

REFERENCE TITLE: long-term care; reporting; monitoring; injury

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

## **HB 2653**

Introduced by  
Representatives Nguyen: Bliss

### 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 OR THE ELDER ABUSE CENTRAL REGISTRY PURSUANT TO SECTION  
39 46-457. IF AN EMPLOYEE IS FOUND TO BE ON THE ADULT PROTECTIVE SERVICES  
40 REGISTRY OR THE ELDER ABUSE CENTRAL REGISTRY, THE OWNER SHALL TAKE ACTION  
41 TO TERMINATE THE EMPLOYMENT OF THAT EMPLOYEE. IF A POTENTIAL EMPLOYEE IS  
42 FOUND TO BE ON THE ADULT PROTECTIVE SERVICES REGISTRY OR THE ELDER ABUSE  
43 CENTRAL REGISTRY, THE OWNER MAY NOT HIRE THE POTENTIAL 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; rules;  
10                                        policies; definition

11           A. THE OWNER OR MANAGER OF A NURSING CARE INSTITUTION OR AN  
12 ASSISTED LIVING FACILITY MAY INSTALL, OVERSEE AND MONITOR ELECTRONIC  
13 MONITORING DEVICES IN COMMON AREAS, INCLUDING HALLWAYS, OF THE NURSING  
14 CARE INSTITUTION OR ASSISTED LIVING FACILITY, UNLESS ANY RESIDENT OR THE  
15 RESIDENT'S RESPONSIBLE PERSON OBJECTS TO THE INSTALLATION OF THE  
16 ELECTRONIC MONITORING DEVICES. THE OWNER OR MANAGER SHALL PROVIDE ADVANCE  
17 NOTICE OF THE INTENT TO INSTALL ELECTRONIC MONITORING DEVICES AT LEAST  
18 THIRTY DAYS BEFORE INSTALLING THE ELECTRONIC MONITORING DEVICES. THE  
19 OWNER OR MANAGER MAY CONTRACT WITH A THIRD PARTY TO INSTALL, OVERSEE AND  
20 MONITOR THE ELECTRONIC MONITORING DEVICES. THE OWNER OR MANAGER MAY  
21 REQUIRE COST SHARING FOR THE ELECTRONIC MONITORING DEVICES ONLY WITH THE  
22 CONSENT OF RESPONSIBLE PERSONS.

23           B. A RESIDENT OR A RESIDENT'S RESPONSIBLE PERSON MAY INSTALL  
24 ELECTRONIC MONITORING OF THE RESIDENT. IF THE RESIDENT OR THE RESIDENT'S  
25 RESPONSIBLE PERSON AGREES TO THE INSTALLATION OF ELECTRONIC MONITORING  
26 DEVICES, AN OWNER OR MANAGER MAY NOT PREVENT THE RESIDENT OR THE  
27 RESIDENT'S RESPONSIBLE PERSON FROM INSTALLING AND PAYING FOR THE COST OF  
28 ELECTRONIC MONITORING DEVICES. THE RESIDENT OR THE RESIDENT'S RESPONSIBLE  
29 PERSON WHO INSTALLS AND PAYS FOR THE ELECTRONIC MONITORING DEVICES IS  
30 RESPONSIBLE FOR THE MAINTENANCE AND REPAIRS OF THOSE ELECTRONIC MONITORING  
31 DEVICES. THE OWNER OR MANAGER MAY NOT ACCESS THE ELECTRONIC RECORD OF  
32 ELECTRONIC MONITORING DEVICES INSTALLED PURSUANT TO THIS SUBSECTION UNLESS  
33 THE RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON PROVIDES ACCESS.

34           C. THE DIRECTOR SHALL ADOPT RULES REGARDING THE USE OF ELECTRONIC  
35 MONITORING DEVICES IN NURSING CARE INSTITUTIONS AND ASSISTED LIVING  
36 FACILITIES THAT, AT A MINIMUM, PROVIDE FOR ALL OF THE FOLLOWING:

37                 1. CONSENT REQUIREMENTS CONSISTENT WITH SECTION 13-3019.

38                 2. PUBLIC DISCLOSURE THAT AN ELECTRONIC MONITORING DEVICE IS IN USE  
39 ON THE PROPERTY.

40                 3. THE MAINTENANCE, STORAGE AND RETENTION SCHEDULE OF THE  
41 ELECTRONIC RECORD.

42                 4. WHO MAY ACCESS THE ELECTRONIC RECORD AND UNDER WHAT  
43 CIRCUMSTANCES.

44                 5. HOW CONFIDENTIALITY AND PRIVACY ARE MAINTAINED.

1           6. HOW OFTEN THE ELECTRONIC MONITORING DEVICE IS MONITORED OR  
2 REVIEWED BY THE OWNER OR MANAGER OR THE OWNER'S OR MANAGER'S DESIGNEE.

3           7. ENSURING THAT ALL STAFF WHO HAVE ACCESS TO THE ELECTRONIC RECORD  
4 ARE PROPERLY TRAINED IN THE FACILITY'S POLICIES AND THE PROTECTION OF  
5 RESIDENTS' RIGHTS.

6           8. ENSURING THAT ADHERENCE TO THE FACILITY'S POLICIES IS MONITORED  
7 AND THAT RISKS OR BREACHES OF THE FACILITY'S POLICIES ARE PROMPTLY  
8 ADDRESSED.

9           9. ENSURING ACCESS TO THE ELECTRONIC RECORD, INCLUDING LIVE  
10 RECORDINGS AND VIDEO FEED, BY THE OWNER OR MANAGER, THE RESIDENT OR THE  
11 RESIDENT'S RESPONSIBLE PERSON, EXCEPT AS PROHIBITED BY SUBSECTION E,  
12 PARAGRAPH 1 OF THIS SECTION.

13           D. THE RULES ADOPTED PURSUANT TO THIS SECTION REGARDING THE USE OF  
14 ELECTRONIC MONITORING DO NOT APPLY IF THE RESIDENTS' RESPONSIBLE PERSONS  
15 INSTALL THE ELECTRONIC MONITORING DEVICES PURSUANT TO SUBSECTION B OF THIS  
16 SECTION.

17           E. THE RULES ADOPTED PURSUANT TO SUBSECTION C OF THIS SECTION MAY  
18 NOT:

19           1. PROHIBIT ACCESSING THE ELECTRONIC RECORD FROM THE OWNER OR  
20 MANAGER, THE RESIDENT OR THE RESIDENT'S RESPONSIBLE PERSON UNLESS THE  
21 ELECTRONIC RECORD CONTAINS EVIDENCE OF A SUSPECTED CRIMINAL OFFENSE.

22           2. PROHIBIT COST SHARING FOR THE ELECTRONIC MONITORING DEVICES  
23 BETWEEN THE OWNER OR MANAGER AND THE RESIDENTS' RESPONSIBLE PERSONS.

24           F. IF AN OWNER OR MANAGER HAS INSTALLED AND USES AN ELECTRONIC  
25 MONITORING DEVICE BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER OR  
26 MANAGER SHALL ESTABLISH POLICIES CONSISTENT WITH RULES ADOPTED PURSUANT TO  
27 SUBSECTION C OF THIS SECTION AND SUBMIT THE POLICIES TO THE DEPARTMENT  
28 WITHIN NINETY DAYS AFTER THE RULES ARE ADOPTED.

29           G. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC MONITORING  
30 DEVICE":

31           1. MEANS A VIDEO SURVEILLANCE CAMERA OR AUDIO DEVICE THAT IS  
32 INSTALLED IN A COMMON AREA, INCLUDING A HALLWAY, OF A NURSING CARE  
33 INSTITUTION OR AN ASSISTED LIVING FACILITY.

34           2. DOES NOT INCLUDE AN ELECTRONIC, MECHANICAL OR OTHER DEVICE THAT  
35 IS SPECIFICALLY USED FOR THE NONCONSENSUAL INTERCEPTION OF WIRE OR  
36 ELECTRONIC COMMUNICATIONS.

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

39           36-424. Inspections; suspension or revocation of license;  
40                           reporting requirements

41           A. Except as provided in subsection B of this section, the director  
42 shall inspect the premises of the health care institution and investigate  
43 the character and other qualifications of the applicant to ascertain  
44 whether the applicant and the health care institution are in substantial  
45 compliance with the requirements of this chapter and the rules established

1 pursuant to this chapter. The director may prescribe rules regarding  
2 department background investigations into an applicant's character and  
3 qualifications.

4 B. The director may accept proof that a health care institution is  
5 an accredited hospital or is an accredited health care institution in lieu  
6 of all compliance inspections required by this chapter if the director  
7 receives a copy of the health care institution's accreditation report for  
8 the licensure period and the health care institution is accredited by an  
9 independent, nonprofit accrediting organization approved by the secretary  
10 of the United States department of health and human services. If the  
11 health care institution's accreditation report is not valid for the entire  
12 licensure period, the department may conduct a compliance inspection of  
13 the health care institution during the time period the department does not  
14 have a valid accreditation report for the health care institution. For  
15 the purposes of this subsection, each licensed premises of a health care  
16 institution must have its own accreditation report. The director may not  
17 accept an accreditation report in lieu of a compliance inspection of:

18 1. An intermediate care facility for individuals with intellectual  
19 disabilities.

20 2. A nursing-supported group home.

21 3. A health care institution if the health care institution has  
22 been subject to an enforcement action pursuant to section 36-427 or  
23 36-431.01 within the year preceding the annual licensing fee anniversary  
24 date.

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

1 D. The director shall immediately report to:  
2 1. The board of examiners of nursing care institution  
3 administrators and assisted living facility managers information  
4 identifying that a nursing care institution administrator's conduct may be  
5 grounds for disciplinary action pursuant to section 36-446.07.

6 2. ADULT PROTECTIVE SERVICES INFORMATION THAT A NURSING CARE  
7 INSTITUTION ADMINISTRATOR'S OR ASSISTED LIVING FACILITY MANAGER'S CONDUCT  
8 MAY HAVE RESULTED IN ABUSE, NEGLECT OR EXPLOITATION OF AN ADULT IN THE  
9 NURSING CARE INSTITUTION OR THE ASSISTED LIVING FACILITY.

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

12 36-434.02. Assisted living facilities; injuries; reporting  
13 requirements; definition

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

16 1. ANY SERIOUS INJURY OR MEDICAL ISSUE SUSTAINED BY A RESIDENT,  
17 WHETHER INCIDENTAL TO A SITUATION OR MALICIOUS.

18 2. ANY INJURY SUSTAINED BY A RESIDENT THAT WAS INFLICTED BY ANOTHER  
19 RESIDENT.

20 3. ANY INJURY SUSTAINED BY STAFF THAT WAS INFLICTED BY A RESIDENT.

21 4. ANY INCIDENT IN WHICH A RESIDENT LEAVES THE ASSISTED LIVING  
22 FACILITY WITHOUT NOTICE.

23 B. WHEN AN ASSISTED LIVING FACILITY MAKES A REPORT TO THE  
24 DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION, THE ASSISTED LIVING  
25 FACILITY SHALL ALSO REPORT THE INJURY TO THE FAMILY MEMBER OR  
26 REPRESENTATIVE OF THE RESIDENT WHO IS DESIGNATED TO RECEIVE SUCH  
27 REPORTS. THE REPORT TO THE DEPARTMENT AND THE FAMILY MEMBER OR  
28 REPRESENTATIVE OF THE RESIDENT SHALL INCLUDE ANY FOLLOW-UP ACTION THE  
29 ASSISTED LIVING FACILITY TAKES TO PREVENT THE INCIDENT FROM HAPPENING  
30 AGAIN.

31 C. FOR THE PURPOSES OF THIS SECTION, "SERIOUS INJURY OR MEDICAL  
32 ISSUE" INCLUDES:

33 1. AN INJURY OR MEDICAL ISSUE THAT REQUIRES MEDICAL INTERVENTION OR  
34 TREATMENT BY A HEALTH CARE PROVIDER WHO IS NOT EMPLOYED BY THE ASSISTED  
35 LIVING FACILITY, INCLUDING MEDICAL INTERVENTIONS BY EMERGENCY MEDICAL  
36 RESPONSE, URGENT CARE, HOSPITALIZATIONS AND TELEHEALTH TREATMENT.

37 2. HARM THAT RESULTS FROM A LACK OF PROPER CARE, SUCH AS  
38 DEHYDRATION, MALNUTRITION OR AN UNTREATED MEDICAL CONDITION THAT LEADS TO  
39 A DETERIORATION IN HEALTH AS CONFIRMED BY A HEALTH CARE PROVIDER WHO IS  
40 NOT EMPLOYED BY THE ASSISTED LIVING FACILITY.

41 3. A PRESSURE ULCER OR BEDSORE THAT INVOLVES TISSUE DAMAGE OR  
42 NECROSIS REQUIRING MEDICAL INTERVENTION BY A HEALTH CARE PROVIDER WHO IS  
43 NOT EMPLOYED BY THE ASSISTED LIVING FACILITY.

44 4. A FALL, INCLUDING THE INJURIES RESULTING FROM A FALL.

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

3           36-446.03. Powers and duties of the board; rules; fees;  
4                                   fingerprinting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37           E. On or before July 1, 2024, in addition to the requirements  
38 prescribed in section 36-446.04, the board shall require each applicant  
39 for initial nursing care institution administrator licensure or assisted  
40 living facility manager certification to submit a full set of fingerprints  
41 to the board for a state and federal criminal history records check  
42 pursuant to section 41-1750 and Public Law 92-544. The department of  
43 public safety may exchange this fingerprint data with the federal bureau  
44 of investigation.



1 F. On its own motion or in response to any complaint against or  
2 report of a violation by an administrator of a nursing care institution or  
3 a manager of an assisted living facility, the board may conduct  
4 investigations, hearings and other proceedings concerning any violation of  
5 this article or of rules adopted by the board or by the department. THE  
6 BOARD SHALL IMMEDIATELY REPORT TO ADULT PROTECTIVE SERVICES INFORMATION  
7 THAT A NURSING CARE INSTITUTION ADMINISTRATOR'S CONDUCT OR AN ASSISTED  
8 LIVING FACILITY MANAGER'S CONDUCT MAY HAVE RESULTED IN ABUSE, NEGLECT OR  
9 EXPLOITATION OF AN ADULT IN THE APPLICABLE NURSING CARE INSTITUTION OR  
10 ASSISTED LIVING FACILITY.

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

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

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

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

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

34 L. The board shall adopt rules for the examination and licensure of  
35 nursing care institution administrators and the examination and  
36 certification of assisted living facility managers.

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

40 N. The board must provide the chairpersons of the senate and the  
41 house of representatives health committees with copies of all board  
42 minutes and executive decisions.

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

1 P. The board by rule shall prescribe standards for assisted living  
2 facility training programs. The board shall prescribe rules for assisted  
3 living facility caregivers that are consistent with the training,  
4 competency and test methodology standards developed by the Arizona health  
5 care cost containment system administration for in-home direct care  
6 workers.

7 Q. The board may:

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

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

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

15 36-2932.01. Duty to report; director; program contractors;  
16 definition

17 A. THE DIRECTOR AND THE ADMINISTRATION'S PROGRAM CONTRACTORS SHALL  
18 IMMEDIATELY REPORT TO:

19 1. THE BOARD OF EXAMINERS OF NURSING CARE INSTITUTION  
20 ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS INFORMATION  
21 IDENTIFYING THAT A NURSING CARE INSTITUTION ADMINISTRATOR'S OR AN ASSISTED  
22 LIVING FACILITY MANAGER'S CONDUCT MAY BE GROUNDS FOR DISCIPLINARY ACTION  
23 PURSUANT TO SECTION 36-446.07.

24 2. THE DEPARTMENT OF HEALTH SERVICES THAT AN ASSISTED LIVING  
25 FACILITY'S CONDUCT MAY BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THE  
26 DEPARTMENT OF HEALTH SERVICES' REQUIREMENTS FOR HEALTH CARE INSTITUTIONS  
27 APPLICABLE TO ASSISTED LIVING FACILITIES.

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

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

32 46-454. Duty to report abuse, neglect and exploitation of  
33 vulnerable adults; duty to make medical records  
34 available; violation; classification

35 A. A health professional, emergency medical technician, home health  
36 provider, hospital intern or resident, speech, physical or occupational  
37 therapist, long-term care provider, social worker, peace officer, medical  
38 examiner, guardian, conservator, fire protection personnel, developmental  
39 disabilities provider, employee of the department of economic security,  
40 EMPLOYEE OF THE DEPARTMENT OF HEALTH SERVICES or other person who has  
41 responsibility for the care of a vulnerable adult and who has a reasonable  
42 basis to believe that abuse, neglect or exploitation of the VULNERABLE  
43 adult has occurred shall immediately report or cause reports to be made of  
44 such THE reasonable basis to a peace officer or to the adult protective  
45 services central intake unit. The guardian or conservator of a vulnerable

1 adult shall immediately report or cause reports to be made of ~~such~~ THE  
2 reasonable basis to the superior court and the adult protective services  
3 central intake unit. ~~All of~~ The ~~above~~ reports REQUIRED BY THIS SUBSECTION  
4 shall be made immediately by telephone or online.

5 B. If an individual listed in subsection A of this section is an  
6 employee or agent of a health care institution as defined in section  
7 36-401 and the health care institution's procedures require that all  
8 suspected abuse, neglect and exploitation be reported to adult protective  
9 services as required by law, the individual is deemed to have complied  
10 with the requirements of subsection A of this section by reporting or  
11 causing a report to be made to the health care institution in accordance  
12 with the health care institution's procedures.

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

24 D. Reports pursuant to subsections A and C of this section shall  
25 contain:

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

28 2. The VULNERABLE adult's age and the nature and extent of the  
29 VULNERABLE adult's vulnerability.

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

31 4. Any other information that the person reporting believes might  
32 be helpful in establishing the cause of the abuse, neglect or  
33 exploitation.

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

39 F. A person having custody or control of medical or financial  
40 records of a vulnerable adult for whom a report is required or authorized  
41 under this section shall make those records, or a copy of those records,  
42 available to a peace officer or adult protective services worker  
43 investigating the vulnerable adult's abuse, neglect or exploitation on  
44 written request for the records signed by the peace officer or adult  
45 protective services worker. Records disclosed pursuant to this subsection

1 are confidential and may be used only in a judicial or administrative  
2 proceeding or investigation resulting from a report required or authorized  
3 under this section.

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

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

20 I. If psychiatric records are requested pursuant to subsection F of  
21 this section, the custodian of the records shall notify the attending  
22 psychiatrist, who may excise from the records, before they are made  
23 available:

- 24 1. Personal information about individuals other than the patient.
- 25 2. Information regarding specific diagnosis or treatment of a  
26 psychiatric condition, if the attending psychiatrist certifies in writing  
27 that release of the information would be detrimental to the patient's  
28 health or treatment.

29 J. If any portion of a psychiatric record is excised pursuant to  
30 subsection I of this section, a court, on application of a peace officer  
31 or adult protective services worker, may order that the entire record or  
32 any portion of the record containing information relevant to the reported  
33 abuse, neglect or exploitation be made available to the peace officer or  
34 adult protective services worker investigating the abuse, neglect or  
35 exploitation.

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

40 L. Retaliation against a person who in good faith reports abuse,  
41 neglect or exploitation is prohibited. Retaliation against a vulnerable  
42 adult who is the subject of a report is prohibited. Any adverse action  
43 taken against a person who reports abuse, neglect or exploitation or a  
44 vulnerable adult who is the subject of the report within ninety days after  
45 the report is filed is presumed to be retaliation.

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

4 Sec. 8. Rulemaking

5 The department of health services shall adopt rules for the  
6 implementation of section 36-434.02, Arizona Revised Statutes, as added by  
7 this act. The rules shall include timelines for reports to the department  
8 and to the family member or representative of any resident involved in an  
9 incident described in section 36-434.02, Arizona Revised Statutes, as  
10 added by this act.