

Senate Engrossed

nursing care; assisted living; regulation

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

CHAPTER 15
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

S.B. 1242

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.

APPROVED BY THE GOVERNOR MARCH 18, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2022.