

Arizona Department of Health Services
Revised Statutes

Title 36; Public Health and Safety
Chapter 4: Health Care Institutions
Article 1: General Provisions

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36-401. Definitions; adult foster care

A. In this chapter, unless the context otherwise requires:

1. "Accredited health care institution" means a health care institution, other than a hospital, that is currently accredited by a nationally recognized accreditation organization.
2. "Accredited hospital" means a hospital that is currently accredited by a nationally recognized commission on hospital accreditation.
3. "Adaptive services" means medical services that are provided on an outpatient basis.
4. "Adult day health care facility" means a facility that provides adult day health services during a portion of a continuous twenty-four hour period for compensation on a regular basis for five or more adults not related to the proprietor.
5. "Adult day health services" means a program that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four hour period. Adult day health services may also include preventive, therapeutic and restorative health related services that do not include behavioral health services.
6. "Adult foster care" means a residential setting that provides room and board and adult foster care services for at least one and no more than four adults who are participants in the Arizona long-term care system pursuant to chapter 29, article 2 of this title and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's family.
7. "Adult foster care services" means supervision, assistance with eating, bathing, toileting, dressing, self-medication and other routines of daily living or services authorized by section 36-2939, subsection C and rules adopted pursuant to that section.
8. "Ambulatory person" means any individual, including one who uses a cane or other ambulatory support device, who is physically and mentally capable under emergency conditions of finding a way to safety without assistance.
9. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.
10. "Assisted living facility" means a residential care institution, including adult foster care, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuing basis.
11. "Assisted living home" means an assisted living facility that provides resident rooms to ten or fewer residents.
12. "Capital expenditure" means the acquisition by lease or purchase of a capital asset in the nature of buildings, fixtures or durable equipment.
13. "Construction" means the building, erection, fabrication or installation of a health care institution.
14. "Continuous" means available at all times without cessation, break or interruption.
15. "Controlling person" means a person who:
 - (a) Through ownership, has the power to vote at least ten per cent of the outstanding voting securities.
 - (b) If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten per cent of the voting rights of the partnership.
 - (c) If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator or any person who owns or controls at least ten per cent of the voting securities. For the purposes of this subdivision, corporation does not include nonprofit corporations.
 - (d) Holds a beneficial interest in ten per cent or more of the liabilities of the applicant or the licensee.
16. "Department" means the department of health services.

17. "Directed care services" means programs and services, including personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.
18. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.
19. "Director" means the director of the department of health services.
20. "Facilities" means buildings that are used by a health care institution for providing any of the types of services as defined in this chapter.
21. "Freestanding urgent care center":
- (a) Means an outpatient treatment center that, regardless of its posted or advertised name, meets any of the following requirements:
 - (i) Is open twenty-four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.
 - (ii) Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.
 - (iii) By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.
 - (iv) Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.
 - (b) Does not include the following:
 - (i) A medical facility that is licensed under a hospital's license and that uses the hospital's medical provider number.
 - (ii) A qualifying community health center pursuant to section 36-2907.06.
 - (iii) Any other health care institution licensed pursuant to this chapter.
 - (iv) A physician's office that offers extended hours or same day appointments to existing and new patients and that does not meet the requirements of subdivision (a), item (i), (iii) or (iv). For the purposes of this item, "physician" means a person licensed pursuant to title 32, chapter 13 or 17.
22. "Governing authority" means the individual, agency, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.
23. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and that includes home health agencies as defined in section 36-151 and hospice service agencies.
24. "Health-related services" means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.
25. "Health screening services" means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.
26. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.
27. "Hospice service" means a program of palliative and supportive care for terminally ill persons and their families or caregivers.
28. "Hospice service agency" means an agency or organization, or a subdivision of that agency or organization, that is engaged in providing hospice services at the place of residence of its clients.
29. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.
30. "Licensed capacity" means the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.
31. "Medical services" means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.
32. "Modification" means the substantial improvement, enlargement, reduction, alteration of or other change in a health care institution.
33. "Nonproprietary institution" means any health care institution that is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or that is operated by the state or any political subdivision of the state.
34. "Nursing care institution" means a health care institution that provides inpatient beds or resident beds and nursing services to persons who need nursing services on a continuing basis but who do not require hospital care or direct daily care from a physician.
35. "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.
36. "Organized medical staff" means a formal organization of physicians, and dentists where appropriate, with the delegated authority and responsibility to maintain proper standards of medical care and to plan for continued betterment of that care.
37. "Outpatient surgical center" means a type of health care institution with facilities and limited hospital services for the diagnosis or treatment of patients by surgery whose recovery, in the concurring opinions of the surgeon and the anesthesiologist, does not require inpatient care in a hospital.
38. "Personal care services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and that includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.
39. "Physician" means any person who is licensed pursuant to title 32, chapter 13 or 17.

40. "Residential care institution" means a health care institution other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care services, directed care services or health-related services for persons who do not need inpatient nursing care.

41. "Residential unit" means a private apartment, unless otherwise requested by a resident, that includes a living and sleeping space, kitchen area, private bathroom and storage area.

42. "Respite care services" means services that are provided by a licensed health care institution to persons otherwise cared for in foster homes and in private homes to provide an interval of rest or relief of not more than thirty days to operators of foster homes or to family members.

43. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of a licensed health care institution does not pose a direct risk to the life, health or safety of patients or residents.

44. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.

45. "Supervisory care services" means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.

46. "Unscheduled medical services" means medically necessary periodic health care services that are unanticipated or cannot reasonably be anticipated and that require medical evaluation or treatment before the next business day.

B. If there are fewer than four Arizona long-term care system participants receiving adult foster care in an adult foster care home, nonparticipating adults may receive other types of services that are authorized by law to be provided in the adult foster care home as long as the number of adults served, including the Arizona long-term care system participants, does not exceed four.

C. Nursing care services may be provided by the adult foster care licensee if the licensee is a nurse who is licensed pursuant to title 32, chapter 15 and the services are limited to those allowed pursuant to law. The licensee shall keep a record of nursing services rendered.

36-402. Exemptions

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

1. The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely on treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination.
2. Establishments, such as motels, hotels and boarding houses, that provide domiciliary and ancillary commercial services, but do not provide adaptive, medical, hospital, nursing, health related or supervisory care services.
3. Private offices and clinics of health care providers licensed under title 32 that are not freestanding urgent care centers, unless:
 - (a) Patients are kept overnight as bed patients or treated otherwise under general anesthesia except when treatment by general anesthesia is regulated by title 32, chapter 11.
 - (b) The office or clinic is an abortion clinic. For the purposes of this subdivision, "abortion clinic" has the same meaning prescribed in section 36-449.01.
4. Dispensaries and first aid stations located within business or industrial establishments maintained solely for the use of employees if the facility does not contain inpatient beds and is under the supervision of a physician.
5. The collection, processing or distribution of whole human blood, blood components, plasma, blood fractions or derivatives procured, processed or distributed by federally licensed and regulated blood banks.
6. Places where four or fewer adults not related to the administrator or owner receive adult day health services for compensation on a regular basis.
7. Places at which persons receive health related services only from relatives or from legal guardians or places that do not purport to be establishments that regularly provide health related services and at which one or two persons receive health related services on a twenty-four hour basis.
8. The Arizona pioneers' home. However, the department of health services shall evaluate the health and sanitation conditions at the Arizona pioneers' home annually using the standards applicable to licensed nursing care institutions.
9. The personal residence of a terminally ill person, or the personal residence of that person's relative or guardian, where that person receives hospice services from a hospice service agency.
10. All medical and health related facilities and services that are provided to inmates who are confined in a state prison. The state department of corrections shall annually evaluate the medical and health related facilities and services that are provided to inmates to determine that the facilities and services meet the applicable standards that are adopted by the director of the department of health services. The state department of corrections shall report the results of its annual evaluation and the actual findings, including a plan of correction for any deficiencies, to the director of the department of health services. The department of health services shall conduct validation surveys on a percentage of the medical and health related facilities, the number of which shall be determined by the state department of corrections and the department of health services. The director of the state department of corrections shall maintain the annual evaluation reports. This paragraph does not apply to licensed behavioral or mental health inpatient treatment facilities that the state department of corrections operates.
11. A facility that provides medical and health services to inmates who are confined in a county jail. The sheriff shall annually evaluate the facility to determine if it meets the applicable standards that are adopted by either a national corrections commission on health care or an American correctional association or the sheriff shall annually submit the facility to a similar separate inspection by an outside agency with medical standards. The sheriff must submit the certificate of accreditation or proof of successful inspection to the department annually and keep a copy of the certificate or proof of inspection.

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

1. Does not exceed its intended medical and custodial purposes.
 2. Adopts policies and procedures to comply with the national commission on correctional health care standards, or equivalent standards.
 3. As soon as practicable, becomes accredited by the national commission on correctional health care, or by an equivalent organization.
 4. Once accreditation is obtained, submits a certificate of accreditation to the department of health services annually.
 5. Maintains a copy of the certificate of accreditation.
 6. Maintains patient and custodial records, including on-site current photographs and fingerprints, if permitted by applicable law.
 7. Makes patient lists with inmate identifiers available to the state department of corrections on reasonable request.
 8. Provides timely notice of any major incident involving public safety to the appropriate law enforcement agency and allows that agency access to the facility for the purposes of law enforcement and investigation.
- C. Subsection B of this section does not apply to health care institutions that exclusively provide behavioral health services.

36-403. Licensure by counties and municipalities

Nothing in this chapter shall prevent counties or municipalities from adopting and enforcing building and zoning regulations for health care institutions which are equal to or more restrictive than regulations of the department.

36-404. Limitation of disclosure of information

A. Information received and records kept by the department for the purpose of administering this chapter are available to the public except:

1. Information obtained for purposes of articles 4 and 5 of this chapter.
2. Personally identifiable medical information or any information from which a patient or the patient's family might be identified.
3. Sources of information that cause the department to believe that an inspection of an institution is needed to determine the extent of compliance with this chapter and rules adopted pursuant to this chapter.

B. The department may release information listed under subsection A to an officer of the court pursuant to a court order, a department or agency of this state or the federal government, a law enforcement agency or a county medical examiner if the release of this information is necessary and pertinent to an investigation or proceeding unless the release of this information is prohibited by federal or state law. The recipient shall maintain patient and source name confidentiality.

36-405. Powers and duties of the director

A. The director shall adopt rules to establish minimum standards and requirements for the construction, modification and licensure of health care institutions necessary to assure the public health, safety and welfare. The standards and requirements shall relate to the construction, equipment, sanitation, staffing for medical, nursing and personal care services, and record keeping pertaining to the administration of medical, nursing and personal care services, in accordance with generally accepted practices of health care. The director shall use the current standards adopted by the joint commission on accreditation of hospitals and the commission on accreditation of the American osteopathic association or those adopted by any recognized accreditation organization approved by the department as guidelines in prescribing minimum standards and requirements under this section.

B. The director may, by rule:

1. Classify and subclassify health care institutions according to character, size, range of services provided, medical or dental specialty offered, duration of care and standard of patient care required for the purposes of licensure. Classes of health care institutions may include hospitals, infirmaries, outpatient treatment centers, health screening services centers and residential care facilities. Whenever the director reasonably deems distinctions in rules and standards to be appropriate among different classes or subclasses of health care institutions the director may make such distinctions.
2. Prescribe standards for determining a health care institution's substantial compliance with licensure requirements.
3. Prescribe the criteria for the licensure inspection process.
4. Prescribe standards for the selection of health care related demonstration projects.
5. Prescribe standards for training programs for assisted living facilities.

C. The director may:

1. Grant, deny, suspend and revoke approval of training programs for assisted living facilities.
2. Impose a civil penalty pursuant to section 36-431.01 against a training program that violates this chapter or rules adopted pursuant to this chapter.

D. The director shall establish and collect the following nonrefundable fees for health care institutions:

1. Fees of not to exceed fifty dollars for a license application.
2. Architectural drawing review fees of not to exceed the following amounts:
 - (a) For a project with a cost of less than one hundred thousand dollars, fifty dollars.
 - (b) For a project with a cost of one hundred thousand dollars or more and less than five hundred thousand dollars, one hundred dollars.
 - (c) For a project with a cost of five hundred thousand dollars or more, one hundred fifty dollars.

3. Initial license and license renewal fees of not to exceed the following amounts:

(a) For a facility with no licensed capacity, one hundred dollars.

(b) For a facility with a licensed capacity of one to fifty-nine beds, one hundred dollars, plus an additional fee in the amount of the licensed capacity times ten dollars.

(c) For a facility with a licensed capacity of sixty to ninety-nine beds, two hundred dollars, plus an additional fee in the amount of the licensed capacity times ten dollars.

(d) For a facility with a licensed capacity of one hundred to one hundred forty-nine beds, three hundred dollars, plus an additional fee in the amount of the licensed capacity times ten dollars.

(e) For a facility with a licensed capacity of one hundred fifty beds or more, five hundred dollars, plus an additional fee in the amount of the licensed capacity times ten dollars.

E. Subsection D of this section does not apply to a health care institution operated by a state agency pursuant to state or federal law or to adult foster care residential settings.

36-405.01. Health screening services; violation; classification

A. Health screening services shall be conducted in the following manner:

1. Health screening services shall be conducted under the direction of or, when required by good medical practice, under the supervision of a physician.

2. Any diagnosis of collected health-related data shall be performed by a physician.

3. Any examination of secretions, body fluids or excretions of the human body shall be performed pursuant to title 36, chapter 4.1.

4. Individuals may obtain health screening services on their own initiative.

5. Data given health-screened individuals shall be properly informative and not misleading.

6. Activities engaged in or materials used to educate, promote or otherwise solicit individuals to use health screening services shall not:

(a) Be misleading.

(b) Include the name of any physician, physician's office or clinic.

(c) Use or contain any language that directly or indirectly lauds the professional competence, skill or reputation of any physician.

7. A patient who is in need of medical care shall be informed that he should see a physician without referral to any particular physician.

B. The director may adopt such other regulations necessary or appropriate to carry out the purposes of this section.

C. Physicians affiliated with health screening services shall continue to be bound by the laws and ethics governing their practice.

However, affiliation with health screening services conducted in conformity with this chapter shall not constitute a violation of such laws or ethics.

D. Health-screened individuals, with respect to their disclosures to and records with health screening services, shall have the same protections regarding privileged communication and the same rights to the possession and confidentiality of their records as are accorded by law to patients of physicians.

E. Health screening services shall be exempt from the provisions of articles 2 through 5 of this chapter.

F. Any person who conducts health screening services in violation of this section or in violation of any rule or regulation adopted by the director is guilty of a class 2 misdemeanor. In addition, the director may exercise the same powers with respect to health screening services as are provided in section 36-427, subsection B with respect to licensed health care institutions.

36-406. Powers and duties of the department

In addition to its other powers and duties:

1. The department shall:

(a) Administer and enforce this chapter and the rules, regulations and standards adopted pursuant thereto.

(b) Review, and may approve, plans and specifications for construction or modification or additions to health care institutions regulated by this chapter.

(c) Have access to books, records, accounts and any other information of any health care institution reasonably necessary for the purposes of this chapter.

(d) Require as a condition of licensure that nursing care institutions and assisted living facilities make vaccinations for influenza and pneumonia available to residents on site on a yearly basis. The department shall prescribe the manner by which the institutions and facilities shall document compliance with this subdivision, including documenting residents who refuse to be immunized. The department shall not impose a violation on a licensee for not making a vaccination available if there is a shortage of that vaccination in this state as determined by the director.

2. The department may:

(a) Make or cause to be made inspections consistent with standard medical practice of every part of the premises of health care institutions which are subject to the provisions of this chapter as well as those which apply for or hold a license required by this chapter.

(b) Make studies and investigations of conditions and problems in health care institutions, or any class or subclass thereof, as they relate to compliance with this chapter and rules, regulations and standards adopted pursuant thereto.

(c) Develop manuals and guides relating to any of the several aspects of physical facilities and operations of health care institutions or any class or subclass thereof for distribution to the governing authorities of health care institutions and to the general public.

36-407. Prohibited acts

- A. A person shall not establish, conduct or maintain in this state a health care institution or any class or subclass of health care institution unless that person holds a current and valid license issued by the department specifying the class or subclass of health care institution the person is establishing, conducting or maintaining. The license is valid only for the establishment, operation and maintenance of the class or subclass of health care institution, the type of services and, except for emergency admissions as prescribed by the director by rule, the licensed capacity specified by the license.
- B. The licensee shall not imply by advertising, directory listing or otherwise that the licensee is authorized to perform services more specialized or of a higher degree of care than is authorized by this chapter and the underlying rules for the particular class or subclass of health care institution within which the licensee is licensed.
- C. The licensee may not transfer or assign the license. A license is valid only for the premises occupied by the institution at the time of its issuance.
- D. The licensee shall not personally or through an agent offer or imply an offer of rebate or fee splitting to any person regulated by title 32 or chapter 17 of this title.
- E. The licensee shall submit an itemized statement of charges to each patient.

36-408. Required reports from health care institutions

The department of health services shall not require any reports from health care institutions to be filed more frequently than annually unless such filings are otherwise required by state or federal law or result from necessary processing of applications or requests filed by such institutions.

36-409. Certification, licensure and monitoring of long-term care facilities, facilities and services

- A. The department shall perform all necessary functions, including licensing, certification or monitoring, to implement federally approved standards for institutions, facilities, agencies or persons providing services pursuant to chapter 29, article 2 of this title. These functions shall only be performed pursuant to an interagency agreement which the director of the Arizona health care cost containment system administration shall enter into with the department. A skilled nursing facility, hospice or home health agency shall not be certified pursuant to this section unless it is also certified under title XVIII of the social security act.
- B. Nursing care institutions and hospices shall make financial records available to the Arizona health care cost containment system administration for purposes of certified financial audits conducted pursuant to chapter 29, article 2 of this title.

36-410. County standards and guidelines; delegation

- A. The director shall provide counties with nonbinding guidelines for their use in establishing contract standards for adult foster care providers that do not provide services pursuant to chapter 29, article 2 of this title. These nonbinding guidelines shall include standards for the self-administration of drugs that the foster care provider shall follow in conjunction with home health services and outpatient services.
- B. The director shall adopt rules that the counties or the Arizona health care cost containment system administration shall use in prescribing minimum standards for adult foster care providers that provide services pursuant to chapter 29, article 2 of this title. The director shall conform these rules with federally approved applicable standards for adult foster care homes. The director shall delegate the authority to enforce these rules to each county that accepts this delegation or to the Arizona health care cost containment system administration. The department shall monitor an adult foster care program to ensure compliance with department rules. If a county or the Arizona health care cost containment system administration does not accept the delegation, the department shall certify and monitor an adult foster care home pursuant to section 36-409 if that home seeks to participate in the Arizona long-term care system pursuant to chapter 29, article 2 of this title.

36-411. Residential care institutions; home health agencies; fingerprinting; definitions

- A. Subject to legislative appropriations, as a condition of licensure or continued licensure of a residential care institution, a nursing care institution or a home health agency and as a condition of employment in a residential care institution, a nursing care institution or a home health agency, employees and owners of residential care institutions, nursing care institutions or home health agencies or contracted persons who provide direct care, home health services or supportive services and who have not been subject to the fingerprinting requirements of a health professional's regulatory board pursuant to title 32 shall have valid fingerprint clearance cards that are issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance card within twenty working days of employment or beginning volunteer work except as provided in subsections F, G and H of this section.
- B. A health professional who has complied with the fingerprinting requirements of the health professional's regulatory board as a condition of licensure or certification pursuant to title 32 is not required to submit an additional set of fingerprints to the department of public safety pursuant to this section.
- C. Owners shall make documented, good faith efforts to:
1. Contact previous employers to obtain information or recommendations that may be relevant to a person's fitness to work in a residential care institution, nursing care institution or home health agency.
 2. Verify the current status of a person's fingerprint clearance card.
- D. An employee, an owner or a contracted person or a facility on behalf of the employee, the owner or the contracted person shall submit a completed application that is provided by the department of public safety within twenty days after the date the person begins work.

- E. A residential care institution, nursing care institution or home health agency shall not allow a person or contracted person to continue to provide direct care, home health services or supportive services if the person has been denied a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1, has been denied approval pursuant to this section before May 7, 2001 or has not received an interim approval from the board of fingerprinting pursuant to section 41-619.55, subsection I.
- F. Volunteers who provide services to residents under the direct visual supervision of a previously screened owner or employee are exempt from the fingerprint clearance card requirements of this section.
- G. Notwithstanding the requirements of section 41-1758.02, subsection B, a person who provides direct care, home health services or supportive services for a residential care institution, home health agency or nursing care institution after meeting the fingerprinting and criminal records check requirements of this section is not required to meet the fingerprint and criminal records check requirements of this section again if that person remains employed by the same employer or changes employment within two years after satisfying the requirements of this section. For the purposes of this subsection, If the employer changes through sale, lease or operation of law, a person is deemed to be employed by the same employer if that person remains employed by the new employer.
- H. Notwithstanding the requirements of section 41-1758.02, subsection B, a person who has received approval pursuant to this section before May 7, 2001 and who remains employed by the same employer is not required to apply for a fingerprint clearance card.
- I. If a person's employment record contains a six-month or longer time frame where the person was not employed by any employer, a completed application with a new set of fingerprints shall be submitted to the department of public safety.
- J. For the purposes of this section:
1. "Home health services" has the same meaning prescribed in section 36-151.
 2. "Supportive services" has the same meaning prescribed in section 36-151.

36-412. Nursing care institutions; employment

The department shall not adopt any rule that prohibits an administrator of a nursing care institution from employing a person who is sixteen years of age or older, who provides direct care to residents and who otherwise meets the requirements of section 32-1645.

36-413. Nutrition and feeding assistants; training programs; regulation; civil penalty; definition

- A. The department may adopt rules to prescribe minimum standards for training programs for nutrition and feeding assistants in licensed skilled nursing facilities, including instructor qualifications, and may grant, deny, suspend and revoke approval of any training program that violates these standards. These standards must include:
1. Screening requirements.
 2. Initial qualifications.
 3. Continuing education requirements.
 4. Testing requirements to assure competency.
 5. Supervision requirements.
 6. Requirements for additional training based on patient needs.
 7. Maintenance of records.
 8. Special feeding requirements based on level of care.
- B. Pursuant to section 36-431.01, the department may impose a civil penalty on a training program that violates standards adopted by the department.
- C. If the department adopts standards for training programs pursuant to subsection A of this section, the department, as part of its routine inspection of a health care facility that provides a training program, shall determine the facility's compliance with these standards.
- D. For the purposes of this section, "nutrition and feeding assistant" has the same meaning as paid feeding assistant as defined in 42 Code of Federal Regulations part 483 and section 488.301.