~
3 ~~department of health services,~~ for services provided at the state
4 hospital. The charges are only for clients on whose behalf the contractor
5 has been paid by the administration.

6 G. The summaries and the contracts on which they are based are open
7 to public inspection. The administration and each regional behavioral
8 health authority or direct contract service provider shall make the
9 summaries available for inspection and copying at the office of each
10 regional behavioral health authority or direct contract service provider
11 and at the administration.

12 H. The administration and a regional behavioral health authority or
13 direct contract service provider shall charge a copying fee that ~~is~~ DOES
14 not ~~in excess of~~ EXCEED the actual cost of reproduction or the amount
15 charged by the secretary of state pursuant to section 41-126, whichever is
16 less.

17 I. Copying fees received by the administration, ~~—~~ pursuant to
18 subsection H of this section, ~~—~~ shall be placed in the Arizona health care
19 cost containment system fund established by section 36-2913.

20 J. Monies appropriated each fiscal year for children's behavioral
21 health services shall be spent on services only as prescribed by the
22 appropriation and may not be used for any other purpose.

23 K. Monies appropriated each fiscal year for seriously mentally ill
24 services shall be spent on services only as prescribed by the
25 appropriation and shall not be used for any other purpose.

26 Sec. 10. Transfer; effect; succession

27 A. All matters, including contracts, orders and judicial or
28 quasi-judicial actions, whether completed or pending, of the department of
29 health services relating to the Arizona state hospital are transferred, on
30 the effective date of this act, and maintain the same status with the
31 Arizona health care cost containment system.

32 B. Rules adopted by the department of health services relating to
33 the Arizona state hospital are effective until superseded by rules adopted
34 by the Arizona health care cost containment system.

35 C. All personnel, property and records, all data and investigative
36 findings and all obligations of the department of health services relating
37 to the Arizona state hospital are transferred to the Arizona health care
38 cost containment system and may be used for the purposes of this act.

39 Sec. 11. Conforming legislation

40 The legislative council staff shall prepare proposed legislation
41 conforming the Arizona Revised Statutes to the provisions of this act for
42 consideration in the fifty-sixth legislature, first regular session.

43 Sec. 12. Effective date

44 This act is effective from and after June 30, 2023.