

**DEPARTMENT OF HEALTH SERVICES
PUBLIC HEALTH LICENSING SERVICES
#SP-026-PHL-OAD**

CLARIFICATION OF FINGERPRINTING REQUIREMENTS FOR RESIDENTIAL CARE INSTITUTIONS, NURSING CARE INSTITUTIONS, AND HOME HEALTH AGENCIES

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.

The purpose of this substantive policy statement is to clarify who must be fingerprinted as a condition of employment or before beginning volunteer work in a residential care institution, nursing care institution, or home health agency.

Arizona Revised Statutes (A.R.S.) § 36-411(A) requires that:

“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 within twenty working days of employment or beginning volunteer work except as provided in subsections F, G and H of this section.”

In A.R.S. § 36-151:

A "home health agency" is defined as “an agency or organization, or a subdivision of such an agency or organization, which meets all of the following requirements:

- (a) Is primarily engaged in providing skilled nursing services and other therapeutic services.
- (b) Has policies, established by a group of professional personnel, associated with the agency or organization, including one or more physicians and one or more registered professional nurses, to govern the services referred to in subdivision (a), which it provides, and provides for supervision of such services by a physician or registered professional nurse.
- (c) Maintains clinical records on all patients.”

In A.R.S. § 36-401:

A “nursing care institution” is defined as “a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician.”

A "residential care institution" is defined as “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, behavioral health services, directed care services or health-related services for persons who do not need continuous nursing services.”

Residential care institutions and nursing care institutions

Under A.R.S. § 36-411(E), “a person or contracted person” providing direct care who has been denied a fingerprint clearance card or has not received an interim approval from the board of fingerprinting shall not continue to provide direct care. The Department interprets “direct care” as medical services, nursing services, health-related services, or social services provided to a resident.

An individual providing direct care in a residential care institution or nursing care institution must have a fingerprint clearance card. This includes an individual whose primary job responsibilities do not include direct care, but who occasionally provides direct care. For instance, if a dietary staff member occasionally feeds a resident, then the dietary staff member must have a fingerprint clearance card because feeding a resident is providing direct care. The individual may be an employee of the facility or contracted by the facility to provide direct care. A volunteer who provides direct care must also have a fingerprint clearance card unless the volunteer provides direct care under the direct visual supervision of an owner or employee with valid fingerprint clearance.

Examples of people who must be fingerprinted under A.R.S. § 36-411 (E), except if directly contracted by a resident, include:

- Registered nurses, practical nurses, nursing assistants, and caregivers employed by the facility
- Physical therapists, respiratory therapists, occupational therapists, and speech therapists and therapy staff
- Massage therapists
- Social workers
- Activity staff in nursing care institutions
- Persons having a contract with the facility to provide direct care, such as registered nurses, practical nurses, nursing assistants, caregivers, physical therapists, respiratory therapists, occupational therapists, speech therapists, therapy staff, and massage therapists

Examples of people who are not required to be fingerprinted under A.R.S. § 36-411 (E), except if providing direct care, include:

- Van drivers
- Clergy
- Housekeepers/maintenance staff/groundskeepers/ laundry staff
- Dietitians/dietary staff
- Beauticians
- Administrators/managers
- Activity staff in assisted living facilities and adult day health care centers

Examples of other people for whom a residential care institution or nursing care institution is not required to maintain documentation of fingerprint clearance under A.R.S. § 36-411 (E) include:

- Persons having a contract with a resident or the resident’s family to provide direct care to the resident
- Volunteers who provide services under the direct visual supervision of an owner or employee with valid fingerprint clearance
- Therapists and therapy staff contracted by the resident
- Hospice nurses, employees, and volunteers
- Individuals providing home health services

Home health agencies

Under A.R.S. § 36-411 (E), a “person or contracted person” providing “home health services” or “supportive services,” as defined in A.R.S. § 36-151, shall not provide those services if the person has been denied a fingerprint clearance card. Therefore, any individual providing home health services or supportive services, either for a home health agency or under an arrangement with a home health agency must have a fingerprint clearance card.

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