

Senate Engrossed

nursing care; assisted living; regulation

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

# SENATE BILL 1242

AN ACT

AMENDING SECTIONS 36-446, 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, Arizona Revised Statutes, is amended to  
3 read:  
4 36-446. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "Administrator" or "nursing care institution administrator"  
7 means a person who is charged with the general administration of a nursing  
8 care institution, whether or not that person has an ownership interest in  
9 the institution and whether or not the person's functions and duties are  
10 shared with others.  
11 2. "Assisted living facility" has the same meaning prescribed in  
12 section 36-401.  
13 3. "Assisted living facility manager" means a person who has  
14 responsibility for administering or managing an assisted living facility,  
15 whether or not that person has an ownership interest in the institution  
16 and whether or not the person's functions and duties are shared with  
17 others.  
18 4. "Assisted living facility training program" includes:  
19 (a) Training that is required for assisted living facility manager  
20 certification.  
21 (b) Training that is required for assisted living facility  
22 caregivers and that is either:  
23 (i) Consistent with the training, competency and test methodology  
24 standards developed by the Arizona health care cost containment system  
25 administration for in-home direct care workers.  
26 (ii) As prescribed in section 36-446.16.  
27 5. "Board" means the board of examiners of nursing care institution  
28 administrators and assisted living facility managers.  
29 6. "Department" means the department of health services.  
30 7. "Directed care services" has the same meaning prescribed in  
31 section 36-401.  
32 8. "Director" means the director of the department of health  
33 services.  
34 9. "FELONY INVOLVING VIOLENCE OR FINANCIAL FRAUD" MEANS ANY OF THE  
35 FOLLOWING OFFENSES:  
36 (a) SEXUAL ABUSE OF A VULNERABLE ADULT.  
37 (b) HOMICIDE, INCLUDING FIRST OR SECOND DEGREE MURDER, MANSLAUGHTER  
38 OR NEGLIGENT HOMICIDE.  
39 (c) SEXUAL ASSAULT.  
40 (d) SEXUAL EXPLOITATION OF A VULNERABLE ADULT.  
41 (e) COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.  
42 (f) CHILD ABUSE.  
43 (g) ABUSE OF A VULNERABLE ADULT.  
44 (h) MOLESTATION OF A CHILD.  
45 (i) MOLESTATION OF A VULNERABLE ADULT.

- 1 (j) A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN SECTION  
2 13-705.
- 3 (k) NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 4 (l) SEXUAL ABUSE.
- 5 (m) CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.
- 6 (n) DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.
- 7 (o) PANDERING.
- 8 (p) A FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN  
9 SECTION 13-3601 EXCEPT FOR A FELONY OFFENSE INVOLVING ONLY CRIMINAL DAMAGE  
10 IN AN AMOUNT OF MORE THAN \$250 BUT LESS THAN \$1,000 IF THE OFFENSE WAS  
11 COMMITTED BEFORE JUNE 29, 2009.
- 12 (q) ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12.
- 13 (r) FELONY INDECENT EXPOSURE.
- 14 (s) FELONY PUBLIC SEXUAL INDECENCY.
- 15 (t) TERRORISM.
- 16 (u) ANY OFFENSE INVOLVING A VIOLENT CRIME AS DEFINED IN SECTION  
17 13-901.03.
- 18 (v) AGGRAVATED CRIMINAL DAMAGE.
- 19 (w) THEFT.
- 20 (x) THEFT BY EXTORTION.
- 21 (y) FORGERY.
- 22 (z) CRIMINAL POSSESSION OF A FORGERY DEVICE.
- 23 (aa) OBTAINING A SIGNATURE BY DECEPTION.
- 24 (bb) THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD BY  
25 FRAUDULENT MEANS.
- 26 (cc) RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUDULENT USE OF A  
27 CREDIT CARD.
- 28 (dd) FORGERY OF A CREDIT CARD.
- 29 (ee) FRAUDULENT USE OF A CREDIT CARD.
- 30 (ff) POSSESSION OF ANY MACHINERY, PLATE OR OTHER CONTRIVANCE OR  
31 INCOMPLETE CREDIT CARD.
- 32 (gg) A FALSE STATEMENT AS TO FINANCIAL CONDITION OR IDENTITY TO  
33 OBTAIN A CREDIT CARD.
- 34 (hh) FRAUD BY PERSONS AUTHORIZED TO PROVIDE GOODS OR SERVICES.
- 35 (ii) CREDIT CARD TRANSACTION RECORD THEFT.
- 36 (jj) ADDING POISON OR ANOTHER HARMFUL SUBSTANCE TO FOOD, DRINK OR  
37 MEDICINE.
- 38 (kk) A CRIMINAL OFFENSE INVOLVING CRIMINAL TRESPASS UNDER TITLE 13,  
39 CHAPTER 15.
- 40 (ll) A CRIMINAL OFFENSE INVOLVING BURGLARY UNDER TITLE 13,  
41 CHAPTER 15.
- 42 (mm) A CRIMINAL OFFENSE UNDER TITLE 13, CHAPTER 23, EXCEPT  
43 TERRORISM.
- 44 (nn) A FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN  
45 SECTION 13-3601 IF THE OFFENSE INVOLVED ONLY CRIMINAL DAMAGE IN AN AMOUNT

1 OF MORE THAN \$250 BUT LESS THAN \$1,000 AND THE OFFENSE WAS COMMITTED  
2 BEFORE JUNE 29, 2009.

3 (oo) TAKING THE IDENTITY OF ANOTHER PERSON OR ENTITY.

4 (pp) AGGRAVATED TAKING THE IDENTITY OF ANOTHER PERSON OR ENTITY.

5 (qq) TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.

6 (rr) WELFARE FRAUD.

7 (ss) KIDNAPPING.

8 (tt) ROBBERY, AGGRAVATED ROBBERY OR ARMED ROBBERY.

9 ~~9.~~ 10. "Nursing care institution":

10 (a) Means an institution or other place, however named, whether for  
11 profit or not, including facilities operated by this state or a  
12 subdivision of this state, that is advertised, offered, maintained or  
13 operated for the express or implied purpose of providing care to persons  
14 who need nursing services on a continuing basis but who do not require  
15 hospital care or care under the daily direction of a physician.

16 (b) Does not include:

17 (i) An institution for the care and treatment of the sick that is  
18 operated only for those who rely solely on treatment by prayer or  
19 spiritual means in accordance with the tenets of a recognized religious  
20 denomination.

21 (ii) Nursing care services that are an integral part of a hospital  
22 licensed pursuant to this chapter.

23 ~~10.~~ 11. "Unprofessional conduct" includes:

24 (a) Dishonesty, fraud, incompetency or gross negligence in  
25 performing administrative duties.

26 (b) Gross immorality or proselytizing religious views on patients  
27 without their consent.

28 (c) Other abuses of official responsibilities, which may include  
29 intimidating or neglecting patients.

30 Sec. 2. Section 36-446.03, Arizona Revised Statutes, is amended to  
31 read:

32 36-446.03. Powers and duties of the board; rules; fees;  
33 fingerprinting

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

37 B. The board by rule may adopt nonrefundable fees for the  
38 following:

39 1. Initial application for certification as an assisted living  
40 facility manager.

41 2. Examination for certification as an assisted living facility  
42 manager.

43 3. Issuance of a certificate as an assisted living facility  
44 manager, prorated monthly.

- 1           4. Biennial renewal of a certificate as an assisted living facility
- 2 manager.
- 3           5. Issuance of a temporary certificate as an assisted living
- 4 facility manager.
- 5           6. Readministering an examination for certification as an assisted
- 6 living facility manager.
- 7           7. Issuance of a duplicate certificate as an assisted living
- 8 facility manager.
- 9           8. Reviewing the sponsorship of continuing education programs, for
- 10 each credit hour.
- 11           9. Late renewal of an assisted living facility manager certificate.
- 12           10. Reviewing an individual's request for continuing education
- 13 credit hours, for each credit hour.
- 14           11. Reviewing initial applications for assisted living facility
- 15 training programs.
- 16           12. Annual renewal of approved assisted living facility training
- 17 programs.
- 18           C. The board may elect officers it deems necessary.
- 19           D. The board shall apply appropriate techniques, including
- 20 examinations and investigations, to determine whether a person meets the
- 21 qualifications prescribed in section 36-446.04.
- 22           E. BEGINNING JANUARY 1, 2023, IN ADDITION TO THE REQUIREMENTS
- 23 PRESCRIBED IN SECTION 36-446.04, THE BOARD SHALL REQUIRE EACH APPLICANT
- 24 FOR INITIAL NURSING CARE INSTITUTION ADMINISTRATOR OR ASSISTED LIVING
- 25 FACILITY MANAGER CERTIFICATION TO SUBMIT A FULL SET OF FINGERPRINTS TO THE
- 26 BOARD FOR A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECK PURSUANT TO
- 27 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
- 28 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
- 29 INVESTIGATION.
- 30           ~~F.~~ F. On its own motion or in response to any complaint against or
- 31 report of a violation by an administrator of a nursing care
- 32 institution, or a manager of an assisted living facility, the board may
- 33 conduct investigations, hearings and other proceedings concerning any
- 34 violation of this article or of rules adopted by the board or by the
- 35 department.
- 36           ~~F.~~ G. In connection with an investigation or administrative
- 37 hearing, the board may administer oaths and affirmations, subpoena
- 38 witnesses, take evidence and require by subpoena the production of
- 39 documents, records or other information in any form concerning matters the
- 40 board deems relevant to the investigation or hearing. If any subpoena
- 41 issued by the board is disobeyed, the board may invoke the aid of any
- 42 court in this state in requiring the attendance and testimony of witnesses
- 43 and the production of evidence.
- 44           ~~G.~~ H. Subject to title 41, chapter 4, article 4, the board may
- 45 employ persons to provide investigative, professional and clerical

1 assistance as required to perform its powers and duties under this  
2 article. Compensation for board employees shall be as determined pursuant  
3 to section 38-611. The board may contract with other state or federal  
4 agencies as required to carry out this article.

5 ~~H.~~ I. The board may appoint review committees to make  
6 recommendations concerning enforcement matters and the administration of  
7 this article.

8 ~~I.~~ J. The board by rule may establish a program to monitor  
9 licensees and certificate holders who are chemically dependent and who  
10 enroll in rehabilitation programs that meet board requirements. The board  
11 may take disciplinary action if a licensee or a certificate holder refuses  
12 to enter into an agreement to enroll in and complete a board-approved  
13 rehabilitation program or fails to abide by that agreement.

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

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

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

21 ~~M.~~ N. The board must provide the senate and the house of  
22 representatives health committee chairmen with copies of all board minutes  
23 and executive decisions.

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

27 ~~O.~~ P. The board by rule shall prescribe standards for assisted  
28 living facility training programs. ~~On or before June 1, 2020,~~ The board  
29 shall prescribe rules for assisted living facility caregivers that are  
30 consistent with the training, competency and test methodology standards  
31 developed by the Arizona health care cost containment system  
32 administration for in-home direct care workers.

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

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

36 2. Impose a civil penalty on an assisted living facility training  
37 program that violates this chapter or rules adopted pursuant to this  
38 chapter.

39 Sec. 3. Section 36-446.04, Arizona Revised Statutes, is amended to  
40 read:

41 36-446.04. Qualifications; period of validity; exemption

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

45 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 nursing care institutions.

5           (b) Includes a thorough background in the laws and rules governing  
6 the operation of nursing care institutions and the protection of the  
7 interests of the patients in nursing care institutions.

8           (c) Includes thorough training in elements of good health care  
9 facilities administration.

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

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

13           (a) Has a valid fingerprint clearance card issued pursuant to title  
14 41, chapter 12, article 3.1 AND HAS NOT BEEN CONVICTED OF ANY FELONY  
15 INVOLVING VIOLENCE OR FINANCIAL FRAUD.

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

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

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

28           1. Is of good character.

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

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

33           (b) Includes a thorough background in the laws governing the  
34 operation of assisted living facilities and the protection of the  
35 interests of the patients in assisted living facilities.

36           (c) Includes thorough training in elements of assisted living  
37 facility administration.

38          3. Has passed an examination administered by the board that is  
39 designed to test for competency in the subject matter prescribed in this  
40 subsection.

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

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

2           (a) Has a valid fingerprint clearance card issued pursuant to title  
3 41, chapter 12, article 3.1 **AND HAS NOT BEEN CONVICTED OF ANY FELONY**  
4 **INVOLVING VIOLENCE OR FINANCIAL FRAUD.**

5           (b) Has provided proof of the submission of an application for a  
6 fingerprint clearance card. An applicant who has been denied a  
7 fingerprint clearance card must also provide proof that the applicant  
8 qualifies for a good cause exception hearing pursuant to section 41-619.55  
9 **AND HAS NOT BEEN CONVICTED OF ANY FELONY INVOLVING VIOLENCE OR FINANCIAL**  
10 **FRAUD.**

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

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

17           F. In lieu of the requirements contained in subsection A, paragraph  
18 2 or subsection C, paragraph 2 **OF THIS SECTION**, an applicant may present  
19 satisfactory evidence to the board of sufficient education and training in  
20 the areas listed in ~~that~~ **THE RESPECTIVE** paragraph.

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

26           H. A certificate is nontransferable and remains in effect until ~~the~~  
27 ~~following June 30~~ **THIRTY DAYS AFTER THE CERTIFICATE HOLDER'S BIRTHDAY** of  
28 an ~~odd-numbered~~ **ODD-NUMBERED** year, at which time the certificate may be  
29 renewed if the certificate holder otherwise complies with this article and  
30 the certificate has not been surrendered, suspended or revoked.

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

33           Sec. 4. Department of health services; board of examiners of  
34 nursing care administrators and assisted living  
35 facility managers; complaint referral process;  
36 report

37           A. On or before September 1, 2022, the department of health  
38 services in collaboration with the board of examiners of nursing care  
39 administrators and assisted living facility managers shall establish and  
40 implement an expedited process for identifying and referring complaints  
41 relating to licensees and certificate holders who are under the  
42 jurisdiction of the board of examiners of nursing care administrators and  
43 assisted living facility managers.

44           B. On or before October 1, 2022, the department of health services  
45 shall provide a report to the chairpersons of the health and human



1 services committees of the senate and the house of representatives  
2 outlining the expedited process, including the time frames from receipt of  
3 a complaint to referral to the board of examiners of nursing care  
4 administrators and assisted living facility managers.