



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1655

health care institutions; regulation

Purpose

Makes various changes related to the licensing, oversight and regulation of health care institutions and behavioral health residential facilities (BHRFs). Increases the cap on civil penalties for violation of health care institution statutes from \$500 to \$10,000 and allocates collected monies to prescribed sources. Establishes the Indigenous Peoples Protection Revolving Fund (Fund) to support resiliency and healing of indigenous peoples in Arizona, consisting of monies received from civil penalties assessed against health care institutions.

Background

Health care institutions in Arizona are licensed and overseen by the Department of Health Services (DHS), including enforcement of health care institution statutes, rules and regulations. DHS must: 1) review and approve plans and specifications for institution construction or modification; 2) have access to books, records, accounts and any other necessary health care institution information; and 3) require nursing care institutions and assisted living facilities to provide annual influenza and pneumonia vaccines to residents. Additionally, DHS may: 1) inspect every part of a health care institution to ensure compliance with standard medical practice; 2) conduct investigations of health care institution conditions and problems with noncompliance; and 3) develop facility manuals and guides to health care institutions and the general public ([A.R.S. § 36-406](#)). Health care institutions must be in substantial compliance with state laws governing health care institutions to be licensed and avoid enforcement action by DHS ([A.R.S. § 36-425](#)).

A *BHRF* is a health care institution that provides treatment to an individual experiencing a behavioral health issue that limits the individual's ability to be independent or causes the individual to require treatment to maintain or enhance independence ([A.A.C. § R9-10-101](#)).

The Director of DHS (Director) may assess a civil penalty of up to \$500 for each violation of health care institution statutes, for every day the violation occurs. The Director may then issue a notice of assessment that includes the amount of the assessment to the violator. Monies collected from civil penalties for violations of health care institutions are transmitted to the state General Fund (state GF) ([A.R.S. § 36-431.01](#)).

S.B. 1655 redirects monies collected from civil penalties assessed for violations of health care institution statutes from the state GF to the Fund, the Health Services Licensing Fund and the Nursing Care Institution Resident Protection Revolving Fund.

Provisions

1. Allows the Director, by rule, to establish an additional monitoring fee for health care institutions that are not in compliance with laws governing health care institutions.

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2. Requires DHS standards for nutrition and feeding assistant training programs to include testing requirements that ensure, rather than assure, competency.
3. Requires DHS to impose a civil penalty on a nutrition and feeding assistant training program that violates DHS standards.
4. Prohibits the Director from accepting an accreditation report in lieu of a compliance inspection of a:
 - a) health care institution that has been subject to a criminal penalty in the preceding five years;
or
 - b) residential care institution.
5. Requires health care institutions to be in compliance, rather than substantial compliance, with statutes and rules governing health care institutions in order to be licensed by DHS.
6. Voids a health care institution license if the licensee does not pay any civil penalties or the provider agreement fees assessed.
7. Excludes residential care institutions from laws granting DHS compliance survey exemptions for facilities that have been deficiency free for 24 months.
8. Removes the requirement that DHS issue a provisional license to an unlicensed health care institution that is not in substantial compliance with DHS licensure requirements and that the Director believes best serves patients and the public by being provided a chance to correct deficiencies.
9. Declares residential care institutions operating without a license guilty of a class 6 felony, subject to a daily civil penalty of between \$5,000 and \$10,000 for each violation.
10. Requires BHRFs to notify a resident's family or next of kin within 72 hours of the initial evaluation and document the notification in the resident's medical record.
11. Prohibits BHRFs from coordinating, facilitating, arranging or soliciting transportation of a person to the BHRF if the person is intoxicated or under the influence of a substance, unless the person is referred by an approved provider of a tribal health care program or regional behavioral health authority or is under order of the court.
12. Requires BHRFs to inquire, both verbally and in writing, whether a resident wants to be transported to the resident's place of residence or another safe living space in Arizona, as requested by the resident after discharge.
13. Requires a BHRF resident's wishes regarding transportation to be documented on a DHS-prescribed form, signed by the resident and retained in the resident's medical record.
14. Requires BHRFs to ensure safe and reliable transportation, as determined by DHS, for residents who wish to be transported home or to another safe living space upon discharge.
15. Requires, rather than allows, the Director to assess a civil penalty against a person who violates health care institution statutes.

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16. Increases the cap on civil penalties for violation of health care institution statutes from \$500 to \$10,000 per violation, for each day that a violation occurs.
17. Requires a civil penalty for violation of health care institution statutes to be a minimum of \$5,000 per violation, for each day that a violation occurs.
18. Requires the Director to issue notices of assessment and for the notice to include the amount of the assessment.
19. Requires DHS, in determining the amount of a civil penalty for violation of health care institution statutes, to consider the:
 - a) number of injuries caused;
 - b) severity of the injuries caused;
 - c) number of deaths caused; and
 - d) the cause of deaths.
20. Prohibits DHS from approving the license application of a licensed health care institution with any pending enforcement or court action against it.
21. Requires the Director to continue to pursue any court, administrative or enforcement action against a licensee even when the health care institution is in the process of being sold or transferred to a new owner.
22. Prohibits DHS from approving a change in ownership of a health care institution unless it is determined that there has been a transfer of all legal and equitable interests, control and authority in the health care institution so that persons other than the transferring licensee, the licensee's agent or other parties exercising authority or supervision over operations are responsible for and have control over the health care institution.
23. Establishes the Fund to support resiliency and healing of indigenous peoples in Arizona, consisting of monies received from civil penalties assessed against health care institutions.
24. Requires the Director to administer the Fund.
25. Requires monies in the Fund to be used annually, as follows:
 - a) 40 percent must be transferred to Arizona tribal colleges for programming in social work and behavioral health;
 - b) 20 percent must be used to provide restitution payments for families of deceased victims of Arizona's behavioral health system and sober living homes, with each family receiving a minimum of \$3,000 and the repatriation of the victim's human remains and expenses; and
 - c) 40 percent must be distributed to tribal communities for behavioral health treatment services and programs for residential homes, including BHRFs, sober living homes and transitional homes.
26. Directs DHS to deposit assessed civil penalties as follows:
 - a) 80 percent in the Fund;
 - b) 5 percent in the Health Services Licensing Fund; and
 - c) 15 percent in the Nursing Care Institution Resident Protection Revolving Fund.

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27. Specifies that monies in the Fund are continuously appropriated and are exempt from lapsing.
28. Declares that the legislature intends for DHS to review and amend the rules for BHRFs to ensure that there are adequate and proper requirements for staffing, care and oversight.
29. Exempts DHS, until June 30, 2025, from statutory rulemaking requirements for the purposes of amending rules related to health care institutions.
30. Makes technical and conforming changes.
31. Becomes effective on the general effective date.

Prepared by Senate Research
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MM/sdr