

Senate Engrossed House Bill

long-term care; enforcement; memory care

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

CHAPTER 100
HOUSE BILL 2764

AN ACT

AMENDING SECTION 36-405, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-405.03; AMENDING SECTION 36-411, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-420.05; AMENDING SECTIONS 36-425, 36-431.01, 36-446.02, 46-452 AND 46-454, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-405, Arizona Revised Statutes, is amended to
3 read:

4 36-405. Powers and duties of the director

5 A. The director shall adopt rules to establish minimum standards
6 and requirements for constructing, modifying and licensing health care
7 institutions necessary to ensure the public health, safety and welfare.
8 The standards and requirements shall relate to the construction,
9 equipment, sanitation, staffing for medical, nursing and personal care
10 services, and recordkeeping pertaining to administering medical, nursing,
11 behavioral health and personal care services, in accordance with generally
12 accepted practices of health care. The standards shall require that a
13 physician who is licensed pursuant to title 32, chapter 13 or 17 medically
14 discharge patients from surgery and shall allow an outpatient surgical
15 center to require that either an anesthesia provider who is licensed
16 pursuant to title 32, chapter 13, 15 or 17 or a physician who is licensed
17 pursuant to title 32, chapter 13 or 17 remain present on the premises
18 until all patients are discharged from the recovery room. Except as
19 otherwise provided in this subsection, the director shall use the current
20 standards adopted by the joint commission on accreditation of hospitals
21 and the commission on accreditation of the American osteopathic
22 association or those adopted by any recognized accreditation organization
23 approved by the department as guidelines in prescribing minimum standards
24 and requirements under this section.

25 B. The director, by rule, may:

26 1. Classify and subclassify health care institutions according to
27 character, size, range of services provided, medical or dental specialty
28 offered, duration of care and standard of patient care required for the
29 purposes of licensure. Classes of health care institutions may include
30 hospitals, infirmaries, outpatient treatment centers, health screening
31 services centers and residential care facilities. Whenever the director
32 reasonably deems distinctions in rules and standards to be appropriate
33 among different classes or subclasses of health care institutions, the
34 director may make such distinctions.

35 2. Prescribe standards for determining a health care institution's
36 substantial compliance with licensure requirements.

37 3. Prescribe the criteria for the licensure inspection process.

38 4. Prescribe standards for selecting health care-related
39 demonstration projects.

40 5. Establish nonrefundable application and licensing fees for
41 health care institutions, including a grace period and a fee for the late
42 payment of licensing fees.

43 6. Establish a process for the department to notify a licensee of
44 the licensee's licensing fee due date.

1 PROGRAMS SHALL PROVIDE STAFF AND CONTRACTORS WHO COMPLETE THE TRAINING A
2 CERTIFICATE OF COMPLETION THAT MAY BE USED TO WORK AT ANY ASSISTED LIVING
3 FACILITY THAT IS LICENSED TO PROVIDE DIRECTED CARE SERVICES. IF A STAFF
4 MEMBER OR CONTRACTOR HAS NOT WORKED AT AN ASSISTED LIVING FACILITY THAT IS
5 LICENSED TO PROVIDE DIRECTED CARE SERVICES FOR A PERIOD OF TWELVE MONTHS,
6 THE PERSON IS REQUIRED TO COMPLETE THE INITIAL TRAINING WITHIN THIRTY DAYS
7 AFTER THE DATE OF HIRE, REHIRE OR RETURNING TO WORK.

8 C. AN ASSISTED LIVING FACILITY THAT IS LICENSED TO PROVIDE DIRECTED
9 CARE SERVICES IS REQUIRED TO PROVIDE TO THE DEPARTMENT DURING AN
10 INVESTIGATION OR COMPLIANCE SURVEY DOCUMENTATION OF STAFF TRAINING AS
11 PRESCRIBED IN SUBSECTION B OF THIS SECTION. FAILURE TO PROVIDE COMPLETE
12 STAFF TRAINING DOCUMENTATION SHALL BE CITED AS A DEFICIENCY.

13 D. FOR THE PURPOSES OF THIS SECTION, "MEMORY CARE SERVICES" MEANS
14 SERVICES THAT SUPPORT INDIVIDUALS WITH DEMENTIA AND OTHER PROGRESSIVE AND
15 NEURODEGENERATIVE BRAIN DISORDERS, INCLUDING SPECIALIZED ENVIRONMENTAL
16 FEATURES, CARE PLANNING, DIRECTED CARE SERVICES, MEDICATION ADMINISTRATION
17 SERVICES, SPECIALIZED ACCOMMODATIONS, ACTIVITY PROGRAMMING OR OTHER
18 SERVICES REQUIRED BY THE DEPARTMENT IN RULE.

19 Sec. 3. Section 36-411, Arizona Revised Statutes, is amended to
20 read:

21 36-411. Residential care institutions; nursing care
22 institutions; home health agencies; fingerprinting
23 requirements; exemptions; definitions

24 A. Except as provided in subsection F of this section, as a
25 condition of licensure or continued licensure of a residential care
26 institution, a nursing care institution or a home health agency and as a
27 condition of employment in a residential care institution, a nursing care
28 institution or a home health agency, employees and owners of residential
29 care institutions, nursing care institutions or home health agencies,
30 contracted persons of residential care institutions, nursing care
31 institutions or home health agencies or volunteers of residential care
32 institutions, nursing care institutions or home health agencies who
33 provide medical services, nursing services, behavioral health services,
34 health-related services, home health services or direct supportive
35 services and who have not been subject to the fingerprinting requirements
36 of a health professional's regulatory board pursuant to title 32 shall
37 have ~~A~~ valid fingerprint clearance ~~cards~~ CARD that ~~are~~ IS issued pursuant
38 to title 41, chapter 12, article 3.1 or shall apply for a fingerprint
39 clearance card within twenty working days ~~of~~ AFTER employment or beginning
40 volunteer work or contracted work.

41 B. A health professional who has complied with the fingerprinting
42 requirements of the health professional's regulatory board as a condition
43 of licensure or certification pursuant to title 32 is not required to
44 submit an additional set of fingerprints to the department of public
45 safety pursuant to this section.

1 C. ~~Owners~~ EACH RESIDENTIAL CARE INSTITUTION, NURSING CARE
2 INSTITUTION AND HOME HEALTH AGENCY shall make documented, good faith
3 efforts to:

4 1. Contact previous employers to obtain information or
5 recommendations that may be relevant to a person's fitness to work in a
6 residential care institution, nursing care institution or home health
7 agency.

8 2. Verify the current status of a person's fingerprint clearance
9 card.

10 3. BEGINNING JANUARY 1, 2025, VERIFY THAT A POTENTIAL EMPLOYEE IS
11 NOT ON THE ADULT PROTECTIVE SERVICES REGISTRY PURSUANT TO SECTION 46-459.
12 IF A POTENTIAL EMPLOYEE IS FOUND TO BE ON THE ADULT PROTECTIVE SERVICES
13 REGISTRY, THE RESIDENTIAL CARE INSTITUTION, NURSING CARE INSTITUTION OR
14 HOME HEALTH AGENCY MAY NOT HIRE THE POTENTIAL EMPLOYEE.

15 4. ON OR BEFORE MARCH 31, 2025, VERIFY THAT EACH EMPLOYEE IS NOT ON
16 THE ADULT PROTECTIVE SERVICES REGISTRY PURSUANT TO SECTION 46-459. IF AN
17 EMPLOYEE IS FOUND TO BE ON THE ADULT PROTECTIVE SERVICES REGISTRY, THE
18 RESIDENTIAL CARE INSTITUTION, NURSING CARE INSTITUTION OR HOME HEALTH
19 AGENCY SHALL TAKE ACTION TO TERMINATE THE EMPLOYMENT OF THAT EMPLOYEE.

20 5. BEGINNING MARCH 31, 2025, ANNUALLY REVERIFY THAT EACH EMPLOYEE
21 IS NOT ON THE ADULT PROTECTIVE SERVICES REGISTRY PURSUANT TO SECTION
22 46-459.

23 D. An employee, an owner, a contracted person or a volunteer or a
24 facility on behalf of the employee, the owner, the contracted person or
25 the volunteer shall submit a completed application that is provided by the
26 department of public safety within twenty days after the date the person
27 begins work or volunteer service.

28 E. Except as provided in subsection F of this section, a
29 residential care institution, nursing care institution or home health
30 agency shall not allow an employee to continue employment or a volunteer
31 or contracted person to continue to provide medical services, nursing
32 services, behavioral health services, health-related services, home health
33 services or direct supportive services if the person has been denied a
34 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1,
35 has been denied approval pursuant to this section before May 7, 2001 or
36 has had a fingerprint clearance card suspended or revoked.

37 F. An employee, volunteer or contractor of a residential care
38 institution, nursing care institution or home health agency who is
39 eligible pursuant to section 41-1758.07, subsection C to petition the
40 board of fingerprinting for a good cause exception and who provides
41 documentation of having applied for a good cause exception pursuant to
42 section 41-619.55 but who has not yet received a decision is exempt from
43 the fingerprinting requirements of this section if the person provides
44 medical services, nursing services, behavioral health services,
45 health-related services, home health services or direct supportive

1 services to residents or patients while under the direct visual
2 supervision of an owner or employee who has a valid fingerprint clearance
3 card.

4 G. If a person's employment record contains a six-month or longer
5 time frame during which the person was not employed by any employer, a
6 completed application with a new set of fingerprints shall be submitted to
7 the department of public safety.

8 H. For the purposes of this section:

9 1. "Direct supportive services":

10 (a) Means services other than home health services that provide
11 direct individual care and that are not provided in a common area of a
12 health care institution, including:

13 (i) Assistance with ambulating, bathing, toileting, grooming,
14 eating and getting in and out of a bed or chair.

15 (ii) Assistance with self-administration of medication.

16 (iii) Janitorial, maintenance, housekeeping or other services
17 provided in a resident's room.

18 (iv) Transportation services, including van services.

19 (b) Does not include services provided by persons contracted
20 directly by a resident or the resident's family in a health care
21 institution.

22 2. "Direct visual supervision" means continuous visual oversight of
23 the supervised person that does not require the supervisor to be in a
24 superior organizational role to the person being supervised.

25 3. "Home health services" has the same meaning prescribed in
26 section 36-151.

27 Sec. 4. Title 36, chapter 4, article 1, Arizona Revised Statutes,
28 is amended by adding section 36-420.05, to read:

29 36-420.05. Legal action or sale; effect on licensure

30 A. THE DIRECTOR MAY CONTINUE TO PURSUE ANY COURT, ADMINISTRATIVE OR
31 ENFORCEMENT ACTION AGAINST A LICENSEE EVEN IF THE HEALTH CARE INSTITUTION
32 IS IN THE PROCESS OF BEING SOLD OR TRANSFERRED OR HAS CLOSED.

33 B. THE DEPARTMENT MAY DENY AN APPLICATION FOR A HEALTH CARE
34 INSTITUTION LICENSE IF EITHER:

35 1. THE APPLICANT, THE LICENSEE OR A CONTROLLING PERSON HAS A HEALTH
36 CARE INSTITUTION LICENSE THAT IS IN AN ENFORCEMENT ACTION OR COURT ACTION
37 RELATED TO THE HEALTH AND SAFETY OF THE RESIDENTS OR PATIENTS.

38 2. THE DEPARTMENT HAS DETERMINED FOR REASONS OTHER THAN THOSE
39 SPECIFIED IN PARAGRAPH 1 OF THIS SUBSECTION THAT THE ISSUANCE OF A NEW
40 LICENSE IS LIKELY TO JEOPARDIZE RESIDENT OR PATIENT SAFETY.

41 C. THE DEPARTMENT MAY DENY THE APPROVAL OF A CHANGE IN OWNERSHIP OF
42 A CURRENTLY LICENSED HEALTH CARE INSTITUTION IF THE DEPARTMENT DETERMINES
43 THAT THE TRANSFER OF OWNERSHIP, WHETHER INVOLVING A DIRECT OWNER OR
44 INDIRECT OWNER, MAY JEOPARDIZE PATIENT SAFETY.

1 Sec. 5. Section 36-425, Arizona Revised Statutes, is amended to
2 read:

3 36-425. Inspections; issuance of license; posting
4 requirements; provisional license; denial of
5 license

6 A. On receipt of a properly completed application for a health care
7 institution license, the director shall conduct an inspection of the
8 health care institution as prescribed by this chapter. If an application
9 for a license is submitted due to a planned change of ownership, the
10 director shall determine the need for an inspection of the health care
11 institution. Based on the results of the inspection and after the
12 submission of the applicable licensing fee, the director shall either deny
13 the license or issue a regular or provisional license. A license issued
14 by the department shall be posted in a conspicuous location in the
15 reception area of that HEALTH CARE institution.

16 B. The director shall issue a license if the director determines
17 that an applicant and the health care institution for which the license is
18 sought substantially comply with the requirements of this chapter and
19 rules adopted pursuant to this chapter and the applicant agrees to carry
20 out a plan acceptable to the director to eliminate any deficiencies. The
21 director shall not require a health care institution that was designated
22 as a critical access hospital to make any modifications required by this
23 chapter or rules adopted pursuant to this chapter in order to obtain an
24 amended license with the same licensed capacity the health care
25 institution had before it was designated as a critical access hospital if
26 all of the following are true:

27 1. The health care institution has subsequently terminated its
28 critical access hospital designation.

29 2. The licensed capacity of the health care institution does not
30 exceed its licensed capacity before its designation as a critical access
31 hospital.

32 3. The health care institution remains in compliance with the
33 applicable codes and standards that were in effect at the time the
34 facility was originally licensed with the higher licensed capacity.

35 C. A health care institution license does not expire and remains
36 valid unless:

37 1. The department subsequently revokes or suspends the license.

38 2. The license is considered void because the licensee did not pay
39 the licensing fee, CIVIL PENALTIES OR PROVIDER AGREEMENT FEES before the
40 ~~licensing fee~~ RELEVANT due date OR DID NOT ENTER INTO AN AGREEMENT WITH
41 THE DEPARTMENT BEFORE THE RELEVANT DUE DATE TO PAY ALL OUTSTANDING FEES OR
42 CIVIL PENALTIES.

43 D. Except as provided in section 36-424, subsection B and
44 subsection E of this section, the department shall conduct a compliance

1 inspection of a health care institution to determine compliance with this
2 chapter and rules adopted pursuant to this chapter at least once annually.

3 E. If the department determines a facility, EXCEPT FOR A
4 RESIDENTIAL CARE INSTITUTION OR A NURSING CARE INSTITUTION THAT DOES NOT
5 HAVE THE SAME DIRECT OWNER OR INDIRECT OWNER AS A HOSPITAL LICENSED
6 PURSUANT TO THIS CHAPTER, to be deficiency free on a compliance survey,
7 the department shall not conduct a compliance survey of that facility for
8 twenty-four months after the date of the deficiency free survey. This
9 subsection does not prohibit the department from enforcing licensing
10 requirements as authorized by section 36-424.

11 F. A hospital licensed as a rural general hospital may provide
12 intensive care services.

13 G. The director shall issue a provisional license for a period of
14 not more than one year if an inspection or investigation of a currently
15 licensed health care institution or a health care institution for which an
16 applicant is seeking a license reveals that the HEALTH CARE institution is
17 not in substantial compliance with department licensure requirements and
18 the director believes that the immediate interests of the patients and the
19 general public are best served if the HEALTH CARE institution is given an
20 opportunity to correct deficiencies. The applicant or licensee shall
21 agree to carry out a plan to eliminate deficiencies that is acceptable to
22 the director. The director shall not issue consecutive provisional
23 licenses to a single health care institution. The director shall not
24 issue a license to the current licensee or a successor applicant before
25 the expiration of the provisional license unless the health care
26 institution submits an application for a substantial compliance survey and
27 is found to be in substantial compliance. The director may issue a
28 license only if the director determines that the HEALTH CARE institution
29 is in substantial compliance with the licensure requirements of the
30 department and this chapter. This subsection does not prevent the
31 director from taking action to protect the safety of patients pursuant to
32 section 36-427.

33 H. Subject to the confidentiality requirements of articles 4 and 5
34 of this chapter, title 12, chapter 13, article 7.1 and section 12-2235,
35 the licensee shall keep current department inspection reports at the
36 health care institution. Unless federal law requires otherwise, the
37 licensee shall post in a conspicuous location a notice that identifies the
38 location at that HEALTH CARE institution where the inspection reports are
39 available for review.

40 I. A health care institution shall immediately notify the
41 department in writing when there is a change of the chief administrative
42 officer specified in section 36-422, subsection A, paragraph 1,
43 subdivision (g).

44 J. When the department issues an original license or an original
45 provisional license to a health care institution, it shall notify the

1 owners and lessees of any agricultural land within one-fourth mile of the
2 health care institution. The health care institution shall provide the
3 department with the names and addresses of owners or lessees of
4 agricultural land within one-fourth mile of the proposed health care
5 institution.

6 K. In addition to the grounds for denial of licensure prescribed
7 pursuant to subsection A of this section, the director may deny a license
8 because an applicant or anyone in a business relationship with the
9 applicant, including stockholders and controlling persons, has had a
10 license to operate a health care institution denied, revoked or suspended
11 or a license or certificate issued by a health profession regulatory board
12 pursuant to title 32 or issued by a state agency pursuant to chapter 6,
13 article 7 or chapter 17 of this title denied, revoked or suspended or has
14 a licensing history of recent serious violations occurring in this state
15 or in another state that posed a direct risk to the life, health or safety
16 of patients or residents.

17 L. In addition to the requirements of this chapter, the director
18 may prescribe by rule other licensure requirements.

19 Sec. 6. Section 36-431.01, Arizona Revised Statutes, is amended to
20 read:

21 36-431.01. Violations; civil penalties; enforcement

22 A. The director may assess a civil penalty against a person who
23 violates this chapter or a rule adopted pursuant to this chapter in an
24 amount of not ~~to exceed five hundred dollars~~ MORE THAN \$1,000 for each
25 violation, WHICH MAY BE ASSESSED FOR EACH RESIDENT OR PATIENT WHO THE
26 DEPARTMENT DETERMINES WAS IMPACTED BY THE VIOLATION. Each day that a
27 violation occurs constitutes a separate violation.

28 B. The director may issue a notice of assessment that shall include
29 the proposed amount of the assessment. A person may appeal the assessment
30 by requesting a hearing pursuant to title 41, chapter 6, article 10. When
31 an assessment is appealed, the director shall take no further action to
32 enforce and collect the assessment until after the hearing.

33 C. In determining the AMOUNT OF THE civil penalty pursuant to
34 subsection A of this section, the department shall ~~consider~~ ESTABLISH A
35 MODEL IN RULE THAT CONSIDERS the following:

- 36 1. Repeated violations of statutes or rules.
- 37 2. Patterns of noncompliance.
- 38 3. Types of violations.
- 39 4. THE severity of violations.
- 40 5. THE potential for and occurrences of actual harm, INCLUDING TO
41 PATIENTS, STAFF OR RESIDENTS.
- 42 6. Threats to health and safety, INCLUDING TO PATIENTS, STAFF OR
43 RESIDENTS.
- 44 7. THE number of persons affected by the violations.
- 45 8. THE number of violations.

- 1 9. THE size of the facility.
- 2 10. THE length of time that the violations have been occurring.
- 3 11. THE TYPE OF HEALTH CARE INSTITUTION.

4 12. WHETHER THE HEALTH CARE INSTITUTION AND STAFF ARE IN COMPLIANCE
5 WITH THE REPORTING REQUIREMENTS PURSUANT TO SECTION 46-454.

6 D. Pursuant to interagency agreement specified in section 36-409,
7 the director may assess a civil penalty, including interest, in accordance
8 with 42 United States Code section 1396r. A person may appeal this
9 assessment by requesting a hearing before the director in accordance with
10 subsection B of this section. Civil penalty amounts may be established by
11 rules adopted by the director that conform to guidelines or regulations
12 adopted by the secretary of the United States department of health and
13 human services pursuant to 42 United States Code section 1396r.

14 E. Actions to enforce the collection of penalties assessed pursuant
15 to subsections A and D of this section shall be brought by the attorney
16 general or the county attorney in the name of the state in the justice
17 court or the superior court in the county in which the violation occurred.

18 F. Penalties assessed under subsection D of this section are in
19 addition to and not in limitation of other penalties imposed pursuant to
20 this chapter. All civil penalties and interest assessed pursuant to
21 subsection D of this section shall be deposited, PURSUANT TO SECTIONS
22 35-146 AND 35-147, in the nursing care institution resident protection
23 revolving fund established by section 36-431.02. The director shall use
24 these monies for the purposes prescribed by 42 United States Code section
25 1396r, including payment for the costs of relocation of residents to other
26 facilities, maintenance of operation of a facility pending correction of
27 the deficiencies or closure and reimbursement of residents for personal
28 monies lost.

29 G. The department shall ~~transmit~~ DEPOSIT CIVIL penalties assessed
30 under subsection A of this section ~~to~~ IN the state general fund.

31 Sec. 7. Section 36-446.02, Arizona Revised Statutes, is amended to
32 read:

33 36-446.02. Board of examiners; terms; meetings; quorum;
34 effect of vacancies; compensation

35 A. The board of examiners of nursing care institution
36 administrators and assisted living facility managers is established
37 consisting of eleven members appointed by the governor.

38 B. The board shall include:

39 1. One administrator who holds an active license issued pursuant to
40 this article OR WHO IS RETIRED.

41 2. One ASSISTED LIVING FACILITY manager who holds an active license
42 issued pursuant to this article OR WHO IS RETIRED.

43 3. One administrator of a nonprofit or faith-based skilled nursing
44 facility WHO EITHER HOLDS AN ACTIVE LICENSE ISSUED PURSUANT TO THIS
45 ARTICLE OR WHO IS RETIRED.

- 1 4. One administrator of a proprietary skilled nursing facility WHO
2 EITHER HOLDS AN ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE OR WHO IS
3 RETIRED.
- 4 5. Two managers of an assisted living center ~~as defined in section~~
5 ~~36-401~~ WHO EITHER HOLD AN ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE
6 OR WHO ARE RETIRED.
- 7 6. One manager of an assisted living home ~~as defined in section~~
8 ~~36-401~~ WHO EITHER HOLDS AN ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE
9 OR WHO IS RETIRED.
- 10 ~~7. Two public members who are not affiliated with a nursing care~~
11 ~~institution or an assisted living facility.~~
- 12 ~~8.~~ 7. One public member who represents an organization that
13 advocates for the elderly.
- 14 ~~9.~~ 8. One person who is a family member of a resident OR A PERSON
15 WHO WAS A RESIDENT IN THE PREVIOUS THREE YEARS in either a skilled nursing
16 facility or an assisted living facility at the time the person is
17 appointed to the board.
- 18 9. ONE PERSON WHO IS A CURRENT OR FORMER RESIDENT OF A SKILLED
19 NURSING FACILITY OR AN ASSISTED LIVING FACILITY.
- 20 10. ONE PUBLIC MEMBER WHO REPRESENTS AN ORGANIZATION THAT ADVOCATES
21 FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE, DEMENTIA OR OTHER RELATED
22 NEUROCOGNITIVE DISEASES OR DISORDERS.
- 23 C. THE BOARD MAY NOT HAVE MORE THAN THREE BOARD MEMBERS WHO ARE
24 APPOINTED PURSUANT TO SUBSECTION B, PARAGRAPHS 1 THROUGH 6 OF THIS SECTION
25 AND WHO ARE RETIRED. EACH BOARD MEMBER SPECIFIED IN SUBSECTION B,
26 PARAGRAPHS 1 THROUGH 6 OF THIS SECTION WHO IS RETIRED MUST HAVE HAD AN
27 ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE WITHIN THE PREVIOUS TWO
28 YEARS AT THE TIME OF APPOINTMENT TO THE BOARD AND MAY NOT HAVE HAD ANY
29 DISCIPLINARY ACTION TAKEN AGAINST THE PERSON'S LICENSE OR HAD A LICENSE
30 ISSUED PURSUANT TO THIS ARTICLE REVOKED.
- 31 ~~C.~~ D. Board members who are not affiliated with a nursing care
32 institution or an assisted living facility shall not have a direct
33 financial interest in nursing care institutions or assisted living
34 facilities.
- 35 ~~D.~~ E. A board member shall not serve on any other board relating
36 to long-term care during the member's term with the board.
- 37 ~~E.~~ F. The term of a board member automatically ends when that
38 member no longer meets the qualifications for appointment to the board.
39 The board shall notify the governor of the board vacancy.
- 40 ~~F.~~ G. Board members who are not affiliated with a nursing care
41 institution or an assisted living facility shall be appointed for two-year
42 terms. Board members who are the administrator of a nursing care
43 institution or the manager of an assisted living facility shall be
44 appointed for three-year terms.

1 ~~G.~~ H. A board member shall not serve for more than two consecutive
2 terms.

3 ~~H.~~ I. The board shall meet at least twice a year.

4 ~~I.~~ J. A majority of the board members constitutes a quorum.

5 ~~J.~~ K. Board members are eligible to receive compensation as
6 determined pursuant to section 38-611 for each day actually spent
7 performing their duties under this chapter.

8 ~~K.~~ L. A board member who is absent from three consecutive regular
9 meetings or who fails to attend more than fifty percent of board meetings
10 over the course of one calendar year vacates the board member's position.
11 The board shall notify the governor of the vacancy.

12 Sec. 8. Section 46-452, Arizona Revised Statutes, is amended to
13 read:

14 46-452. Protective services workers; powers and duties;
15 immunity; communications; access to records

16 A. ~~A~~ EACH protective services worker shall:

17 1. Receive reports of abused, exploited or neglected vulnerable
18 adults.

19 2. Receive from any source oral or written information regarding an
20 adult who may be in need of protective services.

21 3. On receipt of such information make an evaluation to determine
22 if the adult is in need of protective services and what services, if any,
23 are needed.

24 4. Offer an adult in need of protective services or ~~his~~ THE ADULT'S
25 guardian whatever services appear appropriate in view of the evaluation.

26 5. File petitions as necessary for the appointment of a guardian or
27 conservator or the appointment of a temporary guardian or temporary
28 conservator or make application for a special visitation warrant as
29 provided for in title 14, chapter 5.

30 6. FILE FOR AN ORDER OF PROTECTION PURSUANT TO SECTION 13-3602 OR
31 AN INJUNCTION AGAINST HARASSMENT PURSUANT TO SECTION 12-1809 AS A THIRD
32 PARTY ON BEHALF OF THE VULNERABLE ADULT TO PREVENT AN ALLEGED PERPETRATOR
33 FROM HAVING ACCESS TO THE VULNERABLE ADULT.

34 B. The department or a protective services worker employed by the
35 department may not be appointed as guardian, conservator or temporary
36 guardian.

37 C. An adult protective services worker is immune from civil
38 liability for applying for a special visitation warrant or for filing a
39 petition for guardianship or conservatorship unless the application or
40 filing is done in bad faith.

41 D. For the purposes of this chapter, communications concerning a
42 person who is incarcerated in any jail, prison, detention center or
43 correctional facility or concerning a patient in the Arizona state
44 hospital are not reports that require evaluation by a protective services
45 worker.

1 E. THE DEPARTMENT OR A PROTECTIVE SERVICES WORKER, IN PERFORMING
2 OFFICIAL DUTIES, MAY ACCESS LAW ENFORCEMENT RECORDS RELATED TO AN ADULT
3 PROTECTIVE SERVICES CASE. A LAW ENFORCEMENT ENTITY SHALL FURNISH RELEVANT
4 RECORDS TO ADULT PROTECTIVE SERVICES ON REQUEST.

5 Sec. 9. Section 46-454, Arizona Revised Statutes, is amended to
6 read:

7 46-454. Duty to report abuse, neglect and exploitation of
8 vulnerable adults; duty to make medical records
9 available; violation; classification

10 A. A health professional, emergency medical technician, home health
11 provider, hospital intern or resident, speech, physical or occupational
12 therapist, long-term care provider, social worker, peace officer, medical
13 examiner, guardian, conservator, fire protection personnel, developmental
14 disabilities provider, employee of the department of economic security or
15 other person who has responsibility for the care of a vulnerable adult and
16 who has a reasonable basis to believe that abuse, neglect or exploitation
17 of the VULNERABLE adult has occurred shall immediately report or cause
18 reports to be made of such reasonable basis to a peace officer or to the
19 adult protective services central intake unit. The guardian or
20 conservator of a vulnerable adult shall immediately report or cause
21 reports to be made of such reasonable basis to the superior court and the
22 adult protective services central intake unit. ~~All of~~ The ~~above~~ reports
23 REQUIRED BY THIS SUBSECTION shall be made immediately by telephone or
24 online.

25 B. If an individual listed in subsection A of this section is an
26 employee or agent of a health care institution as defined in section
27 36-401 and the health care institution's procedures require that all
28 suspected abuse, neglect and exploitation be reported to adult protective
29 services as required by law, the individual is deemed to have complied
30 with the requirements of subsection A of this section by reporting or
31 causing a report to be made to the health care institution in accordance
32 with the health care institution's procedures.

33 C. An attorney, accountant, trustee, guardian, conservator or other
34 person who has responsibility for preparing the tax records of a
35 vulnerable adult or a person who has responsibility for any other action
36 concerning the use or preservation of the vulnerable adult's property and
37 who, in the course of fulfilling that responsibility, discovers a
38 reasonable basis to believe that abuse, neglect or exploitation of the
39 VULNERABLE adult has occurred shall immediately report or cause reports to
40 be made of such reasonable basis to a peace officer or to the adult
41 protective services central intake unit. ~~All of~~ The ~~above~~ reports
42 REQUIRED BY THIS SUBSECTION shall be made immediately by telephone or
43 online.

1 D. Reports pursuant to subsections A and C of this section shall
2 contain:

3 1. The names and addresses of the VULNERABLE adult and any persons
4 having control or custody of the VULNERABLE adult, if known.

5 2. The VULNERABLE adult's age and the nature and extent of the
6 VULNERABLE adult's vulnerability.

7 3. The nature and extent of the abuse, neglect or exploitation.

8 4. Any other information that the person reporting believes might
9 be helpful in establishing the cause of the abuse, neglect or
10 exploitation.

11 E. Any person other than one required to report or cause reports to
12 be made ~~in~~ PURSUANT TO subsection A or C of this section who has a
13 reasonable basis to believe that abuse, neglect or exploitation of a
14 vulnerable adult has occurred may report the information to a peace
15 officer or to the adult protective services central intake unit.

16 F. A person having custody or control of medical or financial
17 records of a vulnerable adult for whom a report is required or authorized
18 under this section shall make those records, or a copy of those records,
19 available to a peace officer or adult protective services worker
20 investigating the vulnerable adult's abuse, neglect or exploitation on
21 written request for the records signed by the peace officer or adult
22 protective services worker. Records disclosed pursuant to this subsection
23 are confidential and may be used only in a judicial or administrative
24 proceeding or investigation resulting from a report required or authorized
25 under this section.

26 G. If reports pursuant to this section are received by a peace
27 officer, the peace officer shall notify the adult protective services
28 central intake unit as soon as possible and make that information
29 available to them, INCLUDING ALL RELATED POLICE RECORDS. A PEACE OFFICER
30 SHALL PROVIDE THE INFORMATION TO ADULT PROTECTIVE SERVICES AS SOON AS
31 POSSIBLE.

32 H. A person required to receive reports pursuant to subsection A, C
33 or E of this section may take or cause to be taken photographs of the
34 abused VULNERABLE adult and the vicinity involved. Medical examinations,
35 including radiological examinations of the involved VULNERABLE adult, may
36 be performed. Accounts, inventories or audits of the exploited VULNERABLE
37 adult's property may be performed. The person, department, agency or
38 court that initiates the photographs, examinations, accounts, inventories
39 or audits shall pay the associated costs in accordance with existing
40 statutes and rules. If any person is found to be responsible for the
41 abuse, neglect or exploitation of a vulnerable adult in a criminal or
42 civil action, the court may order the person to make restitution as the
43 court deems appropriate.

44 I. If psychiatric records are requested pursuant to subsection F of
45 this section, the custodian of the records shall notify the attending

1 psychiatrist, who may excise from the records, before they are made
2 available:

3 1. Personal information about individuals other than the patient.

4 2. Information regarding specific diagnosis or treatment of a
5 psychiatric condition, if the attending psychiatrist certifies in writing
6 that release of the information would be detrimental to the patient's
7 health or treatment.

8 J. If any portion of a psychiatric record is excised pursuant to
9 subsection I of this section, a court, on application of a peace officer
10 or adult protective services worker, may order that the entire record or
11 any portion of the record containing information relevant to the reported
12 abuse, neglect or exploitation be made available to the peace officer or
13 adult protective services worker investigating the abuse, neglect or
14 exploitation.

15 K. A licensing agency shall not find that a reported incidence of
16 abuse at a care facility by itself is sufficient grounds to allow the
17 agency to close the facility or to find that all residents are in imminent
18 danger.

19 L. Retaliation against a person who in good faith reports abuse,
20 neglect or exploitation is prohibited. Retaliation against a vulnerable
21 adult who is the subject of a report is prohibited. Any adverse action
22 taken against a person who reports abuse, neglect or exploitation or a
23 vulnerable adult who is the subject of the report within ninety days after
24 the report is filed is presumed to be retaliation.

25 M. A person who violates this section is guilty of a class 1
26 misdemeanor, except THAT if the failure to report involves an offense
27 listed in title 13, chapter 14, the person is guilty of a class 6 felony.

28 Sec. 10. Vulnerable adult system study committee; membership;
29 duties; report; delayed repeal

30 A. The vulnerable adult system study committee is established
31 consisting of the following members:

32 1. Two members of the house of representatives who are appointed by
33 the speaker of the house of representatives and who are members of
34 different political parties. The speaker of the house of representatives
35 shall designate one of these members to serve as cochairperson of the
36 committee.

37 2. Two members of the senate who are appointed by the president of
38 the senate and who are members of different political parties. The
39 president of the senate shall designate one of these members to serve as
40 cochairperson of the committee.

41 3. The director of the department of health services or the
42 director's designee.

43 4. The director of the department of economic security or the
44 director's designee.

1 5. The director of the Arizona health care cost containment system
2 or the director's designee.

3 6. One member who represents the governor's office and who is
4 appointed by the governor.

5 7. One member who represents the attorney general's office and who
6 is appointed by the attorney general.

7 8. One member who currently serves as the department of economic
8 security's long-term care ombudsman or the ombudsman's designee.

9 9. One member who currently serves as a public fiduciary and who is
10 appointed by the governor.

11 10. Two members who are employed by a local law enforcement agency
12 or who are employed by a statewide organization that represents law
13 enforcement and who are appointed by the governor.

14 11. The executive director of the Navajo area agency on aging or
15 the executive director's designee.

16 12. The executive director of the intertribal council of Arizona or
17 the executive director's designee.

18 13. Two members who represent assisted living facilities and who
19 are appointed by the speaker of the house of representatives.

20 14. Two members who represent nursing care institutions and who are
21 appointed by the governor.

22 15. One member who represents a statewide organization that
23 advocates for elderly vulnerable adults and who is appointed by the
24 president of the senate.

25 16. One member who represents a statewide organization that
26 advocates on behalf of persons affected by Alzheimer's disease and who is
27 appointed by the president of the senate.

28 17. One member who represents a statewide association that
29 advocates on behalf of persons who provide services to persons with
30 developmental disabilities and who is appointed by the speaker of the
31 house of representatives.

32 18. One health care professional who is appointed by the speaker of
33 the house of representatives and who both:

34 (a) Is licensed pursuant to title 32, Arizona Revised Statutes.

35 (b) Provides health care services to elderly vulnerable adults.

36 19. One member who is on the governor's advisory council on aging
37 and who is appointed by the governor.

38 20. One member who represents a statewide association representing
39 firefighters in this state and who is appointed by the president of the
40 senate.

41 B. The vulnerable adult system study committee shall:

42 1. Develop and implement a coordinated vulnerable adult delivery
43 system that ensures the health and safety of vulnerable adults.

44 2. Recommend best practices relating to responding to and
45 investigating complaints.

1 3. Research best practices related to adult protective services at
2 the state, municipality and community levels.
3 4. Research and make recommendations on how the vulnerable adult
4 system can ensure that vulnerable adults receive services they require
5 after the vulnerable adult system completes its investigatory duties,
6 including assigning a specific agency with the responsibility to provide
7 or coordinate case management.
8 5. Research and identify common statewide outcomes.
9 6. Identify best practices for data collection and data sharing by
10 various entities involved in providing vulnerable adult services.
11 7. Review and recommend changes to the statutes and rules that
12 govern vulnerable adult services.
13 C. The cochairpersons may designate work groups to research, study
14 and make recommendations to the study committee. At least two work groups
15 shall be established to separately address the needs of persons with
16 developmental disabilities and persons who are elderly or who have a
17 physical disability, including the training requirements for persons who
18 are caring for these populations.
19 D. Once a strategic direction is established, the department of
20 economic security, in conjunction with the work groups, shall develop an
21 action plan for implementation.
22 E. Public members are eligible to receive reimbursement of expenses
23 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.
24 F. On or before December 31, 2024, the study committee shall
25 provide a status update of its progress, including any recommended
26 statutory changes, to the members of the health and human services
27 committees of the house of representatives and the senate, or their
28 successor committees. On or before October 1, 2025, the study committee
29 shall submit a report of its findings and recommendations to the governor,
30 the president of the senate and the speaker of the house of
31 representatives and shall provide a copy of this report to the secretary
32 of state.
33 G. This section is repealed from and after December 31, 2025.
34 Sec. 11. Rulemaking
35 The department of health services shall adopt rules to implement
36 this act.
37 Sec. 12. Effective date
38 Section 36-405.03, Arizona Revised Statutes, as added by this act,
39 is effective from and after June 30, 2025.

APPROVED BY THE GOVERNOR APRIL 8, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 8, 2024.