

House Engrossed

DHS; licensure; group homes

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

# HOUSE BILL 2166

AN ACT

AMENDING SECTIONS 36-132, 36-424, 36-551, 36-557 AND 36-591, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5.1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-591.01; RELATING TO THE DEPARTMENT OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-132, Arizona Revised Statutes, is amended to  
3 read:

4 36-132. Department of health services; functions; contracts

5 A. The department, in addition to other powers and duties vested in  
6 it by law, shall:

7 1. Protect the health of the people of the state.

8 2. Promote the development, maintenance, efficiency and  
9 effectiveness of local health departments or districts of sufficient  
10 population and area that they can be sustained with reasonable economy and  
11 efficient administration, provide technical consultation and assistance to  
12 local health departments or districts, provide financial assistance to  
13 local health departments or districts and services that meet minimum  
14 standards of personnel and performance and in accordance with a plan and  
15 budget submitted by the local health department or districts to the  
16 department for approval, and recommend the qualifications of all  
17 personnel.

18 3. Collect, preserve, tabulate and interpret all information  
19 required by law in reference to births, deaths and all vital facts, and  
20 obtain, collect and preserve information relating to the health of the  
21 people of this state and the prevention of diseases as may be useful in  
22 the discharge of functions of the department not in conflict with chapter  
23 3 of this title and sections 36-693, 36-694 and 39-122.

24 4. Operate ~~such~~ sanitariums, hospitals or other facilities assigned  
25 to the department by law or by the governor.

26 5. Conduct a statewide program of health education relevant to the  
27 powers and duties of the department, prepare educational materials and  
28 disseminate information as to conditions affecting health, including basic  
29 information ~~for the promotion of~~ TO PROMOTE good health on the part of  
30 individuals and communities, and prepare and disseminate technical  
31 information concerning public health to the health professions, local  
32 health officials and hospitals. In cooperation with the department of  
33 education, the department of health services shall prepare and disseminate  
34 materials and give technical assistance for the purpose of ~~education of~~  
35 EDUCATING children in hygiene, sanitation and personal and public health,  
36 and provide consultation and assistance in community organization to  
37 counties, communities and groups of people.

38 6. Administer or supervise a program of public health nursing,  
39 prescribe the minimum qualifications of all public health nurses engaged  
40 in official public health work, and encourage and aid in coordinating  
41 local public health nursing services.

42 7. Encourage and aid in coordinating local programs concerning  
43 control of preventable diseases in accordance with statewide plans that  
44 shall be formulated by the department.

1           8. Encourage and aid in coordinating local programs concerning  
2 maternal and child health, including midwifery, antepartum and postpartum  
3 care, infant and preschool health and the health of schoolchildren,  
4 including special fields such as the prevention of blindness and  
5 conservation of sight and hearing.

6           9. Encourage and aid in ~~the coordination of~~ COORDINATING local  
7 programs concerning nutrition of the people of this state.

8           10. Encourage, administer and provide dental health care services  
9 and aid in coordinating local programs concerning dental public health, in  
10 cooperation with the Arizona dental association. The department may bill  
11 and receive payment for costs associated with providing dental health care  
12 services and shall deposit the monies in the oral health fund established  
13 by section 36-138.

14           11. Establish and maintain adequate serological, bacteriological,  
15 parasitological, entomological and chemical laboratories with qualified  
16 assistants and facilities necessary for routine examinations and analyses  
17 and for investigations and research in matters affecting public health.

18           12. Supervise, inspect and enforce the rules concerning the  
19 operation of public bathing places and public and semipublic swimming  
20 pools adopted pursuant to section 36-136, subsection I, paragraph 10.

21           13. Take all actions necessary or appropriate to ensure that  
22 bottled water sold to the public and water used to process, store, handle,  
23 serve and transport food and drink are free from filth, disease-causing  
24 substances and organisms and unwholesome, poisonous, deleterious or other  
25 foreign substances. All state agencies and local health agencies involved  
26 with water quality shall provide to the department any assistance  
27 requested by the director to ensure that this paragraph is effectuated.

28           14. Enforce the state food, caustic alkali and acid laws in  
29 accordance with chapter 2, article 2 of this title, chapter 8, article 1  
30 of this title and chapter 9, article 4 of this title, and collaborate in  
31 ~~the enforcement of~~ ENFORCING the federal food, drug, and cosmetic act  
32 (52 Stat. 1040; 21 United States Code sections 1 through 905).

33           15. Recruit and train personnel for state, local and district  
34 health departments.

35           16. Conduct continuing evaluations of state, local and district  
36 public health programs, study and appraise state health problems and  
37 develop broad plans for use by the department and for recommendation to  
38 other agencies, professions and local health departments for the best  
39 solution of these problems.

40           17. License and regulate health care institutions according to  
41 chapter 4 of this title.

42           18. Issue or direct the issuance of licenses and permits required  
43 by law.

1           19. Participate in the state civil defense program and develop the  
2 necessary organization and facilities to meet wartime or other disasters.

3           20. Subject to the availability of monies, develop and administer  
4 programs in perinatal health care, including:

5           (a) Screening in early pregnancy for detecting high-risk  
6 conditions.

7           (b) Comprehensive prenatal health care.

8           (c) Maternity, delivery and postpartum care.

9           (d) Perinatal consultation, including transportation of the  
10 pregnant woman to a perinatal care center when medically indicated.

11           (e) Perinatal education oriented toward professionals and  
12 consumers, focusing on early detection and adequate intervention to avert  
13 premature labor and delivery.

14           21. License and regulate the health and safety of group homes **AND**  
15 **BEHAVIORAL-SUPPORTED GROUP HOMES** for persons with developmental  
16 disabilities. The department shall issue a license to an accredited  
17 facility for a period of the accreditation, except that ~~no~~ **A** licensing  
18 period shall **NOT** be longer than three years. The department is authorized  
19 to conduct an inspection of an accredited facility to ensure that the  
20 facility meets health and safety licensure standards. The results of the  
21 accreditation survey shall be public information. A copy of the final  
22 accreditation report shall be filed with the department of health  
23 services. For the purposes of this paragraph, "accredited" means  
24 accredited by a nationally recognized accreditation organization.

25           B. The department may accept from the state or federal government,  
26 or any agency of the state or federal government, and from private donors,  
27 trusts, foundations or eleemosynary corporations or organizations grants  
28 or donations for or in aid of the construction or maintenance of any  
29 program, project, research or facility authorized by this title, or in aid  
30 of the extension or enforcement of any program, project or facility  
31 authorized, regulated or prohibited by this title, and enter into  
32 contracts with the federal government, or an agency of the federal  
33 government, and with private donors, trusts, foundations or eleemosynary  
34 corporations or organizations, to carry out such purposes. All monies  
35 made available under this section are special project grants. The  
36 department may also expend these monies to further applicable scientific  
37 research within this state.

38           C. The department, in establishing fees authorized by this section,  
39 shall comply with title 41, chapter 6. The department shall not set a fee  
40 at more than the department's cost of providing the service for which the  
41 fee is charged. State agencies are exempt from all fees imposed pursuant  
42 to this section.

43           D. The department may enter into contracts with organizations that  
44 perform nonrenal organ transplant operations and organizations that  
45 primarily assist in the management of end-stage renal disease and related

1 problems to provide, as payors of last resort, prescription medications  
2 necessary to supplement treatment and transportation to and from treatment  
3 facilities. The contracts may provide for department payment of  
4 administrative costs it specifically authorizes.

5 Sec. 2. Section 36-424, Arizona Revised Statutes, is amended to  
6 read:

7 36-424. Inspections; suspension or revocation of license;  
8 report to board of examiners of nursing care  
9 institution administrators and assisted living  
10 facility managers

11 A. Except as provided in subsection B of this section, the director  
12 shall inspect the premises of the health care institution and investigate  
13 the character and other qualifications of the applicant to ascertain  
14 whether the applicant and the health care institution are in substantial  
15 compliance with the requirements of this chapter and the rules established  
16 pursuant to this chapter. The director may prescribe rules regarding  
17 department background investigations into an applicant's character and  
18 qualifications.

19 B. The director may accept proof that a health care institution is  
20 an accredited hospital or is an accredited health care institution in lieu  
21 of all compliance inspections required by this chapter if the director  
22 receives a copy of the HEALTH CARE institution's accreditation report for  
23 the licensure period and the HEALTH CARE institution is accredited by an  
24 independent, nonprofit accrediting organization approved by the secretary  
25 of the United States department of health and human services. If the  
26 health care institution's accreditation report is not valid for the entire  
27 licensure period, the department may conduct a compliance inspection of  
28 the health care institution during the time period the department does not  
29 have a valid accreditation report for the health care institution. For  
30 the purposes of this subsection, each licensed premises of a health care  
31 institution must have its own accreditation report. The director may not  
32 accept an accreditation report in lieu of a compliance inspection of:

33 1. An intermediate care facility for individuals with intellectual  
34 disabilities.

35 2. A NURSING-SUPPORTED GROUP HOME.

36 ~~2.~~ 3. A health care institution if the health care institution has  
37 been subject to an enforcement action pursuant to section 36-427 or  
38 36-431.01 within the year preceding the annual licensing fee anniversary  
39 date.

40 C. On a determination by the director that there is reasonable  
41 cause to believe a health care institution is not adhering to the  
42 licensing requirements of this chapter, the director and any duly  
43 designated employee or agent of the director, including county health  
44 representatives and county or municipal fire inspectors, consistent with  
45 standard medical practices, may enter on and into the premises of any

1 health care institution that is licensed or required to be licensed  
2 pursuant to this chapter at any reasonable time for the purpose of  
3 determining the state of compliance with this chapter, the rules adopted  
4 pursuant to this chapter and local fire ordinances or rules. Any  
5 application for licensure under this chapter constitutes permission for  
6 and complete acquiescence in any entry or inspection of the premises  
7 during the pendency of the application and, if licensed, during the term  
8 of the license. If an inspection reveals that the health care institution  
9 is not adhering to the licensing requirements established pursuant to this  
10 chapter, the director may take action authorized by this chapter. Any  
11 health care institution, including an accredited hospital, whose license  
12 has been suspended or revoked in accordance with this section is subject  
13 to inspection on application for relicensure or reinstatement of license.

14 D. The director shall immediately report to the board of examiners  
15 of nursing care institution administrators and assisted living facility  
16 managers information identifying that a nursing care institution  
17 administrator's conduct may be grounds for disciplinary action pursuant to  
18 section 36-446.07.

19 Sec. 3. Section 36-551, Arizona Revised Statutes, is amended to  
20 read:

21 36-551. Definitions

22 In this chapter, unless the context otherwise requires:

23 1. "Adaptive behavior" means the effectiveness or degree to which a  
24 person meets the standards of personal independence and social  
25 responsibility expected of the person's age and cultural group.

26 2. "Adult developmental home" means a residential setting in a  
27 family home in which the care, physical custody and supervision of the  
28 adult client are the responsibility, under a twenty-four-hour care model,  
29 of the licensee who, in that capacity, is not an employee of the division  
30 or of a service provider and the home provides the following services for  
31 a group of siblings or up to three adults with developmental disabilities:

32 (a) Room and board.

33 (b) Habilitation.

34 (c) Appropriate personal care.

35 (d) Appropriate supervision.

36 3. "Adult household member":

37 (a) Means a person who is at least eighteen years of age and who  
38 resides in an adult developmental home, child developmental home or other  
39 home and community based service setting for at least thirty days or who  
40 resides in the household throughout the year for more than a cumulative  
41 total of thirty days.

42 (b) Does not include a person who is receiving developmental  
43 disabilities services from the department.

44 4. "Advisory council" means the developmental disabilities advisory  
45 council.

1           5. "Arizona training program facility" means a state-operated  
2 institution for clients of the department with developmental disabilities.

3           6. "Attributable to cognitive disability, epilepsy, cerebral palsy  
4 or autism" means that there is a causal relationship between the presence  
5 of an impairing condition and the developmental disability.

6           7. "Autism" means a condition characterized by severe disorders in  
7 communication and behavior resulting in limited ability to communicate,  
8 understand, learn and participate in social relationships.

9           8. "BEHAVIORAL-SUPPORTED GROUP HOME" MEANS A COMMUNITY RESIDENTIAL  
10 SETTING THAT MEETS ALL OF THE FOLLOWING:

11           (a) IS FOR NOT MORE THAN SIX PERSONS WITH DEVELOPMENTAL  
12 DISABILITIES.

13           (b) IS OPERATED BY A SERVICE PROVIDER UNDER CONTRACT WITH THE  
14 DEPARTMENT.

15           (c) PROVIDES ROOM AND BOARD, DAILY HABILITATION, ASSISTANCE IN  
16 SELF-ADMINISTERING MEDICATION AND MEDICATION ADMINISTRATION AND BEHAVIORAL  
17 HEALTH SERVICES FOR CLIENTS WITH DUAL DISORDERS, INCLUDING PSYCHIATRIC  
18 DISORDERS AND DEVELOPMENTAL DISABILITIES, WHO ENGAGE IN BEHAVIORS THAT ARE  
19 DISRUPTIVE, SOCIALLY INAPPROPRIATE OR HARMFUL OR DANGEROUS TO SELF OR  
20 OTHERS, THAT INTERFERE WITH FUNCTIONING AND QUALITY OF LIFE OR THAT MAY  
21 CAUSE DESTRUCTION OF PROPERTY.

22           ~~8-~~ 9. "Case management" means coordinating the assistance needed  
23 by persons with developmental disabilities and their families in order to  
24 ensure that persons with developmental disabilities attain their maximum  
25 potential for independence, productivity and integration into the  
26 community.

27           ~~9-~~ 10. "Case manager" means a person who coordinates the  
28 implementation of the individual program plan of goals, objectives and  
29 appropriate services for persons with developmental disabilities.

30           ~~10-~~ 11. "Cerebral palsy" means a permanently disabling condition  
31 resulting from damage to the developing brain that may occur before, after  
32 or during birth and that results in loss or impairment of control over  
33 voluntary muscles.

34           ~~11-~~ 12. "Child developmental certified home" means a regular  
35 foster home as defined in section 8-501 that is licensed pursuant to  
36 section 8-509 and that is certified by the department pursuant to section  
37 36-593.01.

38           ~~12-~~ 13. "Child developmental home" means a residential setting in  
39 a family home in which the care and supervision of the child are the  
40 responsibility, under a twenty-four-hour care model, of the licensee who  
41 serves as the developmental home provider of the child in the home setting  
42 and who, in that capacity, is not an employee of the division or of a  
43 service provider and the home provides the following services for a group  
44 of siblings or up to three children with developmental disabilities:

45           (a) Room and board.

- 1 (b) Habilitation.  
2 (c) Appropriate personal care.  
3 (d) Appropriate supervision.  
4 ~~13.~~ 14. "Client" means a person receiving developmental  
5 disabilities services from the department.  
6 ~~14.~~ 15. "Cognitive disability" means a condition that involves  
7 subaverage general intellectual functioning, that exists concurrently with  
8 deficits in adaptive behavior manifested before the age of eighteen and  
9 that is sometimes referred to as intellectual disability.  
10 ~~15.~~ 16. "Community residential setting":  
11 (a) Means a residential setting in which persons with developmental  
12 disabilities live and are provided with appropriate supervision by the  
13 service provider responsible for operating the residential setting.  
14 (b) Includes a child developmental home or an adult developmental  
15 home operated or contracted by the department or the department's  
16 contracted vendor, a group home operated or contracted by the department  
17 or a **BEHAVIORAL-SUPPORTED GROUP HOME OR** nursing-supported group home  
18 contracted by the department.  
19 ~~16.~~ 17. "Consent" means voluntary informed consent. Consent is  
20 voluntary if not given as the result of coercion or undue influence.  
21 Consent is informed if the person giving the consent has been informed of  
22 and comprehends the nature, purpose, consequences, risks and benefits of  
23 the alternatives to the procedure, and has been informed and comprehends  
24 that withholding or withdrawing consent will not prejudice the future  
25 provision of care and services to the client. In cases of unusual or  
26 hazardous treatment procedures performed pursuant to section 36-561,  
27 subsection A, experimental research, organ transplantation and  
28 nontherapeutic surgery, consent is informed if, in addition to the  
29 foregoing, the person giving the consent has been informed of and  
30 comprehends the method to be used in the proposed procedure.  
31 ~~17.~~ 18. "Daily habilitation" means habilitation as defined in this  
32 section, except that the method of payment is for one unit per residential  
33 day.  
34 ~~18.~~ 19. "Department" means the department of economic security.  
35 ~~19.~~ 20. "Developmental disability" means either a strongly  
36 demonstrated potential that a child who is under six years of age has a  
37 developmental disability or will develop a developmental disability, as  
38 determined by a test performed pursuant to section 36-694 or by other  
39 appropriate tests, or a severe, chronic disability that:  
40 (a) Is attributable to a cognitive disability, cerebral palsy,  
41 epilepsy, Down syndrome or autism.  
42 (b) Is manifested before the age of eighteen.  
43 (c) Is likely to continue indefinitely.  
44 (d) Results in substantial functional limitations in three or more  
45 of the following areas of major life activity:



- 1 (i) Self-care.  
2 (ii) Receptive and expressive language.  
3 (iii) Learning.  
4 (iv) Mobility.  
5 (v) Self-direction.  
6 (vi) Capacity for independent living.  
7 (vii) Economic self-sufficiency.  
8 (e) Reflects the need for a combination and sequence of  
9 individually planned or coordinated special, interdisciplinary or generic  
10 care, treatment or other services that are of lifelong or extended  
11 duration.  
12 ~~20.~~ 21. "Director" means the director of the department of  
13 economic security.  
14 ~~21.~~ 22. "Division" means the division of developmental  
15 disabilities in the department of economic security.  
16 ~~22.~~ 23. "Down syndrome" means a genetic disorder caused when  
17 abnormal cell division results in extra genetic material from chromosome  
18 21, affecting a person's cognitive and physical abilities and causing  
19 developmental issues.  
20 ~~23.~~ 24. "Epilepsy" means a neurological condition characterized by  
21 abnormal electrical-chemical discharge in the brain. This discharge is  
22 manifested in various forms of physical activities called seizures.  
23 ~~24.~~ 25. "Group home":  
24 (a) Means a community residential setting for not more than six  
25 persons with developmental disabilities that is operated by a service  
26 provider under contract with the department and that provides room and  
27 board and daily habilitation and other assessed medically necessary  
28 services and supports to meet the needs of each person.  
29 (b) Does not include an adult developmental home, a child  
30 developmental home, A BEHAVIORAL-SUPPORTED GROUP HOME, a nursing-supported  
31 group home or an intermediate care facility for individuals with  
32 intellectual disabilities.  
33 ~~25.~~ 26. "Guardian" means the person who, under court order, is  
34 appointed to fulfill the powers and duties prescribed in section 14-5312.  
35 Guardian does not include a guardian pursuant to section 14-5312.01.  
36 ~~26.~~ 27. "Habilitation" means the process by which a person is  
37 assisted to acquire and maintain those life skills that enable the person  
38 to cope more effectively with personal and environmental demands and to  
39 raise the level of the person's physical, mental and social efficiency.  
40 ~~27.~~ 28. "Indigent" means a person with a developmental disability  
41 whose estate or parent is unable to bear the full cost of maintaining or  
42 providing services for that person in a developmental disabilities  
43 program.  
44 ~~28.~~ 29. "Individual program plan" means a written statement of  
45 services to be provided to a person with developmental disabilities,

1 including habilitation goals and objectives, that is developed following  
2 initial placement evaluation and revised after periodic evaluations.

3 ~~29.~~ 30. "Intermediate care facility for individuals with  
4 intellectual disabilities" means a facility that primarily provides health  
5 and rehabilitative services to persons with developmental disabilities  
6 that are above the service level of room and board or supervisory care  
7 services or personal care services as defined in section 36-401.

8 ~~30.~~ 31. "Large group setting" means a setting that in addition to  
9 residential care provides support services such as therapy, recreation and  
10 transportation to seven or more persons with developmental disabilities  
11 who require intensive supervision.

12 ~~31.~~ 32. "Least restrictive alternative" means an available program  
13 or facility that fosters independent living, that is the least confining  
14 for the client's condition and that provides service and treatment in the  
15 least intrusive manner reasonably and humanely appropriate to the  
16 individual's needs.

17 ~~32.~~ 33. "Likely to continue indefinitely" means that the  
18 developmental disability has a reasonable likelihood of continuing for a  
19 protracted period of time or for life.

20 ~~33.~~ 34. "Manifested before the age of eighteen" means that the  
21 disability must be apparent and have a substantially limiting effect on a  
22 person's functioning before the age of eighteen.

23 ~~34.~~ 35. "Nursing-supported group home" has the same meaning  
24 prescribed in section 36-401.

25 ~~35.~~ 36. "Physician" means a person who is licensed to practice  
26 pursuant to title 32, chapter 13 or 17.

27 ~~36.~~ 37. "Placement evaluation" means an interview and evaluation  
28 of a person with a developmental disability and a review of the person's  
29 prior medical and program histories to determine the appropriate  
30 developmental disability programs and services for the person and  
31 recommendations for specific program placements for the person.

32 ~~37.~~ 38. "Psychologist" means a person who is licensed pursuant to  
33 title 32, chapter 19.1.

34 ~~38.~~ 39. "Respite services" means services that provide a  
35 short-term or long-term interval of rest or relief to the care provider of  
36 a person with a developmental disability.

37 ~~39.~~ 40. "Responsible person" means the parent or guardian of a  
38 minor with a developmental disability, the guardian of an adult with a  
39 developmental disability or an adult with a developmental disability who  
40 is a client or an applicant for whom no guardian has been appointed.

41 ~~40.~~ 41. "Service provider" means a person or agency that provides  
42 services to clients pursuant to a contract, service agreement or qualified  
43 vendor agreement with the division.

44 ~~41.~~ 42. "State operated service center" means a state owned or  
45 leased facility that is operated by the department and that provides

1 temporary residential care and space for child and adult services that  
2 include respite care, crisis intervention and diagnostic evaluation.

3 ~~42.~~ 43. "Subaverage general intellectual functioning" means  
4 measured intelligence on standardized psychometric instruments of two or  
5 more standard deviations below the mean for the tests used.

6 ~~43.~~ 44. "Substantial functional limitation" means a limitation so  
7 severe that extraordinary assistance from other people, programs, services  
8 or mechanical devices is required to assist the person in performing  
9 appropriate major life activities.

10 ~~44.~~ 45. "Supervision" means the process by which the activities of  
11 an individual with developmental disabilities are directed, influenced or  
12 monitored.

13 Sec. 4. Section 36-557, Arizona Revised Statutes, is amended to  
14 read:

15 36-557. Community developmental disability services; service  
16 providers

17 A. The department may use state and federal monies that are  
18 appropriated or otherwise available to it for this purpose to assist in  
19 establishing and maintaining local developmental disability services by  
20 public or private nonprofit or profit agencies. The monies may be  
21 expended as professional fees for service, in contracts for advancement or  
22 reimbursement or in another appropriate manner and may be used for any  
23 purpose necessary to provide local developmental disability services. The  
24 monies may not be used for departmental salaries, care of persons with  
25 developmental disabilities by the department or any other purpose within  
26 the department, but may be used for consultation to the department in the  
27 interest of local programs.

28 B. A local public or private nonprofit or profit agency providing  
29 or intending to provide community developmental disability services and  
30 desiring to contract with the department to furnish these services shall  
31 submit a program plan and budget to the department on the forms and in the  
32 manner required by the department. If the program meets departmental  
33 standards and is consistent with the state plan of the department and the  
34 individualized service program plan of the client, the department,  
35 notwithstanding the provisions of title 41, chapter 23, relating to  
36 procurement and including services pursuant to section 36-2943, may  
37 contract with that agency for required services on terms the department  
38 requires. The contracts shall provide that the provider of services is  
39 subject to a continuing program evaluation by the department through  
40 progress reports, expenditure reports, program audits or other appropriate  
41 evaluation techniques to ensure that the provider of service is in  
42 continued compliance with the terms of the contract and the department's  
43 community developmental disability service standards and requirements.

44 C. Contracts between the department and a school district or  
45 districts are subject to approval by the department of education.

1           D. This article does not make the department or the state  
2 responsible for funding programs beyond the limits of legislative  
3 appropriation for the programs. This article does not require a service  
4 provider to provide unreimbursed services to the department or its  
5 clients.

6           E. Contracts to provide community developmental disability services  
7 shall require that:

8           1. The contractor is obligated to operate a program or service in  
9 strict accordance with the standards adopted for that program or service  
10 by the department.

11           2. If state funding is provided for a particular program the  
12 contractor, to the extent of positions available that are being purchased  
13 by the department, shall provide services to a client with a developmental  
14 disability who has been evaluated and placed by the department.

15           3. All contractors must carry liability insurance in amounts  
16 approved by the risk management division of the department of  
17 administration and file proof of insurance with the risk management  
18 division. The director may waive that requirement on a case-by-case basis  
19 on a finding that insurance for the program or service is not practicably  
20 available at affordable rates and that it is necessary that the program or  
21 service be provided by the contractor.

22           4. All clients enrolled in programs have all the same specified  
23 rights as they would have if enrolled in a program operated directly by  
24 the state.

25           5. Except for emergency placement pursuant to section 36-560,  
26 subsection N, payment shall not be made based on program services provided  
27 to a client if a placement evaluation has not been made, and no individual  
28 program has been prepared and when, based on that placement evaluation, no  
29 recommendation has been made to enroll the client in the particular  
30 program service.

31           F. This article does not require a contracted agency to provide  
32 unreimbursed services to the department or a client of the department.

33           G. Contracts to purchase residential care services other than those  
34 community residential settings licensed pursuant to this chapter, in  
35 addition to other general requirements applicable to purchase of care  
36 contractors, shall:

37           1. Provide for mandatory inspection by the department every two  
38 years for facilities other than group homes.

39           2. Provide for mandatory monitoring by the department for health,  
40 safety, contractual and programmatic standards at least every six months,  
41 unless the department has granted deemed status to the service provider or  
42 the service provider received a score of at least ninety-five percent on  
43 the most recent monitoring visit. If the department has granted deemed  
44 status or awarded the service provider with a score of at least  
45 ninety-five percent on the most recent monitoring visit, the department

1 shall monitor that service provider once each year. On a determination by  
2 the department that there is reasonable cause to believe a service  
3 provider is not adhering to the department's programmatic or contractual  
4 requirements, the department and any duly designated employee or agent of  
5 the department may enter on and into the premises at any reasonable time  
6 for the purpose of determining the service provider's state of compliance  
7 with the department's programmatic or contractual requirements.

8 3. Provide for mandatory investigation by the department in  
9 response to complaints within ten working days, except that in those  
10 instances that pose a danger to the client, the department shall conduct  
11 the investigation immediately. Health and safety complaints related to  
12 group homes shall be referred to the department of health services on  
13 receipt. The department of health services shall share all incident  
14 reports related to health and safety with the division of developmental  
15 disabilities.

16 4. Except for group homes licensed by the department of health  
17 services, specify the health and safety and sanitation codes and other  
18 codes or standards applicable to the facility or to the operation of the  
19 facility by the contractor other than group homes.

20 5. Provide for mandatory periodic reports to be filed by the  
21 provider contractor with the department with respect to the operation of  
22 the facility.

23 6. Provide that the facility and the books and records of the  
24 facility and of the provider are subject to inspection at any time by  
25 employees of the department or designees of the department.

26 7. Provide that parents and guardians of persons with developmental  
27 disabilities residing at the facility, members of the developmental  
28 disabilities advisory council, and members of other recognized and ongoing  
29 advocacy groups for persons with developmental disabilities may inspect  
30 the facility at reasonable times.

31 H. Contracts for the purchase of residential care services shall  
32 require a community residential setting to be licensed pursuant to this  
33 chapter other than group homes, **BEHAVIORAL-SUPPORTED GROUP HOMES** and  
34 nursing-supported group homes that are licensed by the department of  
35 health services.

36 I. Contracts for the purchase of day program or employment  
37 services, in addition to the other general requirements applicable to the  
38 purchase of client services, must provide for mandatory monitoring by the  
39 department for health, safety, contractual, programmatic and quality  
40 assurance standards at least once every six months, unless the department  
41 has granted deemed status to the service provider. If the department has  
42 granted deemed status to the service provider, the department shall  
43 monitor that service provider once each year. The department and any duly  
44 designated employee or agent of the department may enter on or into the  
45 service provider's premises at any reasonable time for the purpose of

1 determining the service provider's state of compliance with the  
2 department's programmatic, contractual and quality assurance requirements.

3 J. The division shall ensure that all contracted developmental  
4 disabilities service providers rendering services pursuant to this chapter  
5 are reimbursed in accordance with title XIX of the social security act.

6 K. Contracts for client services issued by the department shall  
7 include language outlining the provisions for a grievance and appeal  
8 procedure. The director shall provide notice to service providers not  
9 less than thirty days before the issuance of an amendment to a qualified  
10 vendor agreement. The decision of the director regarding qualified vendor  
11 agreement amendments may be appealed pursuant to title 41, chapter 6,  
12 article 10. The grievance process applicable to these contracts shall  
13 comply with title XIX requirements.

14 L. As a condition of contracts with any developmental disabilities  
15 service provider, the director shall require terms that conform with state  
16 and federal laws, title XIX statutes and regulations and quality  
17 standards. The director shall further require contract terms that ensure  
18 performance by the provider of the provisions of each contract executed  
19 pursuant to this article.

20 M. The division shall establish a rate structure that ensures an  
21 equitable funding basis for private nonprofit or for-profit agencies for  
22 services pursuant to subsection B of this section and section 36-2943. In  
23 each fiscal year, the division shall review and adjust the rate structure  
24 based on section 36-2959. A rate book shall be published and updated by  
25 the division to announce the rate structure that shall be incorporated by  
26 reference in contracts for client services.

27 N. The division shall disclose to a service provider in the  
28 individual program plan, and in all meetings resulting from a response to  
29 a vendor call, any historical and behavioral information necessary for the  
30 service provider to be able to anticipate the client's future behaviors  
31 and needs, including summary information from the program review  
32 committee, unusual incident reports reviewed by the independent oversight  
33 committee and behavioral treatment plans. The division shall redact the  
34 client's identification from this information.

35 O. Service providers are authorized to engage in the following  
36 activities in accordance with a client's individual program plan:

37 1. Administer medications, including assisting with the client's  
38 self-administration of medications.

39 2. Log, store, remove and dispose of medications.

40 3. Maintain medications and protocols for direct care.

41 4. Serve as the client's representative payee if requested by the  
42 client or the client's guardian and approved by the payer.

43 P. The department may adopt rules establishing procedures for  
44 engaging in the activities listed in subsection O of this section.

1 Q. To protect the health and safety of a client, a service provider  
2 must notify the division within twenty-four hours if an emergency  
3 situation exists in which the service provider is unable to meet the  
4 health or safety needs of the client.

5 R. On notification of an emergency situation, the department shall  
6 hold an individual program plan meeting within fifteen days after  
7 notification to recommend any changes, including whether there is a need  
8 for temporary additional staffing to provide appropriate care for a  
9 client, and develop a plan within thirty days after notification to  
10 resolve the situation.

11 S. Service providers shall develop and implement policies and  
12 procedures regarding the communication to responsible persons of a serious  
13 incident affecting a client who is living in a community residential  
14 setting within twenty-four hours after the serious incident occurs.

15 Sec. 5. Section 36-591, Arizona Revised Statutes, is amended to  
16 read:

17 36-591. Group homes; behavioral-supported group homes;  
18 licensing; notification requirements; exception;  
19 annual inspection

20 A. Group homes AND BEHAVIORAL-SUPPORTED GROUP HOMES, except for  
21 those described in subsection D of this section, shall be licensed for  
22 health and safety by the department of health services pursuant to section  
23 36-132.

24 B. The division shall notify the department of health services of:

25 1. Service providers that enter into contracts with the division  
26 for group homes, BEHAVIORAL-SUPPORTED GROUP HOMES or intermediate care  
27 facilities for individuals with intellectual disabilities.

28 2. Any violation of health and safety standards observed during  
29 monitoring visits.

30 C. The department of health services shall immediately notify the  
31 division:

32 1. When the license of a group home, BEHAVIORAL-SUPPORTED GROUP  
33 HOME, nursing-supported group home or intermediate care facility for  
34 individuals with intellectual disabilities has been denied, suspended or  
35 revoked.

36 2. Of any other licensing action taken on a group home,  
37 BEHAVIORAL-SUPPORTED GROUP HOME, nursing-supported group home or  
38 intermediate care facility for individuals with intellectual disabilities  
39 by the department of health services.

40 3. Of substantiated complaints regarding health and safety.

41 D. The division shall ensure that state-operated residential  
42 settings that are owned or leased facilities operated by the division meet  
43 the same standards as group homes unless they are required to be:

44 1. Licensed and certified as intermediate care facilities for  
45 individuals with intellectual disabilities pursuant to 42 Code of Federal

1 Regulations part 483, subpart I. An intermediate care facility for  
2 individuals with intellectual disabilities that is operated by the  
3 division or a private entity is required to be licensed pursuant to  
4 chapter 4 of this title and certified pursuant to 42 Code of Federal  
5 Regulations part 483, subpart I.

6 2. Licensed as a nursing-supported group home as required by  
7 chapter 4 of this title.

8 E. The department shall take any action it deems necessary to carry  
9 out the duties imposed by this section, including denying the application  
10 for licensure and suspending or revoking the GROUP home's OR  
11 BEHAVIORAL-SUPPORTED GROUP HOME'S license.

12 Sec. 6. Title 36, chapter 5.1, article 3, Arizona Revised Statutes,  
13 is amended by adding section 36-591.01, to read:

14 36-591.01. Behavioral-supported group homes; rules;  
15 definitions

16 A. BEGINNING JULY 1, 2024, BEHAVIORAL-SUPPORTED GROUP HOMES THAT  
17 ARE OPERATED IN THIS STATE BY A SERVICE PROVIDER AND THAT ARE UNDER  
18 CONTRACT WITH THE DEPARTMENT OF ECONOMIC SECURITY SHALL BE LICENSED FOR  
19 HEALTH AND SAFETY BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO SECTION  
20 36-132.

21 B. THE DIRECTOR SHALL ADOPT ANY RULES NECESSARY REGARDING  
22 BEHAVIORAL-SUPPORTED GROUP HOMES THAT INCLUDE AT LEAST THE FOLLOWING:

23 1. ENSURING THAT EACH CLIENT'S BEHAVIORAL TREATMENT PLAN IS  
24 DEVELOPED, INTEGRATED, COORDINATED AND MONITORED BY A CLINICAL  
25 PROFESSIONAL WHO, AT A MINIMUM:

26 (a) HAS AT LEAST TWO YEARS OF EXPERIENCE WORKING DIRECTLY WITH  
27 PERSONS WITH DUAL DISORDERS, INCLUDING PSYCHIATRIC DISORDERS AND  
28 DEVELOPMENTAL DISABILITIES, WHO ENGAGE IN BEHAVIORS THAT ARE DISRUPTIVE,  
29 SOCIALLY INAPPROPRIATE OR HARMFUL OR DANGEROUS TO SELF OR OTHERS, THAT  
30 INTERFERE WITH FUNCTIONING AND QUALITY OF LIFE OR THAT MAY CAUSE  
31 DESTRUCTION OF PROPERTY.

32 (b) HAS SPECIALIZED TRAINING IN APPLYING BEHAVIORAL INTERVENTIONS,  
33 INCLUDING APPLIED BEHAVIOR ANALYSIS AND POSITIVE BEHAVIORAL SUPPORTS.

34 (c) HOLDS AT LEAST A MASTER'S DEGREE IN ANY OF THE FOLLOWING  
35 PROFESSIONAL CATEGORIES:

36 (i) OCCUPATIONAL THERAPY.

37 (ii) PHYSICAL THERAPY.

38 (iii) PSYCHOLOGY.

39 (iv) SOCIAL WORK.

40 (v) SPEECH AND LANGUAGE PATHOLOGY.

41 (vi) BEHAVIOR ANALYSIS.

42 (vii) A SIMILAR HUMAN SERVICE DEGREE SUCH AS SOCIOLOGY, SPECIAL  
43 EDUCATION OR REHABILITATION COUNSELING.

44 2. REQUIRING THAT THE DIRECT CARE STAFF IN A BEHAVIORAL-SUPPORTED  
45 GROUP HOME, AT A MINIMUM, HAVE BOTH:



1 (a) AT LEAST ONE YEAR OF EXPERIENCE WORKING DIRECTLY WITH PERSONS  
2 WITH DUAL DISORDERS, INCLUDING PSYCHIATRIC DISORDERS AND DEVELOPMENTAL  
3 DISABILITIES, WHO ENGAGE IN BEHAVIORS THAT ARE DISRUPTIVE, SOCIALLY  
4 INAPPROPRIATE OR HARMFUL OR DANGEROUS TO SELF OR OTHERS, THAT INTERFERE  
5 WITH FUNCTIONING AND QUALITY OF LIFE OR THAT MAY CAUSE DESTRUCTION OF  
6 PROPERTY.

7 (b) SPECIALIZED TRAINING IN APPLIED BEHAVIOR ANALYSIS AND POSITIVE  
8 BEHAVIORAL SUPPORTS.

9 3. ENSURING THAT EACH CLIENT HAS AN INTEGRATED TREATMENT PLAN.  
10 EACH CLIENT SHALL HAVE A FUNCTIONAL BEHAVIORAL ASSESSMENT COMPLETED BY A  
11 QUALIFIED CLINICAL PROFESSIONAL WHO MEETS THE QUALIFICATIONS PRESCRIBED IN  
12 PARAGRAPH 1 OF THIS SUBSECTION, IN CONSULTATION WITH A MULTIDISCIPLINARY  
13 TEAM THAT IS COMPOSED OF ALL INDIVIDUALS WORKING WITH THE CLIENT TO  
14 INCLUDE, IF APPROPRIATE, PSYCHIATRIC, MEDICAL, NURSING AND NUTRITION  
15 PROVIDERS, PHYSICAL, OCCUPATIONAL AND SPEECH THERAPISTS, EDUCATIONAL  
16 PERSONNEL, BEHAVIORAL HEALTH PROVIDERS, GROUP HOME DIRECT CARE STAFF, HOME  
17 HEALTH PERSONNEL, DAY PROGRAM STAFF, THE CLIENT AND THE CLIENT'S FAMILY OR  
18 GUARDIAN AND REPRESENTATIVES FROM THE DIVISION. THE INTEGRATED TREATMENT  
19 PLAN SHALL BE REVIEWED BY THE ENTIRE MULTIDISCIPLINARY TEAM EVERY NINETY  
20 DAYS TO DETERMINE IF THE INTERVENTIONS IN THE PLAN ARE EFFECTIVE.

21 C. FOR THE PURPOSES OF THIS SECTION:

22 1. "BEHAVIORAL TREATMENT PLAN" MEANS A DOCUMENT THAT STIPULATES  
23 GOALS TO TREAT, MANAGE, CONTROL OR EXTINGUISH PREDICTABLE AND CONTINUING  
24 BEHAVIORS OF THE CLIENT AND THAT IS ONE COMPONENT OF THE CLIENT'S  
25 INTEGRATED TREATMENT PLAN.

26 2. "INTEGRATED TREATMENT PLAN" MEANS A DOCUMENT THAT COORDINATES  
27 ALL TREATMENT INTERVENTIONS THAT ADDRESS THE CLIENT'S PHYSICAL HEALTH AND  
28 BEHAVIORAL HEALTH NEEDS FOR THE PURPOSE OF ENSURING SEAMLESS, COORDINATED  
29 AND COMPREHENSIVE TREATMENT.

30 Sec. 7. Rulemaking exemption; department of health services;  
31 department of economic security

32 For the purposes of this act, the department of health services and  
33 the department of economic security are exempt from the rulemaking  
34 requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes,  
35 for eighteen months after the effective date of this act.