

REFERENCE TITLE: caregivers; assisted living; training

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1244

Introduced by
Senators Brophy McGee: Carter

AN ACT

AMENDING SECTIONS 36-446 AND 36-446.03, ARIZONA REVISED STATUTES; AMENDING
TITLE 36, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING
SECTION 36-446.15; RELATING TO ASSISTED LIVING FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-446, Arizona Revised Statutes, is amended to
3 read:

4 36-446. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Administrator" or "nursing care institution administrator"
7 means a person who is charged with the general administration of a nursing
8 care institution, whether or not that person has an ownership interest in
9 the institution and whether or not the person's functions and duties are
10 shared with others.

11 2. "Assisted living facility" has the same meaning prescribed in
12 section 36-401.

13 3. "Assisted living facility manager" means a person who has
14 responsibility for ~~the administration~~ ADMINISTERING or ~~management of~~
15 MANAGING an assisted living facility, whether or not that person has an
16 ownership interest in the institution and whether or not the person's
17 functions and duties are shared with others.

18 4. "Assisted living facility training program" includes:

19 (a) Training THAT IS required for assisted living facility manager
20 certification.

21 (b) Training THAT IS required by the department for assisted living
22 facility caregivers AND THAT IS CONSISTENT WITH THE TRAINING, COMPETENCY
23 AND TEST METHODOLOGY STANDARDS DEVELOPED BY THE ARIZONA HEALTH CARE COST
24 CONTAINMENT SYSTEM ADMINISTRATION FOR IN-HOME DIRECT CARE WORKERS.

25 5. "Board" means the board of examiners of nursing care institution
26 administrators and assisted living facility managers.

27 6. "Department" means the department of health services.

28 7. "Directed care services" has the same meaning prescribed in
29 section 36-401.

30 8. "Director" means the director of the department of health
31 services.

32 9. "Nursing care institution":

33 (a) Means an institution or other place, however named, whether for
34 profit or not, including facilities operated by the state or a subdivision
35 of the state, that is advertised, offered, maintained or operated for the
36 express or implied purpose of providing care to persons who need nursing
37 services on a continuing basis but who do not require hospital care or
38 care under the daily direction of a physician. ~~Nursing care institution~~

39 (b) Does not include:

40 (i) An institution for the care and treatment of the sick that is
41 operated only for those who rely solely on treatment by prayer or
42 spiritual means in accordance with the tenets of a recognized religious
43 denomination. ~~Nursing care institution also does not include~~

44 (ii) Nursing care services that are an integral part of a hospital
45 licensed pursuant to this chapter.

10. "Unprofessional conduct" includes:

(a) Dishonesty, fraud, incompetency or gross negligence in ~~the~~
~~performance of~~ **PERFORMING** administrative duties.

(b) Gross immorality or proselytizing religious views on patients without their consent.

(c) Other abuses of official responsibilities, which may include
~~intimidation~~ **INTIMIDATING** or ~~neglect of~~ **NEGLECTING** patients.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. The board may elect officers it deems necessary.

D. The board shall apply appropriate techniques, including examinations and investigations, to determine ~~if~~ **WHETHER** a person meets the qualifications prescribed in section 36-446.04.

E. On its own motion or in response to any complaint against or report of a violation by an administrator of a nursing care institution, or a manager of an assisted living facility, the board may conduct

1 investigations, hearings and other proceedings concerning any violation of
2 this article or of rules adopted by the board or by the department.

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

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

17 H. The board may appoint review committees to make recommendations
18 concerning enforcement matters and the administration of this article.

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

25 J. The board shall adopt and use an official seal.

26 K. The board shall adopt rules for the examination and licensure of
27 nursing care institution administrators and the examination and
28 certification of assisted living facility managers.

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

32 M. The board must provide the senate and the house of
33 representatives health committee chairmen with copies of all board minutes
34 and executive decisions.

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

38 O. The board by rule shall prescribe standards for assisted living
39 facility training programs. ON OR BEFORE JUNE 1, 2020, THE BOARD SHALL
40 PRESCRIBE RULES FOR ASSISTED LIVING FACILITY CAREGIVERS THAT ARE
41 CONSISTENT WITH THE TRAINING, COMPETENCY AND TEST METHODOLOGY STANDARDS
42 DEVELOPED BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
43 ADMINISTRATION FOR IN-HOME DIRECT CARE WORKERS.

1 P. The board may:

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

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

7 Sec. 3. Title 36, chapter 4, article 6, Arizona Revised Statutes,
8 is amended by adding section 36-446.15, to read:

9 36-446.15. Assisted living facility caregivers; training and
10 competency requirements

11 NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO SUCCESSFULLY COMPLETES
12 THE TRAINING AND COMPETENCY REQUIREMENTS DEVELOPED BY THE ARIZONA HEALTH
13 CARE COST CONTAINMENT SYSTEM ADMINISTRATION FOR IN-HOME DIRECT CARE
14 WORKERS SATISFIES THE TRAINING REQUIREMENTS FOR ASSISTED LIVING FACILITY
15 CAREGIVERS, EXCEPT FOR MEDICATION ADMINISTRATION TRAINING REQUIRED BY THE
16 ASSISTED LIVING FACILITY CAREGIVER'S SCOPE OF PRACTICE.