Gov. Doug Ducey's executive order calls for more protection of Arizonans with disabilities

Stephanie Innes, Arizona Republic Published 4:52 p.m. MT Feb. 6, 2019



Gov. Doug Ducey (Photo: Anya Magnuson/The Republic)

After a patient's rape at a Phoenix long-term care facility, Arizona Gov. Doug Ducey on Wednesday issued an executive order calling for more state protection of people with disabilities.

Ducey is ordering three state agencies to strengthen protections for some of the state's most vulnerable residents.

Among other directives, any Arizona workers who have direct contact with patients with disabilities must undergo annual training in abuse prevention.

The three agencies tasked with the responsibility are the Arizona Health Care Cost Containment System, the Arizona Department of Health Services and the Arizona Department of Economic Security.

The governor's executive order is a good "first step," but more work is needed to create policies that adequately protect Arizonans with disabilities, said Jon Meyers, executive director of The Arc of Arizona, which advocates for people with intellectual and developmental disabilities.

When he issued the executive order Wednesday, Ducey said Arizona has a "special responsibility" to protect people with disability. He's calling for increased accountability, stricter oversight and said he wants to "hold bad actors accountable" to guarantee protection of vulnerable Arizonans.

The executive order comes one week after the Arizona Developmental Disabilities Planning Council (ttps://addpc.az.gov), whose 23 members were appointed by Ducey to identify developmental disability challenges and solutions, issued a report that called for heightened protection of individuals with disabilities, including improved training for staff, family members and guardians.

"We'll continue to work with the governor's office and any other group throughout Arizona who wants to prevent abuse of vulnerable kids with developmental disabilities and adults statewide," council chairman John Black said. "This is just the beginning."

The council's report recommended strengthening Arizona's Adult Protective Services division and equalizing Arizona's "duty to report" laws governing mandatory reporters. Arizona law classifies failure to report abuse of a child as a felony. But the failure to report abuse of a vulnerable adult is a misdemeanor.

Additionally, the report recommended improved protections to protect mandatory reporters from retaliation from their employers, citing "anecdotal reports" of an "environment of silence at Hacienda" HealthCare where employees "feared for their jobs and their livelihoods if they shared what they knew of abuses and neglect at the facility."

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guid%3Da41918a9-Brnovic§5a411ce ըրթացին esday confirmed it had received the letter. Spokeswoman Katie Conner declined further comment.

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Two state agencies on Jan. 16 ordered Hacienda HealthCare to put in place a third-party manager to be in charge of operations at its skilled nursing facility and its intermediate-care facility — both of them on the campus at 1402 E. South Mountain Ave.

Benchmark Human Services (http://benchmarkhs.com/) of Fort Wayne, Indiana, last week told The Arizona Republic that it had assumed oversight of the facility, that its employees would begin assessing operations and that Hacienda officials had assured Benchmark of "their full cooperation and support."

But by the end of last week, Benchmark "reluctantly stopped this very important effort," according to an emailed statement from company spokeswoman Courtney Heiser.

Heiser confirmed with The Republic Wednesday morning that Benchmark would not be going back to Hacienda.

Hacienda HealthCare officials said they were unable to reach a final contract with Benchmark "in the short time frame imposed," but that they would be doing everything in their power to keep patients safe and comply with state directives.

Two third-party administrators who had been approved earlier by Hacienda, Benchmark and the state are currently in charge of the intermediate-care facility, Hacienda officials said Tuesday.

The company declined a request for additional comment Wednesday.

AHCCCS and DES have told Hacienda HealthCare that they must come up with a detailed compliance plan no later than the end of this week.

The 29-year-old patient who was sexually assaulted had been living at the 60-bed intermediate-care facility since she was 3. She was taken to a hospital after giving birth to a boy on Dec. 29 and was not expected to return to Hacienda.

The 112-pound woman is described in court documents as "incapacitated" and "unable to make any decisions or give consent due to her disability." She is described as needing a "maximum level of care." Her lawyer has said she has a seizure disorder.

One of the patient's caregivers, Nathan Sutherland, on Jan. 23 was arrested in connection with the rape. Sutherland, 36, is charged with one count of sexual assault and one count of vulnerable-adult abuse. He surrendered his state-licensed practical nurse license on Jan. 24.

A 911 call indicates staff members at Hacienda were unaware the patient was pregnant until she began to give birth.

The intermediate-care facility, referred to in state and federal records as Hacienda de los Angeles, was re-certified by the federal government in August. As an intermediate-care facility, Hacienda de los Angeles is not currently required to be licensed by the state.

But in light of the rape case, two state legislators have sponsored a bill that would require all Arizona intermediate-care facilities to be both federally certified and state-licensed. The bill had been on Wednesday's Senate Health and Human Services Committee agenda but was rescheduled for Feb. 13.

In its last federal survey on June 18, Hacienda HealthCare's intermediate-care facility reported having 39 residents ranging in age from 16 to 68, and most of them were described as "non-ambulatory." The survey listed Hacienda de los Angeles as having 83 employees, including nine registered nurses and 12 licensed practical nurses.