

REFERENCE TITLE: outpatient treatment centers; facility fees

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2162**

Introduced by  
Representatives Schwiebert: Gutierrez, Hernandez M, Stahl Hamilton,  
Senator Epstein

AN ACT

AMENDING SECTION 36-402, 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 36-402, Arizona Revised Statutes, is amended to  
3 read:

4 36-402. Exemptions

5 A. This chapter and the rules adopted by the director pursuant to  
6 this chapter do not authorize the licensure, supervision, regulation or  
7 control of:

8 1. The remedial care or treatment of residents or patients in any  
9 home or institution conducted only for those who rely solely on treatment  
10 by prayer or spiritual means in accordance with the creed or tenets of any  
11 well-recognized church or religious denomination.

12 2. Establishments, such as motels, hotels and boarding houses, that  
13 provide domiciliary and ancillary commercial services but do not provide  
14 adaptive, medical, hospital, nursing, behavioral health, health-related or  
15 supervisory care services.

16 3. Private offices and clinics of health care providers licensed  
17 under title 32 that are not freestanding urgent care centers, unless:

18 (a) Patients of the office or clinic are kept overnight as bed  
19 patients or treated otherwise under general anesthesia, except when  
20 treatment by general anesthesia is regulated by title 32, chapter 11.

21 (b) The office or clinic is an abortion clinic. For the purposes  
22 of this subdivision, "abortion clinic" has the same meaning prescribed in  
23 section 36-449.01.

24 (c) The office or clinic is a pain management clinic. For the  
25 purposes of this subdivision, "pain management clinic" has the same  
26 meaning prescribed in section 36-448.01.

27 4. Dispensaries and first aid stations that are located within  
28 business or industrial establishments and that are maintained solely for  
29 the use of employees if the facility does not contain inpatient beds and  
30 is under the supervision of a physician or a registered nurse  
31 practitioner.

32 5. The collection, processing or distribution of whole human blood,  
33 blood components, plasma, blood fractions or derivatives that are  
34 procured, processed or distributed by federally licensed and regulated  
35 blood banks.

36 6. Places where four or fewer adults who are not related to the  
37 administrator or owner receive adult day health services for compensation  
38 on a regular basis.

39 7. Places at which persons receive health-related services only  
40 from relatives or from legal guardians or places that do not purport to be  
41 establishments that regularly provide health-related services and at which  
42 one or two persons receive health-related services on a twenty-four-hour  
43 basis.

1           8. The personal residence of a terminally ill person, or the  
2 personal residence of that person's relative or guardian, where that  
3 person receives hospice services from a hospice service agency.

4           9. All medical and health-related facilities and services that are  
5 provided to inmates who are confined in a state prison. The state  
6 department of corrections shall annually evaluate the medical and  
7 health-related facilities and services that are provided to inmates to  
8 determine that the facilities and services meet the applicable standards  
9 that are adopted by the director of the department of health services.  
10 The state department of corrections shall report the results of its annual  
11 evaluation and the actual findings, including a plan of correction for any  
12 deficiencies, to the director of the department of health services. The  
13 department of health services shall conduct validation surveys on a  
14 percentage of the medical and health-related facilities, the number of  
15 which shall be determined by the state department of corrections and the  
16 department of health services. The director of the state department of  
17 corrections shall maintain the annual evaluation reports. This paragraph  
18 does not apply to licensed behavioral or mental health inpatient treatment  
19 facilities that the state department of corrections operates.

20           10. A facility that provides medical and health services to inmates  
21 who are confined in a county jail. The sheriff shall annually evaluate  
22 the facility to determine if it meets the applicable standards that are  
23 adopted by either a national corrections commission on health care or an  
24 American correctional association, or the sheriff shall annually submit  
25 the facility to a similar separate inspection by an outside agency with  
26 medical standards. The sheriff must submit the certificate of  
27 accreditation or proof of successful inspection to the department annually  
28 and keep a copy of the certificate or proof of inspection.

29           11. Community education, advocacy or recovery support groups that  
30 are not owned or operated by or contracted to provide services with a  
31 health care institution.

32           12. An outpatient treatment center that has the same governing  
33 authority as a hospital licensed pursuant to this chapter and that is  
34 staffed by health care providers who are licensed pursuant to title 32,  
35 unless:

36           (a) Patients are kept overnight in the outpatient treatment center  
37 or are treated under general anesthesia, except when the treatment by  
38 general anesthesia is regulated pursuant to title 32, chapter 11.

39           (b) The outpatient treatment center is an abortion clinic as defined  
40 in section 36-449.01.

41           (c) The outpatient treatment center is a pain management clinic as  
42 defined in section 36-448.01.

43           (d) THE OUTPATIENT TREATMENT CENTER CHARGES A FACILITY FEE. FOR THE  
44 PURPOSES OF THIS SUBDIVISION, "FACILITY FEE" MEANS ANY SEPARATE CHARGE OR  
45 BILLING BY AN OUTPATIENT TREATMENT CENTER THAT IS IN ADDITION TO A

1 PROFESSIONAL FEE FOR HEALTH CARE PROVIDERS' SERVICES AND THAT IS INTENDED  
2 TO COVER BUILDING, ELECTRONIC MEDICAL RECORD SYSTEMS, BILLING AND OTHER  
3 ADMINISTRATIVE AND OPERATION EXPENSES.

4 B. A medical and health-related facility that provides medical and  
5 health services exclusively to persons who are incarcerated, detained or  
6 confined under court order or court jurisdiction is exempt from the  
7 patient-per-room capacity requirements provided in rule if the facility:

8 1. Does not exceed its intended medical and custodial purposes.

9 2. Adopts policies and procedures to comply with the national  
10 commission on correctional health care standards, or equivalent standards.

11 3. As soon as practicable, becomes accredited by the national  
12 commission on correctional health care, or by an equivalent organization.

13 4. Once accreditation is obtained, submits a certificate of  
14 accreditation to the department of health services annually.

15 5. Maintains a copy of the certificate of accreditation.

16 6. Maintains patient and custodial records, including on-site  
17 current photographs and fingerprints, if permitted by applicable law.

18 7. Makes patient lists with inmate identifiers available to the  
19 state department of corrections on reasonable request.

20 8. Provides timely notice of any major incident involving public  
21 safety to the appropriate law enforcement agency and allows that agency  
22 access to the facility for the purposes of law enforcement and  
23 investigation.

24 C. Subsection B of this section does not apply to health care  
25 institutions that exclusively provide behavioral health services.