

House Engrossed

Long-term care; reporting; monitoring; injury

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

HOUSE BILL 2653

AN ACT

AMENDING SECTION 36-411, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-420.05; AMENDING SECTION 36-424, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-434.02; AMENDING SECTION 36-446.03, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2932.01; AMENDING SECTION 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 36-411, Arizona Revised Statutes, is amended to
3 read:

4 36-411. Residential care institutions; nursing care
5 institutions; home health agencies; fingerprinting
6 requirements; exemptions; definitions

7 A. Except as provided in subsection F of this section, as a
8 condition of licensure or continued licensure of a residential care
9 institution, a nursing care institution or a home health agency and as a
10 condition of employment in a residential care institution, a nursing care
11 institution or a home health agency, employees and owners of residential
12 care institutions, nursing care institutions or home health agencies,
13 contracted persons of residential care institutions, nursing care
14 institutions or home health agencies or volunteers of residential care
15 institutions, nursing care institutions or home health agencies who
16 provide medical services, nursing services, behavioral health services,
17 health-related services, home health services or direct supportive
18 services and who have not been subject to the fingerprinting requirements
19 of a health professional's regulatory board pursuant to title 32 shall
20 have A valid fingerprint clearance ~~cards~~ CARD that ~~are~~ IS issued pursuant
21 to title 41, chapter 12, article 3.1 or shall apply for a fingerprint
22 clearance card within twenty working days ~~of~~ AFTER employment or beginning
23 volunteer work or contracted work.

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

29 C. Owners shall make documented, good faith efforts to:

30 1. Contact previous employers to obtain information or
31 recommendations that may be relevant to a person's fitness to work in a
32 residential care institution, nursing care institution or home health
33 agency.

34 2. Verify the current status of a person's fingerprint clearance
35 card.

36 3. BEGINNING JANUARY 1, 2025, VERIFY THAT AN EMPLOYEE OR POTENTIAL
37 EMPLOYEE IS NOT ON THE ADULT PROTECTIVE SERVICES REGISTRY PURSUANT TO
38 SECTION 46-459. IF AN EMPLOYEE IS FOUND TO BE ON THE ADULT PROTECTIVE
39 SERVICES REGISTRY, THE OWNER SHALL TAKE ACTION TO TERMINATE THE EMPLOYMENT
40 OF THAT EMPLOYEE. IF A POTENTIAL EMPLOYEE IS FOUND TO BE ON THE ADULT
41 PROTECTIVE SERVICES REGISTRY, THE OWNER MAY NOT HIRE THE POTENTIAL
42 EMPLOYEE.

1 D. An employee, an owner, a contracted person or a volunteer or a
2 facility on behalf of the employee, the owner, the contracted person or
3 the volunteer shall submit a completed application that is provided by the
4 department of public safety within twenty days after the date the person
5 begins work or volunteer service.

6 E. Except as provided in subsection F of this section, a
7 residential care institution, nursing care institution or home health
8 agency shall not allow an employee to continue employment or a volunteer
9 or contracted person to continue to provide medical services, nursing
10 services, behavioral health services, health-related services, home health
11 services or direct supportive services if the person has been denied a
12 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1,
13 has been denied approval pursuant to this section before May 7, 2001 or
14 has had a fingerprint clearance card suspended or revoked.

15 F. An employee, volunteer or contractor of a residential care
16 institution, nursing care institution or home health agency who is
17 eligible pursuant to section 41-1758.07, subsection C to petition the
18 board of fingerprinting for a good cause exception and who provides
19 documentation of having applied for a good cause exception pursuant to
20 section 41-619.55 but who has not yet received a decision is exempt from
21 the fingerprinting requirements of this section if the person provides
22 medical services, nursing services, behavioral health services,
23 health-related services, home health services or direct supportive
24 services to residents or patients while under the direct visual
25 supervision of an owner or employee who has a valid fingerprint clearance
26 card.

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

31 H. For the purposes of this section:

32 1. "Direct supportive services":

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

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

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

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

41 (iv) Transportation services, including van services.

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

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

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

6 Sec. 2. Title 36, chapter 4, article 1, Arizona Revised Statutes,
7 is amended by adding section 36-420.05, to read:

8 36-420.05. Nursing care institutions; assisted living
9 facilities; electronic monitoring; notice;
10 written permission; definition

11 A. A RESIDENT OF A NURSING CARE INSTITUTION OR AN ASSISTED LIVING
12 FACILITY OR A RESIDENT'S RESPONSIBLE PERSON MAY INSTALL ELECTRONIC
13 MONITORING OF THE RESIDENT IN THE RESIDENT'S PRIVATE LIVING SPACE. IF THE
14 RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON AGREES TO THE INSTALLATION
15 OF ELECTRONIC MONITORING DEVICES, AN OWNER OR MANAGER MAY NOT PREVENT THE
16 RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON FROM INSTALLING AND PAYING
17 FOR THE COST OF ELECTRONIC MONITORING DEVICES. THE RESIDENT OR THE
18 RESIDENT'S RESPONSIBLE PERSON WHO INSTALLS AND PAYS FOR THE ELECTRONIC
19 MONITORING DEVICES IS RESPONSIBLE FOR THE MAINTENANCE, INTERNET SERVICES,
20 IF APPLICABLE, AND REPAIRS OF THOSE ELECTRONIC MONITORING DEVICES. THE
21 OWNER OR MANAGER MAY NOT ACCESS THE ELECTRONIC RECORD OF ELECTRONIC
22 MONITORING DEVICES INSTALLED PURSUANT TO THIS SUBSECTION UNLESS THE
23 RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON PROVIDES ACCESS. A RESIDENT
24 OR A RESIDENT'S RESPONSIBLE PERSON IS RESPONSIBLE FOR POSTING NOTICE IN A
25 CONSPICUOUS PLACE THAT AN ELECTRONIC MONITORING DEVICE IS IN USE IN THE
26 RESIDENT'S PRIVATE LIVING SPACE.

27 B. IF A RESIDENT SHARES A PRIVATE LIVING SPACE WITH AT LEAST ONE
28 ROOMMATE AND THE RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON WANTS TO
29 INSTALL ELECTRONIC MONITORING OF THE RESIDENT IN THE RESIDENT'S PRIVATE
30 LIVING SPACE, THE RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON SHALL DO
31 ALL OF THE FOLLOWING:

32 1. OBTAIN WRITTEN PERMISSION TO INSTALL ELECTRONIC MONITORING IN
33 THE SHARED PRIVATE LIVING SPACE FROM EACH ROOMMATE OF THE RESIDENT OR EACH
34 ROOMMATE'S RESPONSIBLE PERSON.

35 2. NOT INSTALL THE ELECTRONIC MONITORING DEVICE IF WRITTEN
36 PERMISSION IS NOT RECEIVED FROM EACH ROOMMATE OR THE RESPONSIBLE PERSON OF
37 EACH ROOMMATE.

38 3. PROVIDE THE WRITTEN PERMISSION TO THE NURSING CARE INSTITUTION
39 OR ASSISTED LIVING FACILITY, IF REQUESTED BY THE NURSING CARE INSTITUTION
40 OR ASSISTED LIVING FACILITY.

41 4. IF THERE IS A CHANGE IN A ROOMMATE IN THE PRIVATE LIVING SPACE,
42 OBTAIN WRITTEN PERMISSION FROM EACH NEW ROOMMATE OF THE RESIDENT OR THE
43 ROOMMATE'S RESPONSIBLE PERSON. PREVIOUS AGREEMENTS BETWEEN PAST ROOMMATES
44 DO NOT APPLY AND PERMISSION MUST BE OBTAINED FROM ALL NEW ROOMMATES OR THE
45 ROOMMATE'S RESPONSIBLE PERSON.

1 5. IF A ROOMMATE REQUESTS TO NO LONGER PROVIDE PERMISSION FOR
2 ELECTRONIC MONITORING, BE RESPONSIBLE FOR DEACTIVATING THE ELECTRONIC
3 MONITORING DEVICE IMMEDIATELY WHEN WRITTEN NOTICE IS PROVIDED TO THE
4 RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON REQUESTING TO RESCIND
5 PERMISSION FOR ELECTRONIC MONITORING.

6 6. IF A ROOMMATE REQUESTS TO PROVIDE PERMISSION FOR ELECTRONIC
7 MONITORING, BE RESPONSIBLE FOR OBTAINING PERMISSION FOR ELECTRONIC
8 MONITORING FROM THE ROOMMATE.

9 7. SPECIFY IN THE AGREEMENT BETWEEN ROOMMATES REGARDING ELECTRONIC
10 MONITORING EACH PERSON WHO HAS ACCESS TO ELECTRONIC MONITORING AND HOW
11 THAT PERSON CAN ACCESS ELECTRONIC MONITORING.

12 C. THE NURSING CARE INSTITUTION OR THE ASSISTED LIVING FACILITY IS
13 NOT RESPONSIBLE FOR GAINING PERMISSION FOR THE USE OF ELECTRONIC
14 MONITORING DEVICES IN THE PRIVATE LIVING SPACE OF A RESIDENT. THE NURSING
15 CARE INSTITUTION OR ASSISTED LIVING FACILITY IS NOT LEGALLY LIABLE FOR THE
16 USE OF AN ELECTRONIC MONITORING DEVICE INSTALLED BY A RESIDENT OR A
17 RESIDENT'S RESPONSIBLE PERSON IN THE RESIDENT'S PRIVATE LIVING SPACE.

18 D. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC MONITORING
19 DEVICE":

20 1. MEANS A VIDEO SURVEILLANCE CAMERA OR AUDIO DEVICE THAT IS
21 INSTALLED IN THE PRIVATE LIVING SPACE OF A RESIDENT OF A NURSING CARE
22 INSTITUTION OR AN ASSISTED LIVING FACILITY.

23 2. DOES NOT INCLUDE AN ELECTRONIC, MECHANICAL OR OTHER DEVICE THAT
24 IS SPECIFICALLY USED FOR THE NONCONSENSUAL INTERCEPTION OF WIRE OR
25 ELECTRONIC COMMUNICATIONS.

26 Sec. 3. Section 36-424, Arizona Revised Statutes, is amended to
27 read:

28 36-424. Inspections; suspension or revocation of license;
29 reporting requirements

30 A. Except as provided in subsection B of this section, the director
31 shall inspect the premises of the health care institution and investigate
32 the character and other qualifications of the applicant to ascertain
33 whether the applicant and the health care institution are in substantial
34 compliance with the requirements of this chapter and the rules established
35 pursuant to this chapter. The director may prescribe rules regarding
36 department background investigations into an applicant's character and
37 qualifications.

38 B. The director may accept proof that a health care institution is
39 an accredited hospital or is an accredited health care institution in lieu
40 of all compliance inspections required by this chapter if the director
41 receives a copy of the health care institution's accreditation report for
42 the licensure period and the health care institution is accredited by an
43 independent, nonprofit accrediting organization approved by the secretary
44 of the United States department of health and human services. If the
45 health care institution's accreditation report is not valid for the entire

1 licensure period, the department may conduct a compliance inspection of
2 the health care institution during the time period the department does not
3 have a valid accreditation report for the health care institution. For
4 the purposes of this subsection, each licensed premises of a health care
5 institution must have its own accreditation report. The director may not
6 accept an accreditation report in lieu of a compliance inspection of:

7 1. An intermediate care facility for individuals with intellectual
8 disabilities.

9 2. A nursing-supported group home.

10 3. A health care institution if the health care institution has
11 been subject to an enforcement action pursuant to section 36-427 or
12 36-431.01 within the year preceding the annual licensing fee anniversary
13 date.

14 C. On a determination by the director that there is reasonable
15 cause to believe a health care institution is not adhering to the
16 licensing requirements of this chapter, the director and any duly
17 designated employee or agent of the director, including county health
18 representatives and county or municipal fire inspectors, consistent with
19 standard medical practices, may enter on and into the premises of any
20 health care institution that is licensed or required to be licensed
21 pursuant to this chapter at any reasonable time for the purpose of
22 determining the state of compliance with this chapter, the rules adopted
23 pursuant to this chapter and local fire ordinances or rules. Any
24 application for licensure under this chapter constitutes permission for
25 and complete acquiescence in any entry or inspection of the premises
26 during the pendency of the application and, if licensed, during the term
27 of the license. If an inspection reveals that the health care institution
28 is not adhering to the licensing requirements established pursuant to this
29 chapter, the director may take action authorized by this chapter. Any
30 health care institution, including an accredited hospital, whose license
31 has been suspended or revoked in accordance with this section is subject
32 to inspection on application for relicensure or reinstatement of license.

33 D. The director shall immediately report to the board of examiners
34 of nursing care institution administrators and assisted living facility
35 managers information identifying that a nursing care institution
36 administrator's **OR AN ASSISTED LIVING FACILITY MANAGER'S** conduct may be
37 grounds for disciplinary action pursuant to section 36-446.07 **OR MAY HAVE**
38 **RESULTED IN ABUSE, NEGLECT OR EXPLOITATION OF AN ADULT IN THE NURSING CARE**
39 **INSTITUTION OR THE ASSISTED LIVING FACILITY.**

40 Sec. 4. Title 36, chapter 4, article 2, Arizona Revised Statutes,
41 is amended by adding section 36-434.02, to read:

42 36-434.02. Assisted living facilities; injuries; reporting
43 requirements

44 A. AN ASSISTED LIVING FACILITY SHALL REPORT TO THE DEPARTMENT EACH
45 INCIDENT INVOLVING ANY OF THE FOLLOWING:

- 1 1. A PHYSICAL ALTERCATION BETWEEN AT LEAST TWO RESIDENTS.
- 2 2. A PHYSICAL ALTERCATION BETWEEN A RESIDENT AND A STAFF MEMBER
- 3 THAT IS INITIATED BY THE RESIDENT.
- 4 3. ANY INCIDENT IN WHICH A RESIDENT LEAVES THE ASSISTED LIVING
- 5 FACILITY WITHOUT NOTICE AND THE RESIDENT'S CARE PLAN INCLUDES THE
- 6 INABILITY FOR THE RESIDENT TO LEAVE THE ASSISTED LIVING FACILITY WITHOUT
- 7 SUPERVISION OR NOTICE.
- 8 B. WHEN AN ASSISTED LIVING FACILITY MAKES A REPORT TO THE
- 9 DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION, THE ASSISTED LIVING
- 10 FACILITY SHALL ALSO REPORT THE INJURY TO THE FAMILY MEMBER OR
- 11 REPRESENTATIVE OF THE RESIDENT WHO IS DESIGNATED TO RECEIVE SUCH
- 12 REPORTS. THE REPORT TO THE DEPARTMENT AND THE FAMILY MEMBER OR
- 13 REPRESENTATIVE OF THE RESIDENT SHALL INCLUDE ANY FOLLOW-UP ACTION THE
- 14 ASSISTED LIVING FACILITY TAKES TO PREVENT THE INCIDENT FROM HAPPENING
- 15 AGAIN. THE DEPARTMENT MAY DETERMINE HOW AN ASSISTED LIVING FACILITY MUST
- 16 MEET THE REQUIREMENTS OF THIS SUBSECTION AND SUBSECTION A OF THIS SECTION.
- 17 INFORMATION REGARDING THE TYPE OF INCIDENTS PRESCRIBED IN SUBSECTION A OF
- 18 THIS SECTION AND THE NUMBER OF INCIDENTS ON AN ANNUAL BASIS SHALL BE MADE
- 19 AVAILABLE ON THE DEPARTMENT'S WEBSITE WHERE INFORMATION ABOUT ASSISTED
- 20 LIVING FACILITIES CAN BE FOUND.
- 21 C. AN ASSISTED LIVING FACILITY SHALL REPORT TO A FAMILY MEMBER OR
- 22 REPRESENTATIVE OF THE RESIDENT WHO IS DESIGNATED TO RECEIVE SUCH REPORTS
- 23 IF THE RESIDENT REFUSES TO EAT OR DRINK LIQUIDS FOR AT LEAST FORTY-EIGHT
- 24 HOURS. THE ASSISTED LIVING FACILITY SHALL REPORT THIS INFORMATION AS SOON
- 25 AS POSSIBLE BUT NOT MORE THAN TWENTY-FOUR HOURS AFTER THE FORTY-EIGHT-HOUR
- 26 PERIOD.
- 27 D. BEGINNING ON JANUARY 1, 2025, AN ASSISTED LIVING FACILITY SHALL
- 28 REPORT EVERY SIX MONTHS TO THE DEPARTMENT THE NUMBER OF TIMES A CALL WAS
- 29 MADE TO EMERGENCY MEDICAL SERVICES PURSUANT TO SECTION 36-420, SUBSECTION
- 30 B, PARAGRAPH 2. THE DEPARTMENT SHALL PUBLISH THE NUMBER OF CALLS ON THE
- 31 DEPARTMENT'S WEBSITE WHERE INFORMATION ABOUT ASSISTED LIVING FACILITIES
- 32 CAN BE FOUND. THE DEPARTMENT SHALL REVIEW THE DATA RELATED TO CALLS AT
- 33 LEAST ANNUALLY TO DETERMINE WHETHER THE NUMBER OF CALLS IS INCREASING OR
- 34 DECREASING AND WHETHER ADDITIONAL TRAINING, EDUCATION OR CORRECTIVE ACTION
- 35 IS NEEDED BY STAFF IN THE ASSISTED LIVING FACILITY.

36 Sec. 5. Section 36-446.03, Arizona Revised Statutes, is amended to
37 read:

38 36-446.03. Powers and duties of the board; rules; fees;
39 fingerprinting

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

43 B. The board by rule may adopt nonrefundable fees for the
44 following:

- 1 1. Initial application for certification as an assisted living
2 facility manager.
- 3 2. Examination for certification as an assisted living facility
4 manager.
- 5 3. Issuance of a certificate as an assisted living facility
6 manager, prorated monthly.
- 7 4. Biennial renewal of a certificate as an assisted living facility
8 manager.
- 9 5. Issuance of a temporary certificate as an assisted living
10 facility manager.
- 11 6. Readministering an examination for certification as an assisted
12 living facility manager.
- 13 7. Issuance of a duplicate certificate as an assisted living
14 facility manager.
- 15 8. Reviewing the sponsorship of continuing education programs, for
16 each credit hour.
- 17 9. Late renewal of an assisted living facility manager certificate.
- 18 10. Reviewing an individual's request for continuing education
19 credit hours, for each credit hour.
- 20 11. Reviewing initial applications for assisted living facility
21 training programs.
- 22 12. Annual renewal of approved assisted living facility training
23 programs.
- 24 C. The board may elect officers it deems necessary.
- 25 D. The board shall apply appropriate techniques, including
26 examinations and investigations, to determine whether a person meets the
27 qualifications prescribed in section 36-446.04.
- 28 E. On or before July 1, 2024, in addition to the requirements
29 prescribed in section 36-446.04, the board shall require each applicant
30 for initial nursing care institution administrator licensure or assisted
31 living facility manager certification to submit a full set of fingerprints
32 to the board for a state and federal criminal history records check
33 pursuant to section 41-1750 and Public Law 92-544. The department of
34 public safety may exchange this fingerprint data with the federal bureau
35 of investigation.
- 36 F. On its own motion or in response to any complaint against or
37 report of a violation by an administrator of a nursing care institution or
38 a manager of an assisted living facility, the board may conduct
39 investigations, hearings and other proceedings concerning any violation of
40 this article or of rules adopted by the board or by the department. **THE**
41 **BOARD SHALL IMMEDIATELY REPORT TO ADULT PROTECTIVE SERVICES INFORMATION**
42 **THAT A NURSING CARE INSTITUTION ADMINISTRATOR'S CONDUCT OR AN ASSISTED**
43 **LIVING FACILITY MANAGER'S CONDUCT MAY HAVE RESULTED IN ABUSE, NEGLECT OR**
44 **EXPLOITATION OF AN ADULT IN THE APPLICABLE NURSING CARE INSTITUTION OR**
45 **ASSISTED LIVING FACILITY.**

1 G. In connection with an investigation or administrative hearing,
2 the board may administer oaths and affirmations, subpoena witnesses, take
3 evidence and require by subpoena the production of documents, records or
4 other information in any form concerning matters the board deems relevant
5 to the investigation or hearing. If any subpoena issued by the board is
6 disobeyed, the board may invoke the aid of any court in this state in
7 requiring the attendance and testimony of witnesses and the production of
8 evidence.

9 H. Subject to title 41, chapter 4, article 4, the board may employ
10 persons to provide investigative, professional and clerical assistance as
11 required to perform its powers and duties under this article.
12 Compensation for board employees shall be as determined pursuant to
13 section 38-611. The board may contract with other state or federal
14 agencies as required to carry out this article.

15 I. The board may appoint review committees to make recommendations
16 concerning enforcement matters and the administration of this article.

17 J. The board by rule may establish a program to monitor licensees
18 and certificate holders who are chemically dependent and who enroll in
19 rehabilitation programs that meet board requirements. The board may take
20 disciplinary action if a licensee or a certificate holder refuses to enter
21 into an agreement to enroll in and complete a board-approved
22 rehabilitation program or fails to abide by that agreement.

23 K. The board shall adopt and use an official seal.

24 L. The board shall adopt rules for the examination and licensure of
25 nursing care institution administrators and the examination and
26 certification of assisted living facility managers.

27 M. The board shall adopt rules governing payment to a person for
28 the direct or indirect solicitation or procurement of assisted living
29 facility patronage.

30 N. The board must provide the chairpersons of the senate and the
31 house of representatives health committees with copies of all board
32 minutes and executive decisions.

33 O. The board by rule shall limit by percentage the amount it may
34 increase a fee above the amount of a fee previously prescribed by the
35 board pursuant to this section.

36 P. The board by rule shall prescribe standards for assisted living
37 facility training programs. The board shall prescribe rules for assisted
38 living facility caregivers that are consistent with the training,
39 competency and test methodology standards developed by the Arizona health
40 care cost containment system administration for in-home direct care
41 workers.

42 Q. The board may:

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

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

4 Sec. 6. Title 36, chapter 29, article 2, Arizona Revised Statutes,
5 is amended by adding section 36-2932.01, to read:

6 36-2932.01. Duty to report; director; program contractors;
7 definition

8 A. THE DIRECTOR AND THE ADMINISTRATION'S PROGRAM CONTRACTORS SHALL
9 IMMEDIATELY REPORT TO:

10 1. THE BOARD OF EXAMINERS OF NURSING CARE INSTITUTION
11 ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS INFORMATION
12 IDENTIFYING THAT A NURSING CARE INSTITUTION ADMINISTRATOR'S OR AN ASSISTED
13 LIVING FACILITY MANAGER'S CONDUCT MAY BE GROUNDS FOR DISCIPLINARY ACTION
14 PURSUANT TO SECTION 36-446.07.

15 2. THE DEPARTMENT OF HEALTH SERVICES THAT AN ASSISTED LIVING
16 FACILITY'S CONDUCT MAY BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THE
17 DEPARTMENT OF HEALTH SERVICES' REQUIREMENTS FOR HEALTH CARE INSTITUTIONS
18 APPLICABLE TO ASSISTED LIVING FACILITIES.

19 B. FOR THE PURPOSES OF THIS SECTION, "ASSISTED LIVING FACILITY" HAS
20 THE SAME MEANING PRESCRIBED IN SECTION 36-401.

21 Sec. 7. Section 46-454, Arizona Revised Statutes, is amended to
22 read:

23 46-454. Duty to report abuse, neglect and exploitation of
24 vulnerable adults; duty to make medical records
25 available; violation; classification

26 A. A health professional, emergency medical technician, home health
27 provider, hospital intern or resident, speech, physical or occupational
28 therapist, long-term care provider, social worker, peace officer, medical
29 examiner, guardian, conservator, fire protection personnel, developmental
30 disabilities provider, employee of the department of economic security,
31 EMPLOYEE OF THE DEPARTMENT OF HEALTH SERVICES or other person who has
32 responsibility for the care of a vulnerable adult and who has a reasonable
33 basis to believe that abuse, neglect or exploitation of the VULNERABLE
34 adult has occurred shall immediately report or cause reports to be made of
35 ~~such~~ THE reasonable basis to a peace officer or to the adult protective
36 services central intake unit. The guardian or conservator of a vulnerable
37 adult shall immediately report or cause reports to be made of ~~such~~ THE
38 reasonable basis to the superior court and the adult protective services
39 central intake unit. ~~All of~~ The ~~above~~ reports REQUIRED BY THIS SUBSECTION
40 shall be made immediately by telephone or online.

41 B. If an individual listed in subsection A of this section is an
42 employee or agent of a health care institution as defined in section
43 36-401 and the health care institution's procedures require that all
44 suspected abuse, neglect and exploitation be reported to adult protective
45 services as required by law, the individual is deemed to have complied

1 with the requirements of subsection A of this section by reporting or
2 causing a report to be made to the health care institution in accordance
3 with the health care institution's procedures.

4 C. An attorney, accountant, trustee, guardian, conservator or other
5 person who has responsibility for preparing the tax records of a
6 vulnerable adult or a person who has responsibility for any other action
7 concerning the use or preservation of the vulnerable adult's property and
8 who, in the course of fulfilling that responsibility, discovers a
9 reasonable basis to believe that abuse, neglect or exploitation of the
10 VULNERABLE adult has occurred shall immediately report or cause reports to
11 be made of ~~such~~ THE reasonable basis to a peace officer or to the adult
12 protective services central intake unit. ~~All of~~ The ~~above~~ reports
13 REQUIRED BY THIS SUBSECTION shall be made immediately by telephone or
14 online.

15 D. Reports pursuant to subsections A and C of this section shall
16 contain:

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

19 2. The VULNERABLE adult's age and the nature and extent of the
20 VULNERABLE adult's vulnerability.

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

22 4. Any other information that the person reporting believes might
23 be helpful in establishing the cause of the abuse, neglect or
24 exploitation.

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

30 F. A person having custody or control of medical or financial
31 records of a vulnerable adult for whom a report is required or authorized
32 under this section shall make those records, or a copy of those records,
33 available to a peace officer or adult protective services worker
34 investigating the vulnerable adult's abuse, neglect or exploitation on
35 written request for the records signed by the peace officer or adult
36 protective services worker. Records disclosed pursuant to this subsection
37 are confidential and may be used only in a judicial or administrative
38 proceeding or investigation resulting from a report required or authorized
39 under this section.

40 G. If reports pursuant to this section are received by a peace
41 officer, the peace officer shall notify the adult protective services
42 central intake unit as soon as possible and make that information
43 available to them.

1 H. A person required to receive reports pursuant to subsection A, C
2 or E of this section may take or cause to be taken photographs of the
3 abused **VULNERABLE** adult and the vicinity involved. Medical examinations,
4 including radiological examinations of the involved **VULNERABLE** adult, may
5 be performed. Accounts, inventories or audits of the exploited **VULNERABLE**
6 adult's property may be performed. The person, department, agency or
7 court that initiates the photographs, examinations, accounts, inventories
8 or audits shall pay the associated costs in accordance with existing
9 statutes and rules. If any person is found to be responsible for the
10 abuse, neglect or exploitation of a vulnerable adult in a criminal or
11 civil action, the court may order the person to make restitution as the
12 court deems appropriate.

13 I. If psychiatric records are requested pursuant to subsection F of
14 this section, the custodian of the records shall notify the attending
15 psychiatrist, who may excise from the records, before they are made
16 available:

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

18 2. Information regarding specific diagnosis or treatment of a
19 psychiatric condition, if the attending psychiatrist certifies in writing
20 that release of the information would be detrimental to the patient's
21 health or treatment.

22 J. If any portion of a psychiatric record is excised pursuant to
23 subsection I of this section, a court, on application of a peace officer
24 or adult protective services worker, may order that the entire record or
25 any portion of the record containing information relevant to the reported
26 abuse, neglect or exploitation be made available to the peace officer or
27 adult protective services worker investigating the abuse, neglect or
28 exploitation.

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

33 L. Retaliation against a person who in good faith reports abuse,
34 neglect or exploitation is prohibited. Retaliation against a vulnerable
35 adult who is the subject of a report is prohibited. Any adverse action
36 taken against a person who reports abuse, neglect or exploitation or a
37 vulnerable adult who is the subject of the report within ninety days after
38 the report is filed is presumed to be retaliation.

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

42 Sec. 8. Rulemaking

43 A. The department of health services shall adopt rules for the
44 implementation of section 36-434.02, Arizona Revised Statutes, as added by
45 this act. The rules shall include timelines for reports to the department

1 and to the family member or representative of any resident involved in an
2 incident described in section 36-434.02, Arizona Revised Statutes, as
3 added by this act.

4 B. The department of health services shall adopt rules requiring
5 that an assisted living facility notify the resident's representative if
6 the resident develops a stage 3 or stage 4 pressure sore. The
7 notification shall be made as soon as possible, but not more than
8 twenty-four hours after the stage 3 or stage 4 pressure sore is discovered
9 or determined. The rules shall require that the resident and the
10 resident's representative be notified of the process for determining
11 whether the resident can remain in the assisted living facility and the
12 level of personal care services that is available in the facility to treat
13 the pressure sore.

14 C. The department of health services shall adopt rules requiring
15 each assisted living facility to publish its quality management plan that
16 is required by rule on the assisted living facility's website and to
17 provide that quality management plan to prospective residents and their
18 families or representative to allow them to learn about the method the
19 assisted living facility uses to identify, document and evaluate
20 incidents. The documented report required by rule to be submitted to the
21 assisted living facility's governing authority shall also be provided to
22 the department of health services, and the department shall publish the
23 reports on the department's website where the public can review
24 information about assisted living facilities.