# ARIZONA STATE SENATE
*RESEARCH STAFF*

TO: MEMBERS OF THE NURSING CARE INSTITUTION AND ASSISTED LIVING FACILITY STUDY COMMITTEE

**MICHAEL MADDEN**
LEGISLATIVE RESEARCH ANALYST
HEALTH & HUMAN SERVICES COMMITTEE
Telephone: (602) 926 -3171

DATE: November 30, 2021

SUBJECT: Nursing Care Institution and Assisted Living Facility Final Report

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Attached is the report of the Nursing Care Institution and Assisted Living Facility Study Committee required pursuant to Laws 2021, Chapter 409, Section 21. This report has been distributed to the following individuals:

Governor of the State of Arizona
The Honorable Douglas A. Ducey

President of the Senate
Senator Karen Fann

Speaker of the House of Representatives
Representative Rusty Bowers

Members of the Nursing Care Institution and Assisted Living Facility Study Committee

Senator Tyler Pace, Co-Chair
Senator Sally Ann Gonzales
Representative Joanne Osborne, Co-Chair
Representative Jennifer Longdon

Jill Babb, Resident family member
Colby Bower, Assistant Director of Public Health Licensing, Arizona Department of Health Services
Dawna Cato, Chief Executive Officer, Arizona Nurses Association
W. Mark Clark, Chief Executive Officer, Pima Council on Aging
Christina Corieri, Senior Policy Advisor, Office of Governor Doug Ducey
Gaile Dixon, Owner/President, Dreamcatcher Assisted Living
Becky Hill, Resident family member
Dana Kennedy, Arizona State Director, American Association of Retired Persons
Dean Kidder, Executive Director, Sun Valley Lodge
Lisa Pollock, State Long-Term Care Ombudsman
Nigel Santiago, President, Cascadia Healthcare Arizona
Donna Taylor, Executive Vice President, LifeStream Complete Senior Living
Shawn Trobia, Resident family member
Tiffany Wilkins, Senior Vice President of Operations, Spectrum Retirement
Kristopher Woolley, Founder/CEO, Avista Senior Living

Secretary of State
The Honorable Katie Hobbs

CC: Senate Republican Staff
Senate Democratic Staff
Senate Research Staff
Senate Resource Center
House Republican Staff
House Democratic Staff
House Research Staff
House Chief Clerk

# Nursing Care Institution and Assisted Living Facility Study Committee
# Final Report

***Background***

Laws 2021, Chapter 409, Section 21 established the 20-member Nursing Care Institution and Assisted Living Facility Study Committee (Committee) consisting of the following: 1) two members of the House of Representatives representing different political parties, appointed by the Speaker of the House of Representatives; 2) two members of the Senate representing different political parties, appointed by the Senate President; 3) one representative of the governor's office; 4) the Director of the Arizona Department of Health Services (DHS) or their designee; 5) the State Long-Term Care Ombudsman or their designee; 6) two representatives from organizations that advocate for the elderly, appointed by the Governor; 7) two licensed nursing care institution administrators, one from a nonprofit facility and one from a proprietary facility, appointed by the Senate President; 8) two licensed assisted living facility managers, one from a nonprofit facility and one from a proprietary facility, appointed by the Speaker of the House of Representatives; 9) two licensed assisted living facility managers, appointed by the Senate President; 10) four family members of residents of skilled nursing facilities, assisted living facilities or assisted living homes, appointed by the Governor; and 11) one health care professional who treats the elderly, appointed by the Governor.

The Committee is charged with: 1) considering whether the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) should be administered independently, or the duties should be moved to DHS or another successor agency or licensing board; 2) reviewing and discussing the statutes related to disclosure of all felonies regardless of the applicants' fingerprint clearance card requirement; 3) receiving an update from the Office of the Auditor General (OAG) and the Executive Director of the Board on OAG's recommendations and the Board's compliance with the recommendations to date; 4) hearing testimony about operational changes from the Executive Director of the Board; 5) discussing and researching best practices to administer licenses; 6) Identifying any additional efficiencies to make the Board more responsive to the public and its licensees; 7) Reviewing best practices relating to answering and investigating complaints; and 8) reviewing and analyzing the regulatory oversight of skilled nursing facilities and assisted living facilities by the State and Federal government and the future needs of the industry.

***Committee Activity***

On November 2, 2021, the Committee met and heard the following presentations (attached):

- Review of Arizona State Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers Audit and Reports, Office of the Auditor General
- Response by the Arizona State Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers

On November 19, 2021, the Committee met to continue discussion, hear public testimony, discuss potential paths forward, and vote on committee recommendations.

***Committee Recommendations***

On November 19, 2021, the Committee adopted the following recommendations:

- The Board should continue as an independent entity except that the Board should continue to receive approval from DHS for newly issued licenses and certifications issued by the Board until further continuation legislation is passed.
- DHS and the Board should establish a complaint referral system that expedites DHS referrals to the Board on a weekly basis during the continued dual approval period.
- The Board should be required to give detailed information pertaining to why a case is dismissed when a complaint is forwarded by DHS.
- The Board should seek legislation that:
    a) authorizes the use of a national criminal background search provided by the Federal Bureau of Investigation for applicants;
    b) creates a birthdate-based renewal system for Administrator and Managers licensees;
    c) outlines the delegation of routine duties to the Executive Director of the Board; and
    d) deems both managers and the facility mandatory reporters.
- The Board should report to the Study Committee, before July 1, 2022, to provide an update regarding the implementation of OAG's recommendations, Study Committee recommendations, operational improvements, staffing levels and needs, and the DHS complaint referral system.
- The Board's three public members should be current or former family members or residents.
- There should be a 14-day time frame for DHS to approve, deny or request information about a new manager's license, and if no action is taken within the timeframe, the license should be deemed approved.

***Attachments***

A. Meeting Agendas
B. Committee Minutes
C. Auditor General Presentation
D. Auditor General Handout
E. Board Audit Response Presentation
F. 50 State Nursing Care Board Comparison
G. Complaints Filed with Board – 2020-2021
H. Individual Committee Member Recommendations

MM/sp

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# ARIZONA STATE LEGISLATURE

## INTERIM MEETING NOTICE
## OPEN TO THE PUBLIC

### NURSING CARE INSTITUTION AND ASSISTED LIVING FACILITY STUDY COMMITTEE

**Date:** **Tuesday, November 2, 2021**

**Time:** **1:00 P.M.**

**Place:** **SHR 109**

**This meeting will be held via teleconference software. Members of the public may access a livestream of the meeting here:** https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2021111000

### AGENDA

1. Call to Order
2. Roll Call
3. Welcome and Introduction of Members
4. Nursing Care Institution and Assisted Living Facility Study Committee Overview
   - Michael Madden, Senate Research Staff
5. Presentation: Review of Arizona State Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers Audit and Reports by the Office of the Auditor General
6. Presentation: Response by the Arizona State Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers
7. Public Testimony
8. Committee Discussion
9. Next Steps
10. Adjournment

**Members**:

Senator Tyler Pace, Co-Chair
Senator Sally Ann Gonzales
Jill Babb
Dawna Cato
W. Mark Clark
Christina Corieri
Gaile Dixon
Don Herrington
Becky Hill
Dana Kennedy
Representative Joanne Osborne, Co-Chair
Representative Jennifer Longdon
Dean Kidder
Lisa Pollock
Nigel Santiago
Donna Taylor
Shawn Trobia
Tiffany Wilkins
Kristopher Woolley
Vacant

10/29/2021
hf

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# ARIZONA STATE LEGISLATURE

## INTERIM MEETING NOTICE
## OPEN TO THE PUBLIC

### NURSING CARE INSTITUTION AND ASSISTED LIVING FACILITY STUDY COMMITTEE

**Date:** **Friday, November 19, 2021**

**Time:** **1:00 P.M.**

**Place:** **SHR 109**

**This meeting will be held via teleconference software. Members of the public may access a livestream of the meeting here:** https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2021111010

### AGENDA

1. Call to Order
2. Roll Call
3. Approval of Minutes
4. NCIA Board Follow-up Discussion
5. Public Testimony
6. Roundtable Committee Discussion
7. Consideration and Adoption of Committee Recommendations
8. Adjourn

**Members**:

Senator Tyler Pace, Co-Chair
Senator Sally Ann Gonzales
Jill Babb
Dawna Cato
W. Mark Clark
Christina Corieri
Gaile Dixon
Don Herrington
Becky Hill
Dana Kennedy

Representative Joanne Osborne, Co-Chair
Representative Jennifer Longdon
Dean Kidder
Lisa Pollock
Nigel Santiago
Donna Taylor
Shawn Trobia
Tiffany Wilkins
Kristopher Woolley
Vacant

11/16/2021
hf

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# ARIZONA STATE LEGISLATURE

**NURSING CARE INSTITUTION AND ASSISTED LIVING FACILITY STUDY COMMITTEE**
**Minutes of the Meeting**
**November 2, 2021**
**1:00 P.M., SHR 109**
**This meeting will be held via teleconference software.**
**Members of the public may access a livestream of the meeting here:**
https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2021111000

**Members Present:**

Senator Tyler Pace, Co-Chair
Jill Babb*
Dawna Cato
W. Mark Clark*
Christina Corieri
Gaile Dixon
Colby Bower* (Don Herrington Designee)
Becky Hill
Dana Kennedy*
Dean Kidder
Lisa Pollock*
Nigel Santiago
Donna Taylor
Shawn Trobia*
Tiffany Wilkins
Kristopher Woolley*
Vacant

*Participated remotely via a teleconference platform.

**Members Excused:**

Senator Sally Ann Gonzales
Representative Joanne Osborne, Co-Chair
Representative Jennifer Longdon

**Staff:**

Michael Madden, Senate Research Analyst

Co-Chair Pace called the meeting to order at 1:03 p.m. and attendance was noted.

## WELCOME AND INTRODUCTION OF MEMBERS

Senator Pace offered opening comments and distributed a chart (Attachment A).

Senator Pace introduced himself and requested that the remaining members introduce themselves.

## NURSING CARE INSTITUTION AND ASSISTED LIVING FACILITY STUDY COMMITTEE OVERVIEW

**Michael Madden, Senate Research Staff**

**Michael Madden, Senate Research Staff,** provided an overview of the Committee and outlined the purpose of the Committee.

**PRESENTATION: REVIEW OF ARIZONA STATE BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS AUDIT AND REPORTS BY THE OFFICE OF THE AUDITOR GENERAL**

**Dale Chapman, Director, Performance Audit Division, Auditor General's Office,** distributed and explained a PowerPoint Presentation entitled "Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers" (Attachment B).

Mr. Chapman provided recommendations to resolve the issues found in the audits and answered questions posed by the Committee.

**Monette Kiepke, Performance Audit Manager, Auditor General's Office,** continued the explanation of the PowerPoint Presentation entitled "Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers" (Attachment B) and provided information on fingerprint clearance cards and criminal records checks in Arizona.

Ms. Kiepke distributed and explained a handout entitled "Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers" (Attachment C) and answered questions posed by the Committee.

**PRESENTATION: RESPONSE BY THE ARIZONA STATE BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**

**Jack Confer, Executive Director, Arizona State Board of Nursing Care Institution Administrators (NCIA) and Assisted Living Facility Managers,** distributed and explained a PowerPoint Presentation entitled "Arizona State Board of Nursing Care Institution Administrators and Assisted Living Facility Managers" (Attachment D).

**Christina Corieri** distributed and explained a chart (Attachment E).

Mr. Confer answered questions posed by the Committee.

**Wally Campbell, President, NCIA,** answered questions posed by the Committee in response to the Board's presentation.

**Allen Imig, Executive Consultant, NCIA,** answered questions posed by the Committee in response to the Board's presentation.

**PUBLIC TESTIMONY**

**Susan Archer, Board Member, NCIA,** offered comments regarding the Board's complaint review process and provided information on the Board's procedures for assessing facilities and their managers.

## COMMITTEE DISCUSSION

The Committee discussed the information received today and Senator Pace offered closing comments.

## NEXT STEPS

The Committee discussed potential agenda items and ideas for discussion at the next meeting.

Attached is a form noting the individual who submitted a Speaker slip on the agenda items (Attachment F).

There being no further business, the meeting was adjourned at 2:55 p.m.

Respectfully submitted,

Stephanie Vazquez
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at http://www.azleg.gov)

# ARIZONA STATE LEGISLATURE

## NURSING CARE INSTITUTION AND ASSISTED LIVING FACILITY STUDY COMMITTEE

**Minutes of the Meeting**
**November 19, 2021**
**1:00 P.M., SHR 109**
**This meeting will be held via teleconference software.**
**Members of the public may access a livestream of the meeting here:**
**https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2021111010**

**Members Present:**

Senator Tyler Pace, Co-Chair
Senator Sally Ann Gonzales*
Jill Babb*
Colby Bower*
Dawna Cato*
W. Mark Clark
Christina Corieri
Gaile Dixon
Becky Hill
Dana Kennedy*
Representative Joanne Osborne, Co-Chair*
Representative Jennifer Longdon*
Dean Kidder
Lisa Pollock
Nigel Santiago
Donna Taylor
Shawn Trobia*
Tiffany Wilkins
Kristopher Woolley
Vacant

*Participated remotely via a teleconference platform.

**Staff:**

Rachel Caldwell, Senate Research Analyst
Michael Madden, Senate Research Analyst*

Co-Chair Pace called the meeting to order at 1:14 p.m. and attendance was noted.

### APPROVAL OF MINUTES

**Senator Pace stated that without objection, the Nursing Care Institution and Assisted Living Facility Study Committee minutes of November 2, 2021 are approved as distributed.**

### NCIA BOARD FOLLOW-UP DISCUSSION

Senator Pace asked if there were any follow up questions for the Nursing Care Institution Administrators (NCIA) and Assisted Living Facility Managers. There were no questions.

Senator Pace distributed and explained a document (Attachment A) containing the draft recommendations under consideration for adoption by the Committee.

Senator Pace distributed and explained a document entitled "Potential Additional Recommendations" (Attachment B).

The Committee discussed the additional recommendations (Attachment B) and added clarifying language to the recommendations.

Senator Pace explained Committee Recommendation #5 (Attachment A).

Senator Pace explained Committee Recommendation #4 (Attachment A).

Senator Pace explained Committee Recommendation #3 (Attachment A) and the Committee discussed the recommendation.

Senator Pace explained Committee Recommendation #2 (Attachment A) and the Committee discussed the recommendation.

Senator Pace explained Committee Recommendation #1 (Attachment A) and the Committee discussed the recommendation.

**Nigel Santiago** offered an additional recommendation that would authorize temporary licenses during background searches.

The Committee discussed the recommendation proposed by member Santiago.

**PUBLIC TESTIMONY**

**Jack Confer, Executive Director, NCIA and Assisted Living Facility Managers,** offered clarifying comments regarding the timeline to complete a background check and answered questions posed by the Committee.

**Dr. Charles Villafranca, Vice President, NCIA and Assisted Living Facility Managers,** answered questions posed by the Committee in response to the recommendations.

**Susan Archer, Board Member, NCIA,** offered comments on the recommendations and discussion.

**ROUNDTABLE COMMITTEE DISCUSSION**

The Committee discussed the structure of the NCIA Board.

Jack Confer offered clarifying comments regarding the structure of the NCIA Board.

**Becky Hill** offered an additional recommendation that would require the NCIA Board's three public members to be current or former family members or residents.

The Committee discussed the recommendation proposed by member Hill.

Susan Archer, Board Member, NCIA, offered closing comments on behalf of the Board.

## CONSIDERATION AND ADOPTION OF COMMITTEE RECOMMENDATIONS

Senator Pace explained that there are two separate motions for the recommendations.

Senator Pace read the initial recommendations to be voted on.

Senator Pace requested the first motion on the recommendations to be moved by member Gaile Dixon.

> **Gaile Dixon moved that the Study Committee make the recommendation to continue the Nursing Care Institution and Assisted Living Facility Board as an independent entity except that the Board should continue to receive approval from the Department of Health Services for newly issued licenses and certifications issued by the Board until further continuation legislation is passed (Attachment C*). The motion CARRIED by a roll call vote of 10-8-1 (Attachment 1).**

*After the completion of the meeting and with the permission of Co-Chair Pace, Michael Madden, Senate Research Analyst entered into the record the adopted Committee recommendations (Attachment C).

Senator Pace read the remaining recommendations to be voted on.

Senator Pace requested the second motion on the remaining recommendations to be moved by member Gaile Dixon.

> **Gaile Dixon moved that the Study Committee make the recommendation to adopt the stated recommendations (Attachment C*). The motion carried by a voice vote.**

*After the completion of the meeting and with the permission of Co-Chair Pace, Michael Madden, Senate Research Analyst entered into the record the adopted Committee recommendations (Attachment C).

Senator Pace offered closing comments and thanked the members of the Committee.

Attached are forms noting the individuals who submitted a Speaker slip on the agenda items (Attachment D).

There being no further business, the meeting was adjourned at 2:52 p.m.

Respectfully submitted,

Stephanie Vazquez
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at http://www.azleg.gov)

# Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers

Performance Audit and Sunset Review—Issued February 2020

18-Month Follow-Up Report—Issued October 2021

Presenters: Dale Chapman and Monette Kiepke

Date: November 2, 2021

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# Other areas of interest

- Nursing Board—Issued September 2021
- Department of Health Services—Issued September 2019
- Complaint-handling timeliness
- Appealing Board decisions
- Fingerprint clearance cards and criminal history records checks
- Comparison of license/certification requirements to other states

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# Audit and followup found deficiencies in Board's key regulatory responsibilities

- Licensing/certifying professionals
- Investigating and adjudicating complaints
- Providing information to the public

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# Audit found Board did not ensure applicants met all requirements

Did **not** verify all lawful presence requirements

Did **not** verify validity of all fingerprint clearance cards

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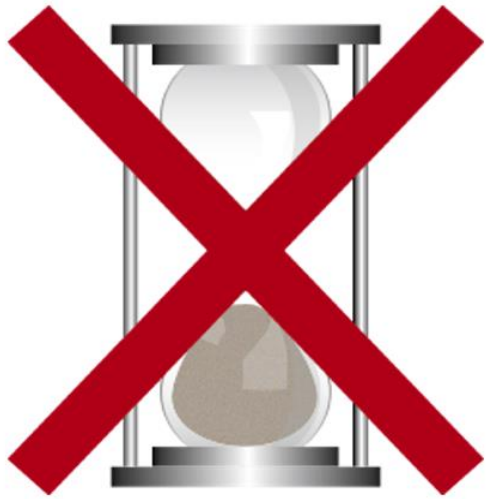
# Followup found similar licensing/certification problems

Did **not** verify all lawful presence requirements

Did **not** verify all continuing education requirements



Did **not** timely process some applications

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# Audit found Board did not timely handle some complaints

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# Complaint-handling information

- 180-day standard helps ensure complaints are investigated and disciplinary action taken, if needed, in a timely manner

- Board decisions can be appealed through court system

# Followup found Board stopped complaint handling processes

- Board stopped reviewing, investigating, and adjudicating complaints for nearly 2 months

- Untimely complaint investigation and adjudication can put residents at risk

# Board did not provide appropriate public information

Board provided inaccurate or confidential information when responding to most calls we made

# Staff turnover likely contributed to problems we identified

- Board's executive director position has been vacated twice since March 2021
- Board's licensing administrator resigned in June 2021
- New executive director has taken steps to improve Board, including reinstituting complaint investigation activities

# Board has implemented most recommendations in other areas

- Tracking and determining its complaint investigation costs
- Following State conflict-of-interest requirements
- Providing accurate licensing information on its website

# License requirements similar to other states reviewed

Compared license requirements to California, Connecticut, Kentucky, Nevada, New Mexico:

- All require national exam; Arizona and 2 states require state exam
- Education – Bachelor's degree and additional training; Arizona and California also allow alternative education plus experience and completion of training program
- Fingerprint-based background checks in Arizona and 2 states
- Must complete continuing education

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# Certification requirements varies among states reviewed

- 3 of 5 states do not license or certify individuals overseeing assisted living facilities similar to Arizona

- California and Nevada have similar certification requirements:
  - Education – High school diploma or GED
  - Fingerprint-based background checks
  - Continuing education

# Results of recent audit work at the Arizona State Board of Nursing and the Arizona Department of Health Services

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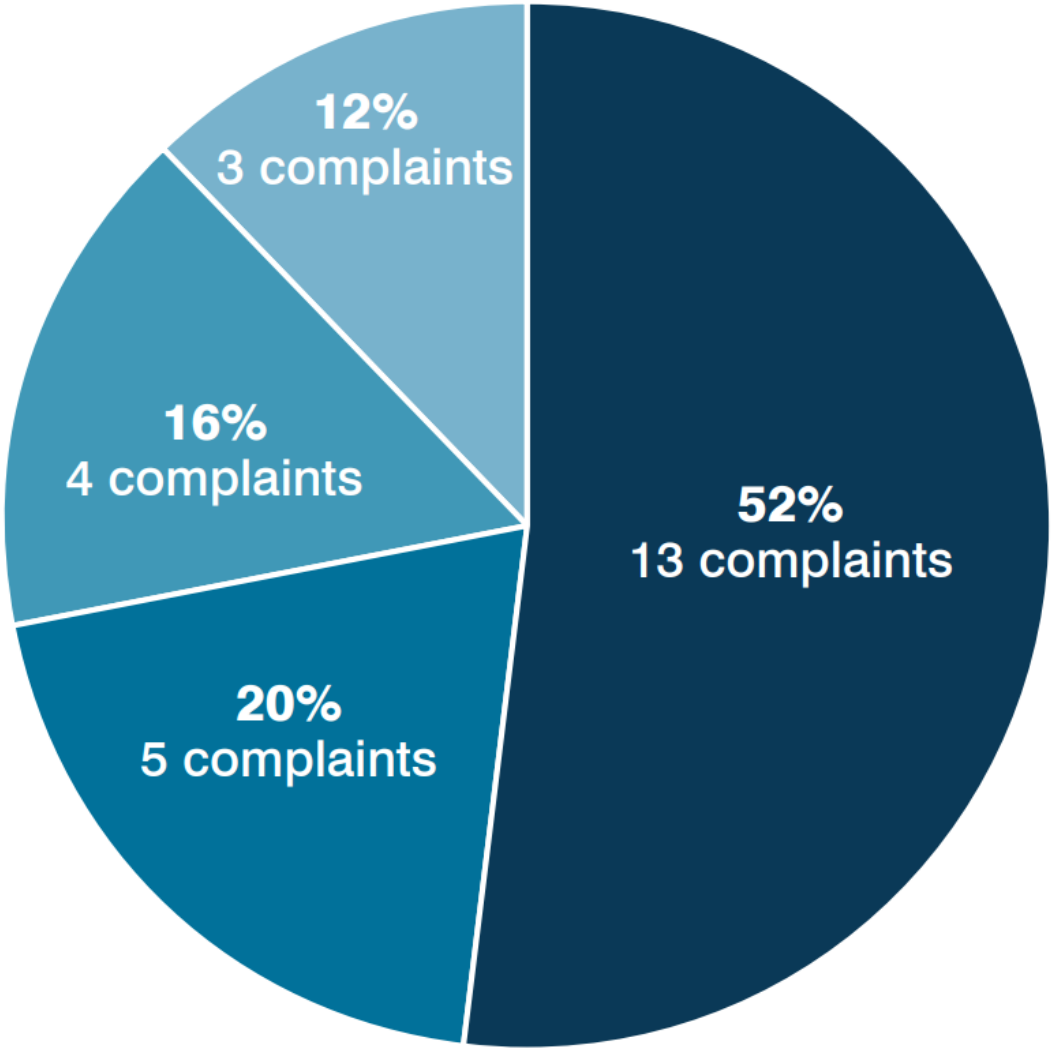
# Arizona State Board of Nursing Sunset Review

- Timely issued licenses/certificates we reviewed
- Generally ensured applicants met requirements
- Followed complaint-handling polices and procedures

# Arizona State Board of Nursing Sunset Review




- 1-180 days
- 181-210 days
- 211-310 days
- 311-435 days

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# Arizona State Board of Nursing Sunset Review

- Attributed untimely complaint resolution to high investigative caseloads

- Requested and received 3.5 FTE investigative staff positions for FY2022

# Arizona Department of Health Services

Department failed to investigate, or timely investigate or resolve, some long-term care facility complaints and self-reports

- Example:
  - 38 of 70 (54%) open and uninvestigated

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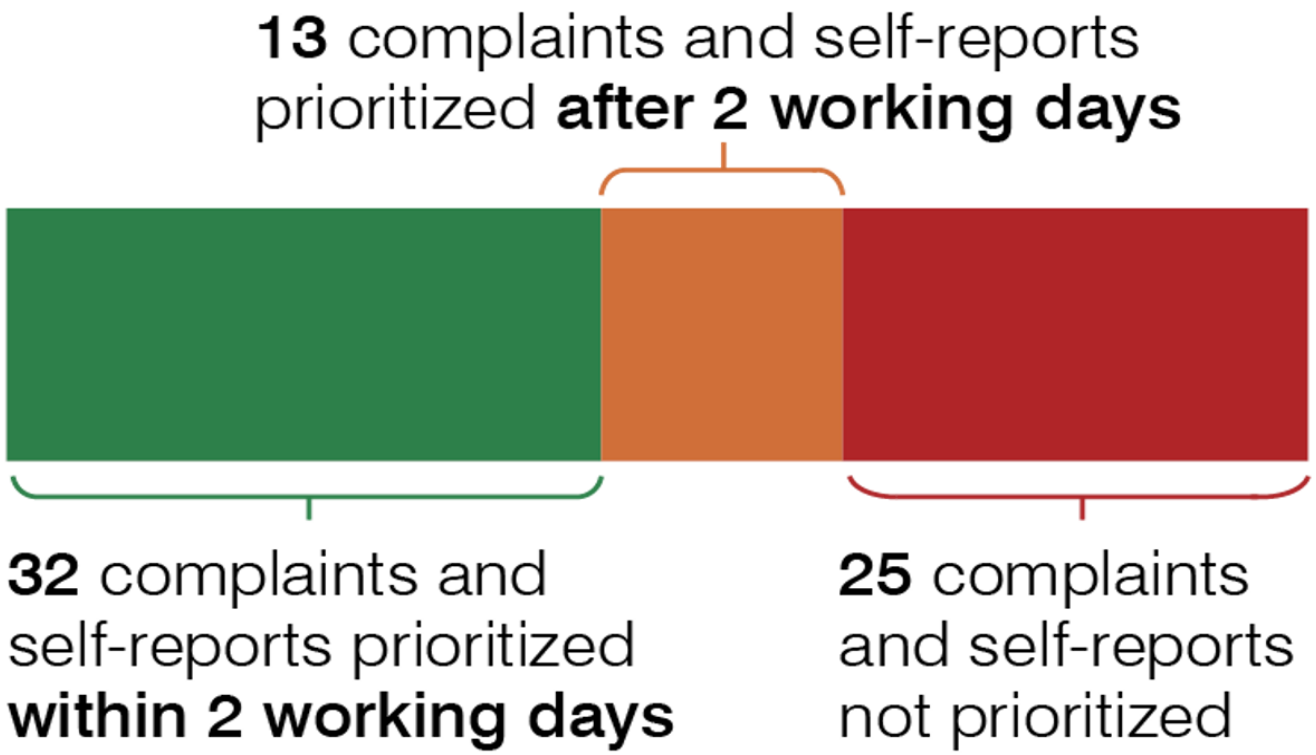
# Arizona Department of Health Services

Department did not prioritize for investigation 38 of 70 complaints and self-reports, as required

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# Key recommendations

- Legislature consider forming a task force to study and propose various policy options, such as:
  - Requirements for investigating all complaints and self-reports
  - Establishing investigation time frames
  - Reporting performance metrics to the Legislature
  - Assess need for additional staffing

- Department to ensure all complaints and self-reports are prioritized, investigated, and resolved in a timely manner

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# Followup status

- Issued initial followup in June 2020
  - SB1199 to form task force introduced but not enacted
  - Department had begun making changes, but COVID-19 pandemic and federal directive required change in focus

- Working on 2nd followup and plan to issue in December 2021

# Information on Fingerprint clearance card and criminal history records checks

Presenter: Monette Kiepke

Date: November 2, 2021

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# Used for licensing and employment decisions

Criminal history record checks and fingerprint clearance cards help State entities determine if people seeking licensure or employment are fit to practice and/or work with children or other vulnerable populations.

# Key differences between criminal history records checks and fingerprint clearance cards

- **Criminal history records check**—State and national criminal history check of all offenses a person was fingerprinted for at that point in time.

- **Fingerprint clearance cards**—Cardholder is not awaiting trial for or has not been convicted of more than 100 statutory offenses. Valid for 6 years and includes notification of new offenses.

# Recent audit found issues

Arizona Auditor General Reports:

- 20-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records*
- 20-120 *Arizona Department of Public Safety—Sunset Review*

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# Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers

Presenters: Dale Chapman and Monette Kiepke

Date: November 2, 2021

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Performance Audit and Sunset Review
Report Highlights
February 2020

# Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers

**CONCLUSION:** The Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) regulates nursing care institution administrators (licensed administrators) and assisted living facility managers (certified managers) in Arizona through licensure and certification, investigating and resolving complaints, and providing information to the public about the status of licenses and certificates. We found that the Board should verify that license/certificate applicants meet statutory requirements to legally work in Arizona and possess a valid fingerprint clearance card, investigate and adjudicate complaints in a timely manner, and provide accurate information to the public. Additionally, the Board should ensure that it accurately, consistently, and fairly assesses and charges for reimbursement of investigative costs as part of its disciplinary process.

## Board issued or renewed some administrator and manager licenses/ certificates despite not ensuring some requirements were met

Statute requires the Board to verify an applicant's lawful presence in the U.S. and ensure that the applicant's fingerprint clearance card is valid before issuing or renewing a license or certificate. We reviewed random samples of 17 initial administrator license applications and 15 initial manager certificate applications and identified deficiencies in 12 of these applications regarding lawful presence requirements and/or possessing a valid fingerprint clearance card. Meeting these requirements confirms that applicants are legally authorized to work in Arizona and that, as of the date Board staff check the fingerprint clearance card's validity, applicants have not been convicted of a precluding criminal offense. This is important because some licensed administrators and certified managers work with vulnerable populations.

**Board did not ensure 12 of 32 applicants met all licensure/certification requirements[1]**

**10** did not include identification with a photograph

**1** did not include lawful presence documentation

**2** did not include evidence of fingerprint clearance card validity

[1] One of these applicant files lacked both an ID with a photograph and evidence of fingerprint clearance card validity.

### Recommendation

The Board should continue to implement its new policies and procedures to ensure applicants meet requirements for lawful presence and fingerprint clearance card validity.

## Board has not timely investigated and adjudicated some complaints, which may have put residents at risk

The Board did not investigate and adjudicate in a timely manner 5 of the random sample of 20 complaints against licensed administrators and certified managers we reviewed. Specifically, the Board took between 223 and 589 days to investigate and adjudicate these 5 complaints. Untimely complaint investigation and adjudication may put some

The Board took longer than **180 days** to investigate and adjudicate **5/20 complaints**

residents at risk because it allows licensed administrators and certified managers alleged to have violated Board statutes and rules to continue working while under investigation, even though they may be unfit to do so.

### Recommendation

The Board should:

- Work with the Arizona Department of Health Services (DHS) to timely obtain names of responsible certified managers associated with assisted living facilities where DHS has identified deficiencies.
- Implement and further revise its complaint handling policies and procedures to monitor Board staff compliance with policies and procedures and regularly generate management reports on complaint processing timeliness.

## Board did not provide adequate public information in response to anonymous phone calls we made

Accurate and complete information about licensed administrators and certified managers helps the public make informed decisions about selecting a safe environment for themselves and/or their loved ones. We placed 3 anonymous phone calls to the Board's offices and requested information about 1 licensed administrator and 2 certified managers, and Board staff provided inaccurate or insufficient information for all 3 phone calls.

The Board provided inaccurate or insufficient information for all 3 anonymous calls we made.

### Recommendation

The Board should continue to implement and ensure its staff comply with its newly revised policies and procedures for providing public information over the phone.

## Other Board action needed

As reported in the Sunset Factors section of the report, we identified the following area for improvement:

**Board should accurately, consistently, and fairly assess reimbursement of complaint investigative costs**—When the Board disciplines a licensed administrator or certified manager in response to a complaint, it typically seeks reimbursement for its investigative costs through a consent agreement. However, we found no evidence that the reimbursement amount is based on the actual costs the Board incurs to investigate the complaint or that it consistently and fairly assesses this reimbursement. Without policies and procedures for accurately determining and assessing complaint investigation costs, the Board cannot demonstrate that it is recouping the actual costs of its investigation and consistently seeking this reimbursement.

### Recommendation

The Board should conduct a review of its costs for investigating complaints that includes determining direct and indirect costs, establishing an hourly rate for investigations, and determining a method for tracking the staff time and activities for investigating each complaint.

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# Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers
## 18-Month Follow-Up Report

**CONCLUSION:** Although the Board has taken some actions to implement our recommendations, it has failed to correct several of the overall deficiencies from our February 2020 report (see Report 20-101). Specifically, the Board:

- Continued to issue or renew some administrator and manager license/certificates without ensuring all requirements were met and did not process some license applications within required time frames.
- Stopped investigating and adjudicating complaints and reviewing reports to determine if complaints should be opened and investigated for 2 months.
- Inappropriately provided confidential information in 1 of 2 anonymous phone calls we made.

However, the Board has reviewed, tracked, and documented its staff time and activities for the reimbursement of complaint investigative costs.

## Finding 1: Board issued or renewed some administrator and manager licenses/certificates despite not ensuring some requirements were met

**Follow-up conclusion on licensing/certification—The Board has continued to issue or renew some administrator and manager licenses/certificates without ensuring all requirements were met and did not process some license applications within required time frames. Ensuring applicants meet all licensure/certification requirements is important because licensed administrators and certified managers are charged with overseeing and managing institutions that care for vulnerable populations.**

Specifically, as shown in Table 1 on page 2:

- The Board issued or renewed 2 of 11 initial licenses/certificates and 2 of 5 renewal licenses/certificates we reviewed without ensuring applicants met some key statutory and rule requirements.[1]
- The Board did not process 16 initial applications and 68 renewal applications within 135 days and 75 days, respectively, as required by rule, of all 2,293 initial and renewal applications we reviewed.[2] The Board issued these initial and renewal licenses/certificates from 1 to 53 days past the required time frames. Additionally, as of September 2021, we identified 18 open applications for initial licenses/certificates that had already exceeded the 135-day time frame.

[1] We reviewed a random sample of 11 of 98 initial and 5 of 49 renewal licenses/certificates from a Board-provided report of licenses/certificates it issued in January through June 2021.

[2] We reviewed Board-provided data for 2,293 initial and renewal license/certificate applications the Board received between March and September 2021.

## Table 1
## Board has continued to issue or renew some manager and administrator licenses/certificates without ensuring all requirements were met

| Statutory and rule requirements for initial license/certificate | |
|---|---|
| **Verified fingerprint clearance card**—Applicant must provide a valid copy of fingerprint clearance card. | **Implemented** ✓ *Addresses Recommendation 1* |
| **Lawful presence**—Applicant must provide documentation to demonstrate lawful presence, such as a completed Arizona Statement of Citizenship and Alien Status for State Public Benefits. | **Implemented** ✓ *Addresses Recommendation 2* |
| **Hours worked in health-related field**—Two initial certificate applicants we reviewed did not provide adequate documentation demonstrating at least 2,080 hours of paid health-related work experience within the previous 5 years. | **Did not ensure qualification met** ✗ |
| **Criminal history**—Applicants must disclose criminal history, including felonies and misdemeanors. | **Ensured qualification met** ✓ |
| **Licensure history**—Applicant must provide licensure history, including any other professional licenses and the status of those licenses. | **Ensured qualification met** ✓ |
| **Passing examination score**—Applicants must pass a Board examination with a score of at least 75 percent. | **Ensured qualification met** ✓ |
| **Issue initial licenses/certificates in timely manner**—Board did not process 16 initial applications we reviewed within 135 days. | **Not issued timely** ✗ |
| **Statutory and rule requirements for renewal license/certificate** | |
| **Verified fingerprint clearance card**—Applicant must provide a copy of a fingerprint clearance card that is valid according to the Arizona Department of Public Safety's website. | **Ensured qualification met** ✓ |
| **Lawful presence**—One renewal certificate applicant we reviewed did not submit all required documentation to demonstrate lawful presence, such as a completed Arizona Statement of Citizenship and Alien Status for State Public Benefits. | **Did not ensure qualification met** ✗ |
| **Criminal history**—Applicants must disclose whether their criminal history has changed since their initial license or most recent renewal. | **Ensured qualification met** ✓ |
| **Continuing education**—One renewal applicant we reviewed did not provide documentation to demonstrate completion of required continuing education hours. | **Did not ensure qualification met** ✗ |
| **Issue renewals in a timely manner**—Board did not process 68 renewal applications we reviewed within 75 days. | **Not issued timely** ✗ |

Significant staff turnover has likely contributed to the deficiencies we identified. For example, the Board's executive director position has been vacated twice since March 2021 because of retirement and resignation, and the Board's current executive director, who is also the interim executive director of the Arizona State Board of Respiratory Care Examiners, began working at the Board in late July 2021. Additionally, the Board's licensing administrator resigned in June 2021. Although the Board has since filled these positions, it reported that these vacancies impacted its ability to fulfill its responsibilities, including processing licensing applications in a timely manner.

## Finding 2: Board has not timely investigated and adjudicated some complaints, which may have put residents at risk

**Follow-up conclusion on complaint handling—In June and July 2021, the Board stopped investigating complaints and reviewing DHS reports to determine if complaints should be opened and investigated. By stopping these processes for nearly 2 months, the Board risked not investigating and adjudicating complaints in a timely manner. Untimely complaint investigation and adjudication may put some residents at risk if delays allow a licensed administrator or certified manager alleged to have violated Board statutes and rules to continue working while under investigation, even though they may be unfit to do so.**

Specifically, as shown in Table 2:

- The Board failed to review Arizona Department of Health Services (DHS) reports during June and July 2021 to determine if it should open complaints against any licensed administrators or certified managers associated with these reports. As a result, the Board did not open any complaints during this time frame and had a backlog of 46 DHS reports awaiting review as of September 2021.
- During its July and August 2021 meetings, the Board did not review and/or adjudicate any complaints, which could potentially delay the complaint resolution process.

### Table 2
### Board stopped investigating and adjudicating complaints for 2 months

| | |
|---|---|
| **Complaint-handling timeliness** | |
| **Investigate and adjudicate all complaints in a timely manner**—As of September 2021, 1 of the 39 complaints the Board was in the process of investigating and/or adjudicating had been open for more than 180 days. | **Standard not met** ✗ |
| **Review reports on timeliness of complaint handling**—The Board's new executive director reported that he did not generate and review management reports on the timeliness of complaint handling until October 2021 because he had prioritized the processing of licensing applications. | **Not implemented** ✗ *Addresses Recommendations 5b and 5c* |
| **Obtain names of certified managers**—The Board should develop a process for obtaining in a timely manner the names of the responsible certified managers associated with the assisted living facilities identified in DHS reports. As of September 2021, the Board had a backlog of 46 DHS reports awaiting review. | **Implementation in process** ✓ *Addresses Recommendation 3* |
| **Cost methodology for complaint investigation reimbursements**[1] | |
| **Review costs for investigating complaints**—The Board should conduct a review of its costs for investigating complaints, including establishing an hourly rate for investigations and tracking staff time to investigate complaints. | **Implemented** ✓ *Addresses Recommendations 12a, 12b, and 12c* |
| **Track, document, and obtain reimbursement for investigative costs**—The Board should develop and implement policies and procedures for tracking Board staff time and overhead costs related to complaint investigations, including documenting justification for the amounts charged for the reimbursement of investigative costs using the cost methodology that it had previously developed. | **Implemented** ✓ *Addresses Recommendation 13* |
| **Review cost methodology for complaint investigations**—Although required by Board policy, the Board has not yet reviewed its cost methodology in 2021. | **Not implemented** ✗ *Addresses Recommendation 13* |

[1] These recommendations were included in Sunset Factor 6.

Although we found during our initial followup that the Board had implemented our recommendations to monitor staff compliance with its policies and procedures for reviewing DHS reports and complaint handling, the Board stopped monitoring staff compliance during June and July 2021 because it did not have an executive director during this time. According to Board policy, its executive director is responsible for performing this monitoring and ensuring that complaints

are investigated in a timely manner. As of September 2021, the Board's new executive director has reinstituted reviewing DHS reports with Board staff to determine if complaints should be opened and investigated and is working with DHS to obtain the names of responsible certified managers identified in DHS reports (addresses Recommendations 3, 4, and 5a). The Board's new executive director also reported that he started generating and reviewing management reports on the timeliness of the complaint handling process in October 2021.

## Finding 3: Board did not provide adequate public information in response to anonymous phone calls we made

**Follow-up conclusion on the provision of public information—The Board inappropriately provided confidential information in response to an anonymous phone call we made (see Table 3). Providing accurate and appropriate information about licensed administrators and certified managers helps the public make informed decisions about selecting a safe environment for themselves and/or their loved ones.**

### Table 3
### Board inappropriately provided confidential information over the phone but has implemented recommendations to ensure online licensing information is accurate

| Board compliance with public information policies and procedures | |
|---|---|
| **Provide appropriate information about licensee's complaint history**—We made 2 anonymous calls to the Board's offices in September 2021, and for 1 of the 2 calls, Board staff inappropriately disclosed confidential information about an open complaint against a licensee, contrary to both statute and Board policy. | **Not implemented** ✗ *Addresses Recommendation 6* |
| Online licensing information[1] | |
| **Provide accurate licensing information on its website**—The Board should continue to implement its newly revised complaint-handling policies and procedures to ensure its online licensing information provides accurate information to the public. | **Implemented** ✓ *Addresses Recommendation 10* |
| **Review if online licensing information is complete and accurate**—The Board had conducted a review of its online licensing information to ensure the information is complete and accurate at the time of our initial followup, and further review of this information was not conducted. | **Implemented** ✓ *Addresses Recommendation 11* |

[1] These recommendations were included in Sunset Factor 5.

## Sunset Factors

### Table 4
### Board has implemented recommendations related to continuing education audits and training program evaluations and 2 of 3 conflict-of-interest recommendations

| | |
|---|---|
| **Board continuing education audits and training program evaluations**[1] | |
| **Modify its rules**—Board should work with its Assistant Attorney General to obtain an exemption to the rule-making moratorium and, contingent on receiving an exemption, modify its rules to provide the Board with greater flexibility to conduct continuing education audits between renewal cycles for licensed administrators and certified managers. | **Implemented** ✓ *Addresses Recommendation 7* |
| **Evaluate training programs**—Board should implement its new policies and procedures for ensuring that assisted living facility manager training programs and assisted living facility caregiver training programs receive onsite or telephonic evaluations when these training programs are approved and renewed pursuant to rule requirements. | **Implemented** ✓ *Addresses Recommendation 8* |
| **Board compliance with conflict-of-interest policies and procedures**[2] | |
| **Annually disclose conflicts**—Require Board members and staff to annually disclose certain interests in the Board's official records through a signed form. The Board has not completed disclosures for 2021. | **Not implemented** ✗ *Addresses Recommendation 9* |
| **Maintain a special disclosure file**—Board should maintain conflict-of-interest disclosures in a special file available for public inspection. | **Implemented** ✓ *Addresses Recommendation 9* |
| **Establish process for managing disclosed conflicts**—Board should implement a process for managing any disclosed potential conflicts of interest, such as requiring Board members to recuse themselves from participating in matters that may present a conflict of interest during Board meetings. | **Implemented** ✓ *Addresses Recommendation 9* |

[1] These recommendations were included in Sunset Factor 2.

[2] These recommendations were included in Sunset Factor 3.

# Report Highlights



# Arizona State Board of Nursing

**Board generally issued licenses/certificates we reviewed in accordance with statute and rule but did not resolve some complaints in a timely manner, which may affect patient safety; remit all required revenues to the State General Fund; and provide sufficient public information**

## Audit purpose

To determine whether the Board issued and renewed licenses/certificates in accordance with statute and rule requirements, resolved complaints in a timely manner and in accordance with Board policy, and provided information to the public as required by statute, and to provide responses to the statutory sunset factors.

## Key findings

The Board:

- Was established in 1921 to regulate nursing practices in Arizona, including investigating and adjudicating complaints against licensees and certificate holders.
- Did not resolve 12 of 25 complaints we reviewed within 180 days—taking between 186 and 435 days to investigate and adjudicate these complaints. Untimely complaint resolution may negatively affect patient safety when delays allow licensees and certificate holders to continue to practice while under investigation even though they may be unfit to do so.
- Attributed untimely complaint resolution to high investigative caseloads. The Board requested and received an additional 3.5 FTE investigative positions for fiscal year 2022, which it expects will help lower its caseloads.
- Issued all 75 initial and renewal licenses/certificates we reviewed in a timely manner and ensured 73 applicants met applicable requirements. The Board did not ensure that 2 initial applicants provided all documentation required to verify lawful presence prior to licensure but later obtained this documentation.
- Has not remitted all required revenues to the State General Fund, including 100 percent of civil and administrative penalties.
- Did not consistently comply with open meeting law requirements we reviewed and did not provide sufficient public information in response to anonymous phone calls we made.

## Key recommendations

The Board should:

- Investigate and adjudicate complaints within 180 days and determine if it needs additional resources to do so.
- Determine the correct amount that should be remitted to the State General Fund as soon as possible and ensure it remits 100 percent of future civil and administrative penalties to the State General Fund.
- Continue to implement its new open meeting law policies and procedures and its new and revised public information policies and procedures.

ARIZONA Auditor General
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# Arizona State Board of Nursing Performance Audit and Sunset Review

September 2021

## Board overview

The Arizona State Board of Nursing (Board) regulates nursing practice in Arizona by issuing and renewing licenses and certificates to qualified applicants, investigating complaints, administering disciplinary actions against regulated parties who violate Board statutes and rules, and providing information to the public about licensees and certificate holders. Statute requires the Board to consist of 11 members appointed by the Governor for 5-year terms. The Board was appropriated 52 full-time equivalent (FTE) staff positions for fiscal year 2022 and received federal grant funding for an additional 5.5 FTE positions. The Board does not receive any State General Fund appropriations. Rather, the Board's revenues consist primarily of licensing and related fees.

| Active licenses and certificates as of June 2021 | Complaints received or opened in fiscal year 2021 |
|---|---|
| 153,880 | 3,286 |

## Audit results summary

| Key regulatory areas reviewed | | |
|---|---|---|
| **Initial licenses/certificates**—Process initial license/certificate applications within 150 days if the Board does not open an investigation during the licensure process and 270 days if the Board opens an investigation. Key license/certificate qualifications include education, practice hours, passing an examination, lawful presence documentation, and/or passing a fingerprint-based criminal history check. | **Issued timely** ✓ | **Ensured qualifications met** ✗ |
| **License/certificate renewals**—Process renewal license/certificate applications within 120 or 150 days (depending on license/certificate type) if the Board does not open an investigation during the renewal and 270 days if the Board opens an investigation. Licensees/certificate holders must attest to completing practice hours, disclose pending investigations and/or disciplinary action, provide information about criminal activity, and provide evidence of continuing education, if applicable. | **Issued timely** ✓ | **Ensured qualifications met** ✓ |
| **Complaint handling**—Investigate complaints it receives and take action to address violations. | **Resolved complaints within 180 days** ✗ | **Followed complaint-handling policies** ✓ |
| **Public Information**—Provide specific complaint and licensee/certificate holder information to the public upon request. During the audit, the Board revised its public information policy and procedures. | **Provided accurate or sufficient information via phone** ✗ | **Provided required disciplinary information on website** ✗ |
| **Other responsibilities reviewed** | | |
| **Fee setting**—Establish policies and procedures to ensure fees are based on costs of providing services and periodically review fees. During the audit, the Board established fee-setting policies and procedures. | **Established fee-setting policies and procedures** ✓ | **Periodically reviewed fees** ✗ |
| **Conflicts of interest**—Requirements and recommended practices include signing a disclosure form annually and maintaining a special file to document substantial interest disclosures. During the audit, the Board revised its conflict-of-interest policy. | **Board members and staff signed annual disclosure form** ✓ | **Maintained special file to document substantial interest disclosures** ✗ |
| **Rulemaking and open meeting law**—Requirements include involving the public in rulemaking and making meeting minutes or a recording of the meeting available in 3 working days. | **Involved public in rulemaking** ✓ | **Meeting minutes available in 3 working days** ✗ |

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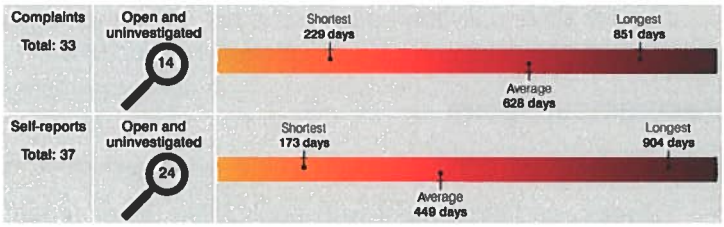
Performance Audit and Sunset Review
Report Highlights
September 2019

# Arizona Department of Health Services

**CONCLUSION:** The Arizona Department of Health Services (Department) provides and coordinates public health services and programs for the State. Some of the Department's key responsibilities include regulating some health-related occupations, such as emergency medical care technicians; regulating childcare and healthcare facilities; responding to public health emergencies; and helping control public health epidemics. The Department failed to investigate, or timely investigate or resolve, some long-term care facility complaints and self-reports. In addition, it did not comply with some conflict-of-interest requirements. The Department is also responsible for safeguarding its information technology (IT) systems and data, and some gaps in its IT security processes resulted in an incident and additional IT security weaknesses. Finally, the Department is responsible for more than 30 boards, commissions, committees, councils, subcommittees, teams, and user or work groups that are subject to open meeting law requirements, and the Department did not consistently comply with open meeting law requirements for 3 meetings we reviewed.

## Department's failure to investigate, or timely investigate or resolve, some long-term care facility complaints and self-reports may put residents at risk

As the State licensing agency and the State Survey Agency for the federal Centers for Medicare and Medicaid Services (CMS), the Department is required to investigate all complaints and long-term care facility self-reported incidents (self-reports) for the 147 State licensed/CMS certified long-term care facilities in the State. We reviewed 33 complaints and a judgmental sample of 37 self-reports the Department received in calendar years 2017 and 2018 for 5 judgmentally selected long-term care facilities and found that the Department did not investigate or did not timely prioritize, investigate, or resolve some long-term care facility complaints and self-reports. Specifically, we found that as of June 2019, 38 of the 70 complaints and self-reports were still open and uninvestigated. These uninvestigated complaints and self-reports included allegations of abuse and neglect of residents and unsanitary living conditions.



Additionally, for the 20 complaints and self-reports that the Department did investigate, we found that the Department did not timely initiate its investigation for 15 of them. For example, 12 of the 20 complaints/self-reports were assigned a priority B (alleges actual harm but does not rise to the level of an immediate and serious threat), and the Department did not timely initiate investigations for 11 of these 12 complaints/self-reports.

### Recommendations

- The Department should ensure all long-term care facility complaints and self-reports are prioritized, investigated, and resolved in a timely manner.
- The Legislature should consider forming a task force to study and propose policy options for addressing the Department's timely investigation and processing of long-term care facility complaints and self-reports to help ensure resident health and safety.

## Department did not comply with some conflict-of-interest requirements

Arizona law requires employees of public agencies and public officers to avoid conflicts of interest that might influence or affect their official conduct and outlines several requirements for doing so. We identified several areas where the Department was not meeting statutory requirements or best practices. For example, although required by statute,

the Department lacked a special disclosure file that memorializes all disclosures and did not require members of the more than 30 Department-supported boards, commissions, and committees to complete disclosure forms. Also, the Department was not requiring employees to annually disclose conflicts, a best practice. These deficiencies increased the risk of Department employees and public officers not disclosing conflicts. However, the Department began addressing these deficiencies in July 2019.

### Recommendation

The Department should continue its efforts to develop and implement a new conflict-of-interest disclosure process.

## Some gaps in Department IT security processes resulted in a security incident and additional IT security weaknesses

To administer its programs, the Department uses many IT systems to store and process large volumes of sensitive and/or confidential data. Various federal and State laws and regulations and the Arizona Department of Administration's Strategic Enterprise Technology Office (ASET) policies specify the Department's responsibility for protecting this data. However, we identified an instance where confidential Department data was not properly protected by the Department and was therefore inappropriately available to the public. Specifically, a security weakness on a Department website allowed a member of the public to view confidential data such as birthdates, identification numbers, and other information as well as copy an authorized user's credentials and use them to log into a Department web application. As of August 2019, the Department reported that it had investigated and reported this incident to ASET, as required.

We also identified the following gaps in the Department's data classification, risk assessment, and IT security awareness training processes:

- Data classification helps to ensure sensitive data is protected from loss, misuse, or inappropriate disclosure. Although the Department reported that it treats all its data as confidential, it has not inventoried its data and documented the classification of that data.
- The Department has not conducted a formal Department-wide IT risk assessment since 2015. A risk assessment is a structured process recommended by credible industry standards and required by ASET policy that at least annually identifies IT risks within an organization—such as weak security practices, outdated systems, or the lack of a plan for restoring IT systems following a disaster.
- The Department requires all employees and contractors to complete basic security awareness training when initially hired and annually thereafter, but is not enforcing this requirement. Specifically, only 20 percent of the Department's 1,128 employees completed both trainings in 2018.

### Recommendations

The Department should:

- Develop and implement web application development policies and procedures that incorporate security into the development and modification process.
- Develop and implement revisions to its data classification, risk assessment, and security awareness training policies and procedures to align with ASET requirements and credible industry standards.

## Other Department actions needed

As reported in the Sunset Factors, we identified additional areas where the Department should improve:

**Open meeting law—**The Department is responsible for more than 30 boards, commissions, committees, councils, subcommittees, teams, and user or work groups that are subject to open meeting law requirements. We reviewed 3 meetings for a Department-supported committee and council and found that the Department did not consistently comply with open meeting law requirements.

### Recommendation

The Department should develop and implement policies, procedures, training, and an oversight process to help ensure that the boards, commissions, and councils it supports comply with open meeting law requirements.

## Listing of precluding misdemeanor offenses that are not statutorily required to be reported to central repository by fingerprint clearance card type[1]
## As of April 2021

| Offense | Fingerprint clearance card | Level-1 fingerprint clearance card | Statute |
|---|---|---|---|
| Aiming a laser pointer at a peace officer or an occupied aircraft | | ● | A.R.S. §13-1213 |
| Arson | ● | ● | A.R.S. §13-1703 |
| Assault | ● | ● | A.R.S. §13-1203 |
| Assault by vicious animals | ● | ● | A.R.S. §13-1208 |
| Credit card transaction record theft | ● | ● | A.R.S. §13-2109 |
| Criminal damage | ● | ● | A.R.S. §13-1602 |
| Criminal offense involving criminal trespass under title 13, chapter 15 | ● | ● | A.R.S. §13-1502<br>A.R.S. §13-1503<br>A.R.S. §13-1504 |
| Cruelty to animals | ● | ● | A.R.S. §13-2910 |
| Endangerment | ● | ● | A.R.S. §13-1201 |
| Fraud by persons authorized to provide goods or services | ● | ● | A.R.S. §13-2108 |
| Fraudulent use of a credit card | ● | ● | A.R.S. §13-2105 |
| Keeping or residing in a house of prostitution or employment in prostitution | ● | ● | A.R.S. §13-3208 |
| Manufacture of certain substances and drugs by certain means | ● | ● | A.R.S. §13-3459 |
| Misconduct involving explosives | ● | ● | A.R.S. §13-3103 |
| Misconduct involving weapons | ● | ● | A.R.S. §13-3102 |
| Obtaining a signature by deception | ● | ● | A.R.S. §13-2005 |
| Offenses involving child neglect | ● | ● | A.R.S. §13-3619 |
| Offenses involving contributing to the delinquency of a minor | ● | ● | A.R.S. §13-3613 |
| Portraying adult as a minor as prescribed in section A.R.S. §13-3555 | ● | ● | A.R.S. §13-3555 |
| Possession of any machinery, plate, or other contrivance or incomplete credit card | ● | ● | A.R.S. §13-2106 |
| Possession or possession with intent to use an imitation controlled substance | ● | ● | A.R.S. §13-3456 |
| Possession or possession with intent to use an imitation over-the-counter drug | ● | ● | A.R.S. §13-3458 |
| Possession or possession with intent to use an imitation prescription-only drug | ● | ● | A.R.S. §13-3457 |
| Prostitution | ● | ● | A.R.S. §13-3214 |
| Receipt of anything of value obtained by fraudulent use of credit card | ● | ● | A.R.S. §13-2103 |
| Shoplifting | ● | ● | A.R.S. §13-1805 |
| Theft | ● | ● | A.R.S. §13-1802 |
| Threatening or intimidating | ● | ● | A.R.S. §13-1202 |

[1] In addition to these 28 offenses, A.R.S. §41-1758.07(B)(47) states that any offense designated as a violent crime is a precluding offense. Violent crime itself is not an offense but rather a designation added to existing offenses if the action taken resulted in death or physical injury or involved the use of a deadly weapon or dangerous instrument. Because violent crime is a designation added to an offense, this could result in additional nonreportable misdemeanor offenses not listed in this table becoming precluding offenses.

Source: Auditor General staff analysis of Arizona Revised Statutes and Department records.

## Arizona State agencies, boards, and courts that require a fingerprint clearance card and/or fingerprint-based criminal history records check for licensing, employment, or to interact with vulnerable populations[1]
## As of March 31, 2021

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| **Arizona Board of Athletic Training[2]** | Athletic trainer | | ● | 32-4128(A) |
| **Arizona Board of Fingerprinting** | Board member | ● | | 41-619.52(D)(3) |
| | Employee | ● | | 41-619.53(C) |
| **Arizona Board of Funeral Directors and Embalmers** | Cremationist | | ● | 32-1339 |
| | Crematory establishment | | ● | 32-1339 |
| | Embalmer | | ● | 32-1339 |
| | Embalmer's assistant | | ● | 32-1339 |
| | Funeral director | | ● | 32-1339 |
| | Funeral establishment | | ● | 32-1339 |
| | Intern | | ● | 32-1339 |
| | Prearranged funeral salesperson | | ● | 32-1339 |
| **Arizona Board of Homeopathic and Integrated Medicine Examiners** | Board member | | ● | 32-2902(B) |
| **Arizona Board of Nursing Care Institution Administrators & Assisted Living Facility Managers** | Assisted living facility manager | ● | | 36-446.04(C)(5) |
| | Nursing care institution administrator | ● | | 36-446.04(A)(4) |
| **Arizona Board of Occupational Therapy Examiners** | Board member | | ● | 32-3402(B) |
| | Occupational therapist | | ● | 32-3430(A) |
| | Occupational therapist assistant | | ● | 32-3430(A) |
| **Arizona Board of Osteopathic Examiners** | Board member | | ● | 32-1801(B) |
| | Osteopathic physician | | ● | 32-1822(A)(9) |
| **Arizona Board of Regents** | University employee in a security or safety sensitive position | | ● | 15-1649(A) |
| **Arizona Commerce Authority** | Board member | | ● | 41-1502(C) |
| | Employee | | ● | 44-1813(B) |
| **Arizona Corporation Commission** | Investment advisor | | ● | 44-3153(C)(6) |
| | Investment advisor representative | | ● | 44-3156(C)(3) |
| | Securities salesperson | | ● | 44-1945(A)(8) |
| **Arizona Department of Administration** | IT personnel | | ● | 41-710(A) |
| **Arizona Department of Agriculture** | Hemp grower transporter | ● | | 03-314(D) |
| | Hemp harvester | ● | | 03-314(D) |
| | Hemp processor | ● | | 03-314(D) |
| | Hemp transporter | ● | | 03-314(D) |
| | Pest control applicator | | ● | 03-3614(C) |

## Continued

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| Arizona Department of Child Safety | Adoptive parents | ● | | 08-105(D) |
| | Adult members of adoptive parent household | ● | | 08-105(D) |
| | Adult members of a foster home parent's household | ● | | 08-509(B) |
| | Adult members of kinship foster care parent's household | | ● | 08514.03(B), 46-141 |
| | Child placement—members of household | | ● | 08-514.02, 46-141 |
| | Child safety worker | ● | | 08-802(A) |
| | Child welfare investigators | ● | | 08-802(A) |
| | Employees working with children | ● | | 08-463(A) |
| | Foster home parents | ● | | 08-509(B) |
| | Information technology contractor or subcontractor | ● | | 08-463(A) |
| | Information technology employees | ● | | 08-463(A) |
| | Kinship foster care parents | | ● | 08-514.03, 46-141 |
| | Native American child custody—members of the emergency placement household | | ● | 08-827(A)(2)&(B) |
| | Permanent guardianship[2] | | ● | 08-872(F) |
| Arizona Department of Economic Security | Adult developmental home adult household member | ● | | 36-594.02 |
| | Adult developmental home license | ● | | 36-594.02 |
| | Child care home provider | ● | | 41-1967.01(B) |
| | Child care personnel in daycare home | ● | | 41-1964(A) |
| | Child developmental home license | ● | | 36-594.02 |
| | Child developmental home license adult household member | ● | | 36-594.02 |
| | Community based service provider | ● | | 36-594.01(A)(2)(C) |
| | Contractor with access to federal tax information | ● | | 41-1969(A) |
| | Contractor working with juveniles or vulnerable adults | ● | | 46-141(A) |
| | Division of developmental disabilities contractor | ● | | 36-594.01(A)(1)(B) |
| | Division of developmental disabilities employee | ● | | 36-594.01(A)(1)(B) |
| | Domestic violence service provider employee | ● | | 36-3008(A) |
| | Domestic violence service provider volunteer | ● | | 36-3008(A) |
| | Employee with access to federal tax information | ● | | 41-1969(A) |
| | Employee working with children or vulnerable adults | ● | | 41-1968 |
| | Home-based service provider | ● | | 36-594.01(A)(2)(C) |
| | Information technology employee | ● | | 41-1969(A) |
| | Licensee working with juveniles or vulnerable adults | ● | | 46-141(A) |
| Arizona Department of Education | Child care food sponsor program child care provider | ● | | 46-321(B) |

## Continued

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| **Arizona Department of Emergency and Military Affairs** | Court of military appeals judge | | ● | 26-1067(B) |
| | Employee | | ● | 26-103(A) |
| | Military judge | | ● | 26-1026(C) |
| **Arizona Department of Gaming—Arizona Boxing Commission** | Judges | | ● | 5-228(C) |
| | Managers | | ● | 5-228(C) |
| | Matchmakers | | ● | 5-228(C) |
| | Promoters | | ● | 5-228(C) |
| | Referees | | ● | 5-228(C) |
| **Arizona Department of Gaming—Arizona Racing Commission** | Agent | | ● | 5-107.01(E) |
| | Apprentice jockey | | ● | 5-107.01(E) |
| | Driver | | ● | 5-107.01(E) |
| | Exercise rider | | ● | 5-107.01(E) |
| | Food and beverage concessionaire | | ● | 5-107.01(E) |
| | Groom | | ● | 5-107.01(E) |
| | Horse owner | | ● | 5-107.01(E) |
| | Horseshoer | | ● | 5-107.01(E) |
| | Jockey | | ● | 5-107.01(E) |
| | Jockey's agent | | ● | 5-107.01(E) |
| | Judge | | ● | 5-107.01(E) |
| | Manager | | ● | 5-107.01(E) |
| | Other race meeting participants/ staff | | ● | 5-107.01(E) |
| | Racing permit | | ● | 5-107.01(E) |
| | Stable foreman | | ● | 5-107.01(E) |
| | Stable watchman | | ● | 5-107.01(E) |
| | Starter | | ● | 5-107.01(E) |
| | Steward | | ● | 5-107.01(E) |
| | Timer | | ● | 5-107.01(E) |
| | Trainer | | ● | 5-107.01(E) |
| | Valet | | ● | 5-107.01(E) |
| | Veterinarian | | ● | 5-107.01(E) |

## Continued

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| Arizona Department of Health Services | Child care facility | ● | | 36-882(C)(2) |
| | Child care facility employee | ● | | 36-883.02(A) |
| | Child care facility volunteer | ● | | 36-883.02(A) |
| | Child care group home | ● | | 36-897.01(M)(2) |
| | Child care group home employee | ● | | 36-897.03(A) |
| | Child care group home volunteer | ● | | 36-897.03(A) |
| | Children's behavioral health program employee | ● | | 36-425.03(A) |
| | Children's behavioral health program volunteer | ● | | 36-425.03(A) |
| | Contractor providing health services in a home health agency, nursing care institution, or resident care institution | ● | | 36-411(A) |
| | Home health agency employee | ● | | 36-411(A) |
| | Home health agency owner | ● | | 36-411(A) |
| | Medical marijuana care giver | | ● | 36-2819 |
| | Medical marijuana dispensary agent | | ● | 36-2819 |
| | Medical marijuana principal officer | | ● | 36-2819 |
| | Medical marijuana independent third-party laboratory agent | | ● | 36-2819 |
| | Nursing care institution employee | ● | | 36-411(A) |
| | Nursing care institution owner | ● | | 36-411(A) |
| | Resident care institution employee | ● | | 36-411(A) |
| | Resident care institution owner | ● | | 36-411(A) |
| Arizona Department of Health Services—Arizona State Hospital | Employee or volunteer | ● | | 36-207(A) |
| Arizona Department of Housing | Broker | | ● | 41-4025(E) |
| | Dealer | | ● | 41-4025(E) |
| | Installer | | ● | 41-4025(E) |
| | Manufacturer | | ● | 41-4025(E) |
| | Salesperson | | ● | 41-4025(E) |
| Arizona Department of Insurance and Financial Institutions | Appraisal management company owner | ● | | 32-3668(B)(2) |
| | Appraisal management company controlling person | ● | | 32-3669(B)(3) |
| | Appraiser | ● | | 32-3620(B) |
| | Bail bond agent | | ● | 20-340.01(B) |
| | Bail recovery agent | | ● | 20-340.04(B) |
| | Supervisory appraiser | ● | | 32-3620(B) |
| | Trainee appraiser | ● | | 32-3620(B) |
| Arizona Department of Juvenile Corrections | Contractor | | ● | 41-2814(A) |
| | Employee | | ● | 41-2814(A) |
| | Employee of contractor or licensee with direct contact with committed youth | ● | | 41-2814(B) |
| Arizona Department of Liquor Licenses and Control | Employee | | ● | 04-202(E) |
| | Liquor license applicant | | ● | 04-202(B)(E)) |

## Continued

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| Arizona Department of Public Safety | Concealed weapons permit | | ● | 13-3112(G) |
| | Criminal justice employee | | ● | 41-1750(G)(1) |
| | Firearms instructor | | ● | 32-2623(A)(2) |
| | Private investigator business | | ● | 32-2423(A)(7) |
| | Private investigator employee registration | | ● | 32-2442(A)(4) |
| | Private security guard service | | ● | 32-2613(A)(5) |
| | School bus driver | ● | | 28-3228(D) |
| | Security guard employee | | ● | 32-2623(A)(2) |
| | Security guard instructor | | ● | 32-2623(A)(2) |
| | Unarmed security guard instructor | | ● | 32-2623(A)(2) |
| Arizona Department of Real Estate | Real estate license | ● | | 32-2108.01(C) |
| Arizona Department of Transportation | Authorized third-party service provider employee with access to personal information or monies collected on behalf of the State | | ● | 28-5105(B)(1) |
| | Authorized third-party service provider owner[4] | | ● | 28-5105(A)(1) |
| | Automotive recycler owner[4] | | ● | 28-4361(C)(1) |
| | Driver training school owner | ● | | 32-2371(C) |
| | Employee | | ● | 28-376(A) |
| | Traffic survival school owner[5] | ● | | 28-3413(C) |
| | Vehicle dealer branch owner[4] | | ● | 28-4361(C)(1) |
| | Vehicle dealer owner[4] | | ● | 28-4361(C)(1) |
| | Vehicle distributor branch owner[4] | | ● | 28-4361(C)(1) |
| | Vehicle distributor owner[4] | | ● | 28-4361(C)(1) |
| | Vehicle factory branch owner[4] | | ● | 28-4361(C)(1) |
| | Vehicle importer owner[4] | | ● | 28-4361(C)(1) |
| | Vehicle manufacturer owner[4] | | ● | 28-4361(C)(1) |
| | Wholesale motor vehicle dealer owner[4] | | ● | 28-4361(C)(1) |
| Arizona Finance Authority | Board member | | ● | 41-5353(B) |
| Arizona Game and Fish Department | Employee working with children or vulnerable adults | ● | | 17-215 |
| | Volunteer working with children or vulnerable adults | ● | | 17-215 |
| Arizona Juvenile Court | Juvenile probation officer | | ● | 41-1750(G) |
| Arizona Medical Board | License to practice medicine | | ● | 32-1422(A)(12) |
| Arizona Naturopathic Physicians Medical Board | Board member | | ● | 32-1502(B) |
| | Engage in a clinical training program | | ● | 32-1524(H) |
| | Engage in an internship training program | | ● | 32-152(H) |
| | Engage in a preceptorship training program | | ● | 32-1524(H) |
| | Naturopathic medical assistant | | ● | 32-1524(A) |
| | Naturopathic physician | | ● | 32-1524(A) |
| Arizona Office of the Governor | Employee | | ● | 41-101(D) |
| | Governor-appointed or nominated State office holder[6] | | ● | 38-211(H) |

## Continued

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| **Arizona Peace Officer Standards and Training Board** | Board member | | ● | 41-1821(B) |
| **Arizona Regulatory Board of Physician Assistants** | Board member | | ● | 32-2502(B) |
| **Arizona State Board for Charter Schools** | Charter school | | ● | 15-183(C)(4) |
| | Charter school applicant with direct contact with students | ● | | 15-183(C)(4) |
| | Charter school personnel | ● | | 15-183(C)(5) |
| **Arizona State Board of Behavioral Health Examiners** | Behavioral health professional[2] | | ● | 32-3280(A) |
| | Board member | | ● | 32-3252(B) |
| **Arizona State Board of Dental Examiners** | Board member | | ● | 32-1203(B) |
| | Dental hygenist | ● | | 32-1284(A) |
| | Dental laboratory technician | ● | | 32-1297.01(A) |
| | Dental therapist | ● | | 32-1276.01(B)(5) |
| | Dentist | ● | | 32-1232(B) |
| | Denture technology | ● | | 32-1297.01(A) |
| | Denturist | ● | | 32-1297.01(A) |
| **Arizona State Board of Dispensing Opticians** | Board member | | ● | 32-1672(B) |
| **Arizona State Board of Education** | Noncertified personnel who work with students without the supervision of a certificated employee | | ● | 15-512(B) |
| | Not paid school district employees who work with students without the supervision of a certificated employee | | ● | 15-512(B) |
| | Surrogate parent of child with disabilities | ● | | 15-763.01(C)(4) |
| | Teacher | ● | | 15-501.01(A) |
| | Teacher prep program | ● | | 15-534(G) |
| | Tutor | ● | | 15-534(G) |
| | Vocational program student who is over 22 years of age | ● | | 15-782.02(B) |
| **Arizona State Board of Massage Therapy** | Massage therapist | | ● | 32-4222(A)(10) |
| **Arizona State Board of Nursing** | Board member | | ● | 32-1602(B) |
| | Clinical nurse specialist | | ● | 32-1606(B)(16) |
| | Medication assistant | | ● | 32-1606(B)(16) |
| | Nurse anesthetist | | ● | 32-1606(B)(16) |
| | Nursing assistant | | ● | 32-1606(B)(16) |
| | Practical nurse | | ● | 32-1606(B)(16) |
| | Registered nurse | | ● | 32-1606(B)(16) |
| **Arizona State Board of Optometry** | Board member | | ● | 32-1702(B) |
| | Optometrist | | ● | 32-1730(A) |

## Continued

| State agency/board/court | Applicant | Fingerprint clearance card | Criminal records check | Authorizing statute |
|---|---|---|---|---|
| Arizona State Board of Pharmacy | Intern | ● | | 32-1904(A)(6) |
| | Pharmacist | ● | | 32-1904(A)(6) |
| | Pharmacy technician | ● | | 32-1904(A)(6) |
| | Pharmacy technician trainee | ● | | 32-1904(A)(6) |
| | Third-party logistics provider representative | ● | | 32-1941(F) |
| | Full-service wholesale permitee | | ● | 32-1982(C) |
| Arizona State Board of Physical Therapy | Physical therapist | ● | | 32-2022(A)(6)&(B)(10) |
| | Physical therapy assistant | ● | | 32-2022(D)(6) |
| Arizona State Board of Podiatry Examiners | Board member | | ● | 32-802(B) |
| Arizona State Board of Respiratory Care Examiners | Board member | | ● | 32-3502(B) |
| | Respiratory care practitioner | | ● | 32-3504(A)(6) |
| Arizona State Board of Technical Registration | Alarm agent | ● | | 32-122.06(B) |
| | Alarm business owner | ● | | 32-121(2) |
| | Home inspector | ● | | 32-122.02(A)(5) |
| Arizona State Schools for the Deaf and the Blind | Certified personnel | ● | | 15-1330(A) |
| | Noncertified personnel | | ● | 15-1330(B) |
| | Nonpaid personnel | | ● | 15-1330(B) |
| | Superintendent | ● | | 15-1330(A) |
| Arizona Superior Court | Court-appointed guardian—minor | | ● | 14-5206(B) |
| | Court-appointed investigator | | ● | 14-5308(E) |
| | Superior court judge | | ● | 12-3152(A) |
| | Appointed paid position in a noncriminal justice agency | | ● | 12-102(B) |
| Arizona Supreme Court | Juvenile probation services contract provider | ● | | 08-322(G) |
| | Practice law | | ● | 12-323(B) |
| | Private process server | | ● | 12-3301(B) |
| | Confidential intermediary | | ● | 08-134(K) |
| Board of Certified Reporters | Certified court reporter | | ● | 32-4005(B)(5) |
| Industrial Commission of Arizona | Division of occupational safety and health review board members | | ● | 23-422(B) |
| Public Safety Personnel Retirement System | Board of trustees board member | | ● | 38-848(B) |
| State of Arizona Acupuncture Board of Examiners | Acupuncturist | | ● | 32-3924(3) |
| | Auricular acupuncturist | | ● | 32-3922(A)(4) |
| | Board member | | ● | 32-3902(B) |
| State of Arizona Board of Chiropractic Examiners | Board member | | ● | 32-901(B) |

[1] This table includes those State agencies, boards, or courts that are authorized by statute as of March 31, 2021, to require applicants for licensure, certification, employment, or individuals who work with vulnerable populations, such as foster care parents and school teachers, to obtain a fingerprint clearance card issued by the Department or to submit fingerprints for a criminal history records background check. This table does not include agencies, boards, and/or courts that are authorized to request background checks at its discretion or those authorized to request this information pursuant to an executive order.

[2] To satisfy the background check requirement, an applicant may submit a valid fingerprint clearance card issued by the Department instead of a full set of fingerprints for the purpose of a criminal history records check.

## Continued

[3] A.R.S. §32-1904(A)(6) gives the Arizona State Board of Pharmacy discretion to approve an application for licensure despite the denial of a valid fingerprint clearance card if the Board determines that the applicant's criminal history information on which the denial was based does not alone disqualify the applicant from licensure.

[4] An owner, partner, or stockholder who owns 20 percent or more of an entity must submit a full set of fingerprints for the purposes of obtaining a fingerprint-based criminal history records check.

[5] An owner, partner, or stockholder who owns 20 percent or more of an entity must submit a valid fingerprint clearance card.

[6] A.R.S. §38-211(H) specifies that before nomination or appointment by the Governor, the prospective nominee shall submit a full set of fingerprints for the purpose of obtaining a fingerprint-based criminal history records check. In addition to this statute, some boards have authorizing statutes requiring a fingerprint-based criminal history records check within their own statutes. This table includes those boards with requirements within their own statutes but does not include any board that, per A.R.S. §38-211, only requires its members to submit a full set of fingerprints based on certain Governor nominations approved by the Senate.

Source: Auditor General staff review of statutes, Arizona Board of Fingerprinting records, Department records, and interviews with Department staff.

# Arizona State Board of Nursing Care Institution Administrators and Assisted Living Facility Managers

Jack Confer, Executive Director

November 2021

# Current Board Membership

- Pauline (Wally) Campbell, President
- Dr. Charles Villafranca, Vice-President
- Ken Kidder, Board Member
- Fred Randolph, Board Member
- Melanie Seamans, Board Member
- Susan Archer, Board Member
- 1 appointment currently pending
- 4 vacancies

# Update from NCIA Executive Director, Auditor General's Report

All deficiencies noted in the Auditor General's 18-Month Follow-up report haven been acknowledged and current staff are being trained for compliance with policy and procedure. Several current requirements have not yet completed; however, will be finished before the end of this year.

# Current Appropriation

***Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers***

| | FY 2020 ACTUAL | FY 2021 ESTIMATE | FY 2022 APPROVED |
|---|---|---|---|
| **OPERATING BUDGET** | | | |
| *Full Time Equivalent Positions* | 6.0 | 6.0 | 7.0 |
| Personal Services | 241,800 | 265,300 | 299,300 |
| Employee Related Expenditures | 107,600 | 114,900 | 131,000 |
| Professional and Outside Services | 2,400 | 1,800 | 1,800 |
| Travel - In State | 3,200 | 5,000 | 5,000 |
| Travel - Out of State | 600 | 2,000 | 2,000 |
| Other Operating Expenditures | 63,200 | 67,900 | 73,500 |
| Equipment | 9,200 | 13,500 | 13,500 |
| **AGENCY TOTAL** | **428,000** | **470,400** | **526,100** 1/ |

# Statistics FY22

- Since 7/1/21 to present the Board has processed the following:
- 21 caregiver training program renewals
- 5 manager training program renewals
- 86 manager applications
- 9 administrator applications
- 716 manager renewal applications.
- 59 complaints opened

# Current Licensing Populations

- 53 caregiver training programs
- 17 manager training programs
- 2169 managers
- 355 administrators

# Operational Changes

Elimination Staff vacancies since July 2021:

Licensing Administrator

Program and Project Specialist

Chief Investigator

Executive Director

Executive Consultant

# General-Operational Changes

Protection of customer's personal information when contacting the NCIA Board.

Arizona Department of Health Services for joint approval of new applications and certificates.

Five Year Rule Review

# Specific Operational Changes Recommendation #1

- 32-3123. Board delegation; executive director
- Notwithstanding any other provision of this title, a health profession regulatory board may grant authority to the board's executive director to issue and approve licenses, certifications, registrations, preceptorships, reinstatements or waivers to an applicant or licensee who meets all of the following requirements:
- 1. Fulfills all requirements of the applicable chapter under this title for licensure, certification, registration, preceptorship, reinstatement or waivers.
- 2. Has not had a license suspended or revoked by a health profession regulatory board in this or any other jurisdiction.
- 3. Is not currently under investigation by a health profession regulatory board in this or any other jurisdiction.
- 4. Has not surrendered a license in lieu of disciplinary action by a health profession regulatory board in this or any other jurisdiction.
- 5. Has not engaged in any criminal or civil conduct that could be considered unprofessional conduct.
- 6. Has no disciplinary action on a license issued by a health profession regulatory board in this or any other jurisdiction.

# Specific Operational Changes Recommendation #2

- Amend current statute to implement some type of Felony Bar Statute that adequately assesses and evaluates applicants that have criminal conviction in their background. In addition, suggest that the Board seek statutory authority for a nationals criminal background search provided by the FBI. (other agencies currently have authority)

# Specific Operational Changes Recommendation #3

Evaluate the current E-Licensing Platform and procure a new IT vendor that can adequately build a platform that is user friendly.

# Specific Operational Changes Recommendation #4

Work with DHS to establish a complaint referral system that expedites their referrals to the NCIA Board. (NCIA currently receives actions one time per month)

# Specific Operational Changes Recommendation #5

Implement a birthdate renewal system for Administrator and Managers. The methodology spreads the workload out over the entire year on a biennial basis. In addition, it provides a steady revenue stream for the Agency.

# Specific Operational Changes Recommendation #6

Delete ARS 36-446.04(C)(4) that requires an applicant for an assisted living facility manager to provide documentation that they have completed 2080 hours of paid work experience in a health related field within the preceding five years as prescribed by board rule.

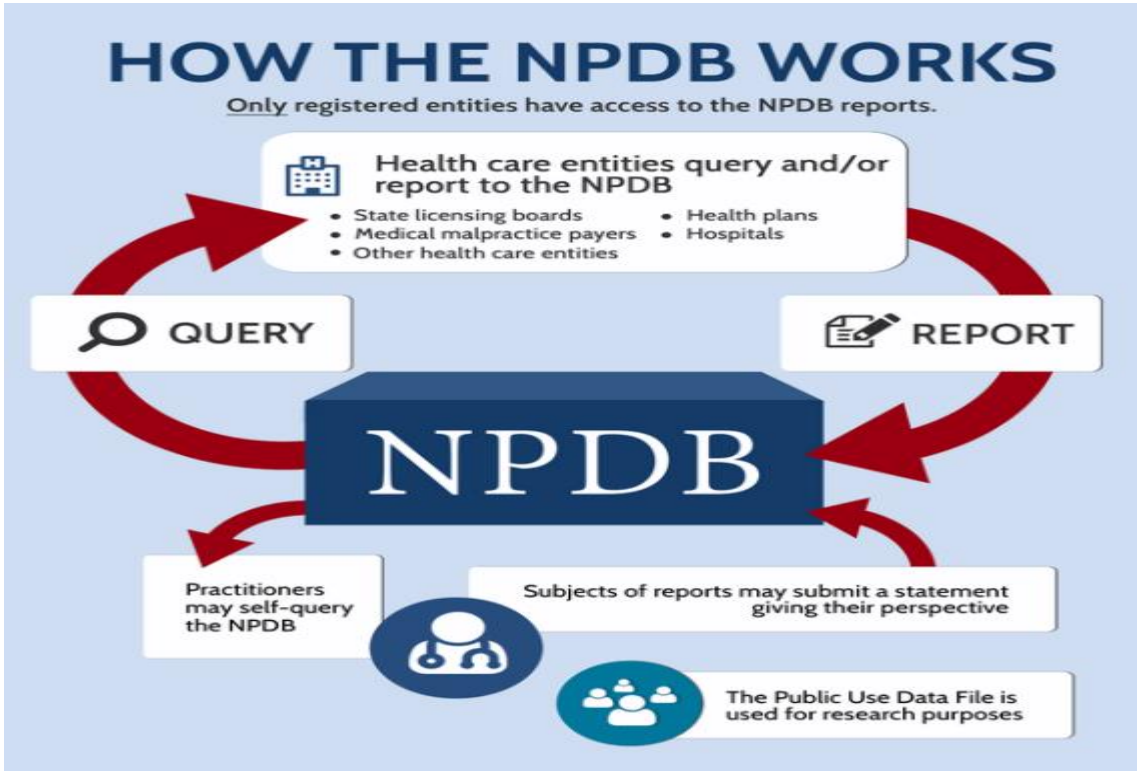
This requirement limits otherwise qualified people from becoming managers for facilities they may own.

It is also one of the most cited deficiency that causes delay in moving the application through the process.

This requirement is antiquated since the training requirements changed back in 2013 to include 62 hours of caregiver training with an examination. A 40 hour manager training program preparing them in the operation of an assisted living facility and an examination. Finally passing the state examination which covers the laws and rules related to ADHS and the Board.

# Specific Operational Changes Recommendation #7

Require all applicants to self-query the NPDB during the application process and before prior to licensure.



# Questions?

| State | Licensing Board | Under Health Department | Under Other Agency | Notes |
|---|---|---|---|---|
| Alabama | Yes | No | No | |
| Alaska | No | No | Yes | Licensed by the Alaska Department of Commerce, Community, and Economic Development |
| Arkansas | No | No | Yes | Licensed by the Department of Human Services (DES). |
| California | No | Yes | No | Licensed through the Department of Public Health Licensing and Certification Program |
| Colorado | Yes | No | Yes | Department of Regulatory Agencies, Division of Professions and Occupations. |
| Connecticut | No | Yes | No | Department of Public Health |
| Delaware | Yes | No | Yes | Division of Profesional Regulation |
| Florida | Yes | No | No | |
| Georgia | Yes | No | Yes | Secretary of State |
| Hawaii | No | No | Yes | Department of Commerce |
| Idaho | No | Yes | No | Department of Health and Welfare |
| Illinois | Yes | No | Yes | Department of Financial and Professional Regulation |
| Indiana | Yes | No | Yes | Indiana Professional Licensing Agency |
| Iowa | Yes | Yes | No | Department of Public Health |
| Kansas | Yes | No | Yes | Department for Aging and Disability Services |
| Kentucky | Yes | No | Yes | Public Protection Cabinet |
| Louisiana | Yes | No | No | |
| Maine | Yes | No | Yes | Office of Professional and Financial Regulation |
| Maryland | Yes | Yes | No | Department of Health |
| Massachusetts | Yes | No | No | |
| Michigan | Yes | No | Yes | Department of Licensing and Regulatory Affairs |
| Minnesota | Yes | No | No | |
| Mississippi | Yes | No | No | |
| Missouri | Yes | Yes | No | Department of Health and Senior Services |
| Montana | Yes | No | No | |
| Nebraska | No | Yes | No | |
| Nevada | Yes | No | No | |
| New Hampshire | No | No | Yes | New Hampshire Office of Professional Licensure & Certifications |
| New Jersey | No | Yes | No | |
| New Mexico | Yes | No | No | According to their website, "Currently, no disciplinary nor enforcement actions have resulted in Board Actions being issued by the Board since July 2011"; |
| New York | Yes | Yes | No | Department of Health |
| North Carolina | Yes | No | No | |
| North Dakota | Yes | No | No | |
| Ohio | Yes | No | No | |
| Oklahoma | Yes | No | No | |
| Oregon | Yes | Yes | No | Oregon Health Authority |
| Pennsylvania | Yes | No | Yes | Department of State |
| Rhode Island | Yes | Yes | No | |

| | | | | |
|---|---|---|---|---|
| South Carolina | Yes | No | Yes | Labor Licensing Regulation |
| South Dakota | Yes | Yes | No | |
| Tennessee | Yes | Yes | No | |
| Texas | No | Yes | No | |
| Utah | Yes | No | Yes | Department of Commerce |
| Vermont | No | No | Yes | Secretary of State. Served by 2 appointed advisors |
| Virginia | Yes | No | Yes | Department of Health Professions |
| Washington | Yes | Yes | No | |
| West Virginia | Yes | No | No | |
| Wisconsin | No | No | Yes | Department of Safety and Professional Services |
| Wyoming | Yes | No | No | |

| Meeting Date | Complaint Number | Licensee | Vote | Decision | Reason | Background | Meeting Minutes | |
|---|---|---|---|---|---|---|---|---|
| 2/10/2020 | Consent Agenda | | 7-0 | 24 Complaints NOT Opened | | | Link | |
| | 19-117 | Brett King | 7-0 | Dismissed | Insuficient Evidence | DHS found 23 deficiences in 22 areas. DHS took enforcement action on 1 violation | | |
| | 19-119 | Tomeletso Taugape | 7-0 | Tabled | | | | |
| | 19-145 | Katie Molaro | 6-0 | Dismissed | Insuficient Evidence | DHS found 8 deficiencies and took enforcement action on 1. They assessed a | | |
| | 19-154 | Maria Parham | 7-0 | Dismissed after Executive Session | Insufficient Evidence | DHS found 4 deficiencies and took enforcement action on 1. They assessed a | | |
| | 19-157 | Christopher Daroczy | 7-0 | Dismissed | Insufficient Evidence | DHS found 7 deficiencies and took enforcement action on 1. They assessed a | | |
| | 19-161 | Paul O'Connell | 6-0 | Dismissed | Insufficient Evidence | DHS found 8 deficiencies and took enforcement action on 2. They assessed a | | Manager failed to ensure employee CPR requirement was met, failed to ensure |
| | | Larry Rasmussen | 5-1 | License Approved | | Criminal History of security and communication fraud | | |
| | | Natilija De Retana | 6-0 | License Approved | | Prior Disciplinary Issues | | |
| | | Russell Sylvester | 6-0 | License Approved | | Criminal Issue | | |
| | | Dorothea Stewart | 6-0 | License Approved | | Criminal Issue | | |
| | | Matthew Odishoo | 6-0 | License Conditionally Approved | | Criminal Issue- Substance Use | | |
| 3/9/2020 | Consent Agenda | | 7-0 | 14 Complaints NOT Opened | | | LINK | |
| | 19-153 | Ryan Hendrickson | 7-0 | Dismissed | Insufficient Evidence | DHS found 16 deficiencies and took enforcement action on 1. They assessed a | | Facility failed to assist residents in maintaining their highest practicable well |
| | 19-158 | Chaim Zimmerman | 6-1 | Dismissed | Insufficient Evidence | DHS found 34 deficiencies and took enforcement action on 2. They assessed a | | Doctor orders were not followed regarding |
| | 19-119 | Tomeletso Taugape | 7-0 | Dismissed | Insufficient Evidence | DHS found 9 deficiencies and took enforcement action on 1. They assessed a | | Facility failed to assist residents in maintaining their highest practicable well |
| | 19-134 | Craig Boudreau | 7-0 | Dismissed | Insufficient Evidence | DHS found 6 deficiencies, one of which was cited as a previously uncorrected | | Manager failed to ensure medication was |
| | 20-02 | Jesse Salcido | 7-0 | Dismissed | Insufficient Evidence | DHS found 7 deficiencies and took enforcement action on 1. They assessed a | | Manager failed to ensure resident not |
| | 20-05 | Zelma Niadas | 7-0 | Dismissed | Insufficient Evidence | DHS found 2 deficiencies and took enforcement action on 1. They assessed a | | Manager failed to ensure policy and |
| | 20-03 | Georgian Salagean | 7-0 | Dismissed | Insufficient Evidence | DHS found 17 deficiencies and took enforcement action on 1. They assessed a | | Manager failed to ensure a resident was |
| | 20-06 | Nancy Njoroge | 7-0 | Dismissed | Insufficient Evidence | DHS found 22 deficiencies and took enforcement action on 2. They assessed a | | Manager failed to ensure caregiver training |
| | | Gabrielle LaVia | 7-0 | License Approved | | Criminal Issue | | |
| | | Taryn Pratt | 7-0 | License Approved | | Criminal Issue | | |
| | | DeLaine Brooks | 7-0 | License Approved | | Licensing Issues- working on expired license | | |
| | | Pauline Borkowski | 6-0 | License Approved | | Criminal Issue- Charges from 1998 | | |
| 4/13/2020 | Consent Agenda | | 8-0 | 28 Complaints NOT Opened | | | LINK | |
| | | Alison Scott | 8-0 | License Approved | | Criminal Issue | | |
| | | Benny Vidal | 8-0 | License Approved | | Criminal Issue | | |
| | | Theresa Gallegos | 8-0 | License App pending the passing of exams | | Criminal Issue | | |
| 5/11/2020 | | | 7-0 | 28 Complaints NOT Opened | | | LINK | |
| | 20-13 | Vickie Phillips | 6-0 | Dismissed | Insufficient Evidence | DHS found 86 deficiencies and took enforcement actio. They entered into a | | |
| | 20-34 | Sallye Hamilton | 7-0 | Dismissed | Insufficient Evidence | DHS found 16 deficiencies, 7 of which were repeats and took enforcement action on 8 | | Was manager prior to inspection, but |
| | 20-16 | Christopher Didde-Esteban | 6-0 | Dismissed | Insufficient Evidence | DHS found 22 deficiencies and took enforcement action on 1. They assessed a | | Manager failed to ensure the personnel record requirement was met and failed to |
| | 20-18 | Teodor Cristea | 6-0 | Dismissed | Insufficient Evidence | DHS found 6 deficiencies, 2 of which were repeats and took enforcement action on 2 | | Manager failed to ensure medication was |
| | 20-24 | Dennis Davis | 6-0 | Dismissed | Insufficient Evidence | DHS found 2 deficiencies and took enforcement action on 1. They assessed a | | Manager failed to ensure the restraint |
| | 20-25 | Inge Duran | 6-0 | Dismissed | Insufficient Evidence | DHS found 7 deficiencies and took enforcement action on 2. They assessed a | | Manager failed to ensure a caregiver |
| | 20-32 | Cecelia Carillo | 6-0 | Dismissed | Insufficient Evidence | DHS found 5 deficiencies, 5 of which were repeat, and took enforcement action on 2 | | Manager failed to ensure the inability to |
| | | Amador Ortega | 6-0 | License Approved | | Criminal Issue | | |
| | | Janice Swanner | 6-0 | | | Criminal Issue | | |
| 1/11/2021 | Consent Agenda | | 5-0 | 21 Complaints NOT Opened | | | LINK | |
| | 20-100 | Scott McClintock | 5-0 | Dismissed | Insufficient Evidence | DHS found 27 deficiencies and took enforcement action on 2. They assessed a | | Manager was only at facility for temporary |
| | 20-111 | Daniel Harrah | 5-0 | Dismissed | Insufficient Evidence | DHS found 2 deficiencies and took enforcement action on 1. They assessed a | | Manager failed to ensure policies and |
| | | LeAnn Leslie-Larson | 6-0 | License Approved | | Criminal Issue | | |
| 3/8/2021 | Consent Agenda | | 7-0 | 10 Complaints NOT Opened | | | LINK | |
| | 20-07 | Naomi McMillan | 7-0 | Dismissed | Insufficient Evidence | DHS found 11 deficiencies and took enforcement action on 2. They assessed a | | Failed to meet reporting requirements for |
| | 21-09 | Russ Razinn | 6-0 | Dismissed | Insufficient Evidence | DHS found 16 deficiencies and took enforcement action on 1. They assessed a | | Failed to ensure that an employee |
| | 21-10 | Dawn Grant | 5-0 | Dismissed | Insufficient Evidence | DHS found 3 deficiencies and took enforcement action on 1. They assessed a | | Failed to ensure every resident has a |
| | 21-08 | Florencio Lalo | 5-0 | Dismissed | Insufficient Evidence | DHS found 5 deficiencies and took enforcement action on 1. They assessed a | | Personnel issues- no longer employed at facility |
| | | Tomica Doggett | 5-0 | License Approved | | Criminal Issue- Misdemeanor Theft. Holds fingerprint clearance card | | |
| | | Kelly Raach | 5-0 | License Approved | | Criminal Issue- drug paraphernalia, prostitution, trespass, criminal damage | | |
| 4/12/2021 | Consent Agenda | | 5-0 | 13 Complaints NOT Opened | | | LINK | |
| | 21-19 | Sean Hill | 5-0 | Dismissed | Insufficient Evidence | DHS found 21 deficiencies and took enforcement action on 2. They assessed a | | assurance meetings and restraints being |
| | 21-15 | Lenora Pecora | 5-0 | Dismissed | Insufficient Evidence | DHS found 2 deficiencies and took enforcement action on 1. They assessed a | | speak with a covid negative patient. A |
| | 21-16 | Jennifer Nealon | 5-0 | Dismissed | Insufficient Evidence | DHS found 5 deficiencies and took enforcement action on 1. They assessed a | | Record keeping deficiency |
| 5/10/21 | Consent Agenda | | 5-0 | 3 Complaints NOT opened | | | LINK | |
| | 21-22 | Elaine Howard | 5-0 | Dismissed | Insufficient Evidence | DHS found 3 deficiencies and took enforcement action on 2. They assessed a | | had sever staffing shortages and the |
| | | Dana Baliban | 5-0 | License Approved | | Set aside in 2014 | | |
| | | Patsy Dorame | 4-1 | License Approved with Probation | | card with driving restriction | | |

# Committee Member Recommendations

*– Nursing Care Institution and Assisted Living Facility Study Committee – 11.19.2021 –*

**Member Christina Corieri, Senior Policy Advisor, Office of Governor Doug Ducey –**

1. The Board should be required to give more information why a case is dismissed when a complaint is forwarded by DHS. For example, they could state that the individual was not employed at that location at the time of the events in question rather than just saying insufficient evidence. These reasons should be written and publicly available.

2. If a manager knows of a serious issue at his/her facility that has the potential to endanger the life or health of the residents and does not raise a red flag, that manager should not be able to then raise as a defense in front of the board that he was aware of the issue but the owner didn't do anything to address it. If you know something is wrong, they need to report that.

3. ARS 46-454 lists the individuals who have a duty to report abuse, neglect, and exploitation of vulnerable adults. This list includes "long-term care provider" Perhaps it should be made clearer that this includes a manger of a skilled nursing or assisted living facility

4. I do not see the value of having a separate board and believe the functions of the board are better handled at DHS or perhaps consolidated under another board.

**Member Nigel Santiago, President, Cascadia Healthcare Arizona –**

1. **Recommendation: The NCIA Board should continue to operate independently.** The findings of an audit done on three separate boards indicates that all three boards have opportunity for improvement. Leadership matters. There is now a Director of the Board who is experienced leading boards in our State and who is filling staff vacancies on the board. The NCIA Board should continue to operate independently to avoid potential conflicts of interest (having the same governing entity that regulates facility licenses also oversee the licensure of the Managers and Administrators of those facilities.)

2. **Recommendation: Institute by statute a more thorough background investigation in the application processes.** Because a more thorough background check could take longer to get back, perhaps a temporary license could be issued pending the background check (temporary licenses are currently already issued under specific situations).

3. **Recommendation: License renewals should be spread out throughout the year by date of birth of the licensee.** There are over 2,600 assisted living facilities in Arizona. Currently all of the Assisted Living managers need to renew their licenses in the month of June, every other year. Spreading the renewals out will significantly spread out the workload.

**Member Gaile Dixon, Public Policy Advisor, Arizona Assisted Living Homes Association –**

The Arizona Assisted Living Homes Association (AALHA) directly or indirectly represents the nearly 1,740 small 10-bed and under assisted living homes in Arizona, each of which must have a certified assisted living facility manager employed.

AALHA strongly recommends that the functions of the NCIA Board not be transferred to the Arizona Department of Health Services (ADHS). The purpose of this recommendation is to not concentrate excessive authority in any one agency. The two agencies have different functions. Very simplified; ADHS is responsible for issuing, and governing *facility licenses*. ADHS is the State agency that has eyes-on assisted living facilities through its annual survey process. The NCIA Board is empowered to issue, and investigate the *manager's certification*. The primary crossing of the two paths is when a manager is referred to the NCIA Board for discipline due to violations of ADHS rules by the facility manager. Both also receive complaints directly from the public or other agencies. There are many other duties of both agencies, but these are the ones we believe are the center of this discussion.

Keeping these agencies independent of each other is also important in maintaining checks and balances with ADHS being the governmental regulatory agency, and the NCIA Board as a pier review team. Not only does the NCIA Board have assisted living managers and administrators on its board but also private citizens. It is a very different perspective from that of ADHS. In keeping the Board and ADHS functions separate, there is a balance which reduces the risks inherent in having one agency acting as arresting officer, judge, jury, and executioner.

We are aware of a longstanding cynicism between the two agencies. We have witnessed it for decades, and it probably stems from two agencies having somewhat different functions in governing the same industry. An obvious example is that of ADHS issuing numerous citations and perhaps fines against a facility, while the NCIA Board dismisses the charges because there was a change in management, and the current manager is not responsible for the facility's prior deficiencies.

We also agree that delegating routine matters to the Executive Director would make the Board more effective; that changing the date a license or certificate is due for renewal to the birthdate of the holder would save a significant amount of time; that utilizing the National Practitioner Data Base to verify an applicant's identity would provide consistency; and that evaluating new platforms for E-licensing which are more user friendly are all acceptable to our organization.

Regarding fingerprint clearance cards, we with assisted living homes, have long believed that the Department of Public Safety (DPS) is the first line of defense against allowing an unscrupulous person to hold a fingerprint clearance card. The NCIA Board is a second line of defense, mostly reviewing whether an applicant is "of good moral character" if DPS cleared him/her due to a past offense, or good faith exemption for felony offense(s). The NCIA Board has final say regarding an applicant's fitness to be a manager, but should not blanketly accept an applicant just because DPS has cleared them.

We cannot rely exclusively on DPS in determining whether we allow a person with a felony conviction(s) to manage our facilities for disabled adults. Nor do we believe that Arizona, being what was referred to as a "second chance state" should affect how we determine the fitness of an applicant to hold a manager certificate. We do have more work to do.

Perhaps enacting a "provisional or temporary certificate" for felony offenders, in which certain milestones must be reached to graduate to a full certificate over a period of perhaps 2 years. This would have the effect of somewhat segregating those who must be watched more closely, but would also be more time consuming for the Board. We could also impose a time frame, after the convicted person has paid his or her debt to society.

We believe the make-up of the NCIA Board should include more *industry* professionals, since it is the industry that best knows what is expected of its members. A majority of the cases before the NCIA Board involve assisted living home managers. We would like to see an additional seat on the Board for an assisted living home manager.

Lastly, there is very little similarity between a Nursing Care Administrator, and an Assisted Living Facility Manager. Perhaps, it should not be the same Board that adjudicates both professions. By dividing the two, the Board of Nursing could adjudicate Administrators and CNA's, and the new Board of Assisted Living Facility Managers would then have authority over Managers and caregivers. This would finally put a regulatory board in charge of caregivers, which has been badly needed, and has resulted in an unmanageable situation for many decades. Alternatively, we should discuss other methods of holding certified caregivers accountable for their actions. Currently, there is no way of sanctioning a caregiver certificate, and a caregiver who performs badly, simply moves on to the next employer without consequence. Our vulnerable residents deserve better.

These are our initial thoughts on the NCIA Board. We look forward to continuing to work with the Committee on refining these and discovering other improvements. This is a rare opportunity to shape this Board into that which will best serve our vulnerable community. Thank you for that opportunity.

**Member Donna Taylor, Executive Vice President, LifeStream Complete Senior Living –**

I do believe that the NCIA Board should remain independent. It provides much needed balance to hold Managers and Administrators accountable. I am certain the collaboration between ADHS and the Board could be better, but they both serve important functions in ensuring Arizona Seniors are cared for in the best possible way. It is important in my view to continue to have professionals from the field on the Board holding the majority of the seats – we all tend to be our harshest critics, and we understand the complexity of the world in which we choose to work.

As it relates to felonies and Arizona being a "second chance" state – it was clear to me that we need to significantly limit or eliminate any felonies that can be given a 2nd chance "pass" by the Board. I am a believer in redemption – but I don't think a field that serves vulnerable seniors is the place to do that. In my mind, most, if not all, felonies, are an immediate bar to certification or licensure.

**Member Tiffany Wilkins, Senior Vice President Operations, Spectrum Retirement Communities –**

My strongest belief is that the NCIA board needs to stay its own entity and not fall under DHS. I think that broader investigation powers are in order to ensure that Administrator/Managers from other states with records do not come to Arizona; however, I feel that there should be a provisionary license given due to the delay in the process this would cause. I love the idea of doing the renewals based on DOB verses a particular day. There does need to be an improved process of communication between NCIA and DHS. This should be included in the e-learning platform Director Confer recommended. I feel that this program once citations are entered from DHS it would automatically send an alert to NCIA. As far as

recommendation #6, I am in support of eliminating the 2080 hours needed to obtain a license however, this may not be the best time to address as other items are a higher priority. Having applicant do a self-query of the NPDB is just another layer of checks and balance for hiring good people, therefore I am in support of it.

My biggest concerns in addressing these items are the current labor shortage. This labor shortage is having such a dramatic impact on our ability to care for our seniors. If we make the process harder, we are running the serious risk of not having enough managers to take care of our seniors which would then cause companies to have to close their doors. This is something I am already starting to see and anticipate it getting worse.

I also recommend adding to item #1 a 14-day time frame for DHS to approve the new managers license and if no action is taken within the timeframe, it is deemed approved. With the current workforce challenges any delay in hiring a new Manager could cause challenges.

**Member Becky Hill**

- Create a better balance of industry, family and resident advocates on the NCIA Board.
- If the Agency determines that a complaint is actionable, DHS must ensure that action is taken to protect residents regardless of Board action on administrator licenses.
- The Board shall develop policies and protocols to establish if an administrator attempted to right the issues in the validated complaint and what responsibility administrators have for poor practices and in their own facilities. Repeated complaints on the same issue or in the same facility shall be deemed an owner, operator, and administrator problem.
- The Board and DHS shall collaborate on updated standards of care and administrator licensure to ensure better preparedness and care for residents with dementia. Industry, staff, residents and family members shall be consulted during this process.
- The resident or designated family representative/caregiver/mpoa shall be notified of the resolution of all complaints. The Board and Agency shall develop a notification system to let the person who filed the complaint know if a complaint is still pending.
- Extend the conversation on this issue: Session is hard but we should pick up upon receipt of the July 1 report at the latest. This extended conversation should address the disconnects in the LTC administrative and regulatory framework; the lack of transparency and follow up with consumers in the complaint process as well as follow thru with facilities following a complaint; and the need to modernize standards of care given the avalanche of dementia sufferers in our state. Ideally, three working groups would be established on each of these issues and report back by July 1 alongside the Board to create a single jumping off point for next steps.