

REFERENCE TITLE: nursing care; assisted living; regulation

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1242

Introduced by
Senator Pace

AN ACT

AMENDING SECTIONS 36-446.03 AND 36-446.04, ARIZONA REVISED STATUTES;
RELATING TO THE BOARD OF EXAMINERS OF NURSING CARE ADMINISTRATORS AND
ASSISTED LIVING FACILITY MANAGERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-446.03, Arizona Revised Statutes, is amended
3 to read:

4 36-446.03. Powers and duties of the board; rules; fees;
5 fingerprinting

6 A. The board may adopt, amend or repeal reasonable and necessary
7 rules and standards for the administration of this article in compliance
8 with title XIX of the social security act, as amended.

9 B. The board by rule may adopt nonrefundable fees for the
10 following:

11 1. Initial application for certification as an assisted living
12 facility manager.

13 2. Examination for certification as an assisted living facility
14 manager.

15 3. Issuance of a certificate as an assisted living facility
16 manager, prorated monthly.

17 4. Biennial renewal of a certificate as an assisted living facility
18 manager.

19 5. Issuance of a temporary certificate as an assisted living
20 facility manager.

21 6. Readministering an examination for certification as an assisted
22 living facility manager.

23 7. Issuance of a duplicate certificate as an assisted living
24 facility manager.

25 8. Reviewing the sponsorship of continuing education programs, for
26 each credit hour.

27 9. Late renewal of an assisted living facility manager certificate.

28 10. Reviewing an individual's request for continuing education
29 credit hours, for each credit hour.

30 11. Reviewing initial applications for assisted living facility
31 training programs.

32 12. Annual renewal of approved assisted living facility training
33 programs.

34 C. The board may elect officers it deems necessary.

35 D. The board shall apply appropriate techniques, including
36 examinations and investigations, to determine whether a person meets the
37 qualifications prescribed in section 36-446.04.

38 E. BEGINNING JANUARY 1, 2023, IN ADDITION TO THE REQUIREMENTS
39 PRESCRIBED IN SECTION 36-446.04, THE BOARD SHALL REQUIRE EACH APPLICANT
40 FOR INITIAL NURSING CARE INSTITUTION ADMINISTRATOR OR ASSISTED LIVING
41 FACILITY MANAGER CERTIFICATION TO SUBMIT A FULL SET OF FINGERPRINTS TO THE
42 BOARD FOR A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECK PURSUANT TO
43 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
44 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
45 INVESTIGATION.

1 ~~F.~~ F. On its own motion or in response to any complaint against or
2 report of a violation by an administrator of a nursing care
3 institution, ~~or~~ or a manager of an assisted living facility, the board may
4 conduct investigations, hearings and other proceedings concerning any
5 violation of this article or of rules adopted by the board or by the
6 department.

7 ~~F.~~ G. In connection with an investigation or administrative
8 hearing, the board may administer oaths and affirmations, subpoena
9 witnesses, take evidence and require by subpoena the production of
10 documents, records or other information in any form concerning matters the
11 board deems relevant to the investigation or hearing. If any subpoena
12 issued by the board is disobeyed, the board may invoke the aid of any
13 court in this state in requiring the attendance and testimony of witnesses
14 and the production of evidence.

15 ~~G.~~ H. Subject to title 41, chapter 4, article 4, the board may
16 employ persons to provide investigative, professional and clerical
17 assistance as required to perform its powers and duties under this
18 article. Compensation for board employees shall be as determined pursuant
19 to section 38-611. The board may contract with other state or federal
20 agencies as required to carry out this article.

21 ~~H.~~ I. The board may appoint review committees to make
22 recommendations concerning enforcement matters and the administration of
23 this article.

24 ~~I.~~ J. The board by rule may establish a program to monitor
25 licensees and certificate holders who are chemically dependent and who
26 enroll in rehabilitation programs that meet board requirements. The board
27 may take disciplinary action if a licensee or a certificate holder refuses
28 to enter into an agreement to enroll in and complete a board-approved
29 rehabilitation program or fails to abide by that agreement.

30 ~~J.~~ K. The board shall adopt and use an official seal.

31 ~~K.~~ L. The board shall adopt rules for the examination and
32 licensure of nursing care institution administrators and the examination
33 and certification of assisted living facility managers.

34 ~~L.~~ M. The board shall adopt rules governing payment to a person
35 for the direct or indirect solicitation or procurement of assisted living
36 facility patronage.

37 ~~M.~~ N. The board must provide the senate and the house of
38 representatives health committee chairmen with copies of all board minutes
39 and executive decisions.

40 ~~N.~~ O. The board by rule shall limit by percentage the amount it
41 may increase a fee above the amount of a fee previously prescribed by the
42 board pursuant to this section.

43 ~~O.~~ P. The board by rule shall prescribe standards for assisted
44 living facility training programs. ~~On or before June 1, 2020,~~ The board
45 shall prescribe rules for assisted living facility caregivers that are

1 consistent with the training, competency and test methodology standards
2 developed by the Arizona health care cost containment system
3 administration for in-home direct care workers.

4 ~~P.~~ Q. The board may:

5 1. Grant, deny, suspend or revoke approval of, or place on
6 probation, an assisted living facility training program.

7 2. Impose a civil penalty on an assisted living facility training
8 program that violates this chapter or rules adopted pursuant to this
9 chapter.

10 Sec. 2. Section 36-446.04, Arizona Revised Statutes, is amended to
11 read:

12 36-446.04. Qualifications; period of validity; exemption

13 A. The board shall issue a license as a nursing care institution
14 administrator pursuant to its rules to any person who meets the following
15 qualifications:

16 1. Is of good character.

17 2. Has satisfactorily completed a course of instruction and
18 training approved by the board that:

19 (a) Is designed and sufficiently administered to give the applicant
20 knowledge of the proper needs to be served by nursing care institutions.

21 (b) Includes a thorough background in the laws and rules governing
22 the operation of nursing care institutions and the protection of the
23 interests of the patients in nursing care institutions.

24 (c) Includes thorough training in elements of good health care
25 facilities administration.

26 3. Has passed an examination administered by the board designed to
27 test for competency in the subject matter referred to in this subsection.

28 4. Has met one of the following fingerprinting requirements:

29 (a) Has a valid fingerprint clearance card issued pursuant to title
30 41, chapter 12, article 3.1 AND HAS NOT BEEN CONVICTED OF ANY FELONY
31 INVOLVING VIOLENCE OR FINANCIAL FRAUD.

32 (b) Has provided proof of the submission of an application for a
33 fingerprint clearance card. An applicant who has been denied a
34 fingerprint clearance card must also provide proof that the applicant
35 qualifies for a good cause exception hearing pursuant to section 41-619.55
36 AND HAS NOT BEEN CONVICTED OF ANY FELONY INVOLVING VIOLENCE OR FINANCIAL
37 FRAUD.

38 B. A person who is licensed pursuant to this section must maintain
39 a valid fingerprint clearance card during the valid period of the person's
40 license.

41 C. The board shall issue a certificate as an assisted living
42 facility manager pursuant to its rules to a person who meets the following
43 qualifications:

44 1. Is of good character.

1 2. Has satisfactorily completed a course of instruction and
2 training approved by the board that:

3 (a) Is designed and sufficiently administered to give the applicant
4 knowledge of the proper needs to be served by an assisted living facility.

5 (b) Includes a thorough background in the laws governing the
6 operation of assisted living facilities and the protection of the
7 interests of the patients in assisted living facilities.

8 (c) Includes thorough training in elements of assisted living
9 facility administration.

10 3. Has passed an examination administered by the board that is
11 designed to test for competency in the subject matter prescribed in this
12 subsection.

13 4. Provides documentation satisfactory to the board that the
14 applicant has completed two thousand eighty hours of paid work experience
15 in a health related field within the preceding five years as prescribed by
16 board rule.

17 5. Has met one of the following fingerprinting requirements:

18 (a) Has a valid fingerprint clearance card issued pursuant to title
19 41, chapter 12, article 3.1 AND HAS NOT BEEN CONVICTED OF ANY FELONY
20 INVOLVING VIOLENCE OR FINANCIAL FRAUD.

21 (b) Has provided proof of the submission of an application for a
22 fingerprint clearance card. An applicant who has been denied a
23 fingerprint clearance card must also provide proof that the applicant
24 qualifies for a good cause exception hearing pursuant to section 41-619.55
25 AND HAS NOT BEEN CONVICTED OF ANY FELONY INVOLVING VIOLENCE OR FINANCIAL
26 FRAUD.

27 D. Notwithstanding any other provision of this article, beginning
28 July 1, 2021, all new licenses and certifications issued by the board must
29 be approved by both the board and the department of health services.

30 E. A person who is certified pursuant to this section must maintain
31 a valid fingerprint clearance card during the valid period of the person's
32 certificate.

33 F. In lieu of the requirements contained in subsection A, paragraph
34 2 or subsection C, paragraph 2 OF THIS SECTION, an applicant may present
35 satisfactory evidence to the board of sufficient education and training in
36 the areas listed in ~~that~~ THE RESPECTIVE paragraph.

37 G. A license is nontransferable and remains in effect until ~~the~~
38 ~~following June 30~~ THIRTY DAYS AFTER THE LICENSEE'S BIRTHDAY of an ~~even~~
39 ~~numbered~~ EVEN-NUMBERED year, at which time the license may be renewed if
40 the licensee otherwise complies with this article and ~~unless~~ the license
41 has NOT been surrendered, suspended or revoked.

42 H. A certificate is nontransferable and remains in effect until ~~the~~
43 ~~following June 30~~ THIRTY DAYS AFTER THE CERTIFICATE HOLDER'S BIRTHDAY of
44 an ~~odd-numbered~~ ODD-NUMBERED year, at which time the certificate may be

1 renewed if the certificate holder otherwise complies with this article and
2 the certificate has not been surrendered, suspended or revoked.

3 I. This section does not apply to managers of adult foster care
4 homes as defined in section 36-401.

5 Sec. 3. Department of health services; board of examiners of
6 nursing care administrators and assisted living
7 facility managers; complaint referral process;
8 report

9 A. On or before September 1, 2022, the department of health
10 services in collaboration with the board of examiners of nursing care
11 administrators and assisted living facility managers shall establish and
12 implement an expedited process for identifying and referring complaints
13 relating to licensees and certificate holders who are under the
14 jurisdiction of the board of examiners of nursing care administrators and
15 assisted living facility managers.

16 B. On or before October 1, 2022, the department of health services
17 shall provide a report to the chairpersons of the health and human
18 services committees of the senate and the house of representatives
19 outlining the expedited process, including the time frames from receipt of
20 a complaint to referral to the board of examiners of nursing care
21 administrators and assisted living facility managers.