

House Engrossed

long-term care; health aides

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2521

AN ACT

AMENDING SECTIONS 32-1601, 32-1643, 32-1645 AND 36-2939, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA LONG-TERM CARE SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1601, Arizona Revised Statutes, is amended to
3 read:

4 **32-1601. Definitions**

5 In this chapter, unless the context otherwise requires:

6 1. "Absolute discharge from the sentence" means completion of any
7 sentence, including imprisonment, probation, parole, community supervision
8 or any form of court supervision.

9 2. "Appropriate health care professional" means a licensed health
10 care professional whose scope of practice, education, experience, training
11 and accreditation are appropriate for the situation or condition of the
12 patient who is the subject of a consultation or referral.

13 3. "Approval" means that a regulated training or educational
14 program to prepare persons for licensure, certification or registration
15 has met standards established by the board.

16 4. "Board" means the Arizona state board of nursing.

17 5. "Certified nurse midwife" means a registered nurse who:

18 (a) Is certified by the board.

19 (b) Has completed a nurse midwife education program approved or
20 recognized by the board and educational requirements prescribed by the
21 board by rule.

22 (c) Holds a national certification as a certified nurse midwife
23 from a national certifying body recognized by the board.

24 (d) Has an expanded scope of practice in ~~the provision of~~ PROVIDING
25 health care services for women from adolescence to beyond menopause,
26 including antepartum, intrapartum, postpartum, reproductive, gynecologic
27 and primary care, for normal newborns during the first twenty-eight days
28 of life and for men for the treatment of sexually transmitted diseases.
29 The expanded scope of practice under this subdivision includes:

30 (i) Assessing patients, synthesizing and analyzing data and
31 understanding and applying principles of health care at an advanced level.

32 (ii) Managing the physical and psychosocial health care of
33 patients.

34 (iii) Analyzing multiple sources of data, identifying alternative
35 possibilities as to the nature of a health care problem and selecting,
36 implementing and evaluating appropriate treatment.

37 (iv) Making independent decisions in solving complex patient care
38 problems.

39 (v) Diagnosing, performing diagnostic and therapeutic procedures
40 and prescribing, administering and dispensing therapeutic measures,
41 including legend drugs, medical devices and controlled substances, within
42 the scope of the certified nurse midwife practice after meeting
43 requirements established by the board.

6 (vii) Delegating to a medical assistant pursuant to section
7 32-1456.

8 (viii) Performing additional acts that require education and
9 training as prescribed by the board and that are recognized by the nursing
10 profession as proper to be performed by a certified nurse midwife.

11 6. "Certified nursing assistant" means a person who is registered
12 on the registry of nursing assistants pursuant to this chapter to provide
13 or assist in ~~the delivery of~~ DELIVERING nursing or nursing-related
14 services under the supervision and direction of a licensed nursing staff
15 member. Certified nursing assistant does not include a person who:

16 (a) Is a licensed health care professional.

17 (b) Volunteers to provide nursing assistant services without
18 monetary compensation.

19 (c) Is a licensed nursing assistant.

20 7. "Certified registered nurse" means a registered nurse who has
21 been certified by a national nursing credentialing agency recognized by
22 the board.

23 8. "Certified registered nurse anesthetist" means a registered
24 nurse who meets the requirements of section 32-1634.03 and who practices
25 pursuant to the requirements of section 32-1634.04.

26 9. "Clinical nurse specialist" means a registered nurse who:

27 (a) Is certified by the board as a clinical nurse specialist.

(b) Holds a graduate degree with a major in nursing and completes educational requirements as prescribed by the board by rule.

30 (c) Is nationally certified as a clinical nurse specialist or, if
31 certification is not available, provides proof of competence to the board.

32 (d) Has an expanded scope of practice based on advanced education
33 in a clinical nursing specialty that includes:

34 (i) Assessing clients, synthesizing and analyzing data and
35 understanding and applying nursing principles at an advanced level.

36 (ii) Managing directly and indirectly a client's physical and
37 psychosocial health status.

(iii) Analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem and selecting appropriate nursing interventions.

41 (iv) Developing, planning and guiding programs of care for
42 populations of patients

43 (v) Making independent nursing decisions to solve complex client
44 care problems

(vi) Using research skills and acquiring and applying critical new knowledge and technologies to nursing practice.

(vii) Prescribing and dispensing durable medical equipment.

(viii) Consulting with or referring a client to other health care providers based on assessment of the client's health status and needs.

(ix) Facilitating collaboration with other disciplines to attain the desired client outcome across the continuum of care.

(x) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a clinical nurse specialist.

(xi) Prescribing, ordering and dispensing pharmacological agents subject to the requirements and limits specified in section 32-1651.

10. "Conditional license" or "conditional approval" means a license or approval that specifies the conditions under which the regulated party is allowed to practice or to operate and that is prescribed by the board pursuant to section 32-1644 or 32-1663.

11. "Delegation" means transferring to a competent individual the authority to perform a selected nursing task in a designated situation in which the nurse making the delegation retains accountability for the delegation.

12. "Disciplinary action" means a regulatory sanction of a license, certificate or approval pursuant to this chapter in any combination of the following:

(a) A civil penalty for each violation of this chapter, not to exceed \$1,000 for each violation.

(b) Restitution made to an aggrieved party.

(c) A decree of censure.

(d) A conditional license or a conditional approval that fixed a date and terms of probation.

(e) Limited licensure.

(f) Suspension of a license, a certificate or an approval.

(g) Voluntary surrender of a license, a certificate or an approval.

(h) Revocation of a license, a certificate or an approval.

13. "Health care institution" has the same meaning prescribed in section 36-401.

14. "LICENSED HEALTH AIDE" MEANS A PERSON WHO:

(a) IS LICENSED PURSUANT TO THIS CHAPTER TO PROVIDE OR TO ASSIST IN PROVIDING NURSING-RELATED SERVICES AUTHORIZED PURSUANT TO SECTION 36-2939.

(b) IS THE PARENT, GUARDIAN OR FAMILY MEMBER OF THE ARIZONA LONG-TERM CARE SYSTEM MEMBER RECEIVING SERVICES WHO MAY PROVIDE LICENSED HEALTH AIDE SERVICES ONLY TO THAT MEMBER AND ONLY CONSISTENT WITH THAT MEMBER'S PLAN OF CARE.

(c) HAS A SCOPE OF PRACTICE THAT IS THE SAME AS A LICENSED NURSING ASSISTANT AND MAY ALSO PROVIDE MEDICATION ADMINISTRATION, TRACHEOSTOMY CARE AND ENTERAL CARE AND THERAPY AND ANY OTHER TASKS APPROVED BY THE BOARD IN RULE.

14. 15. "Licensed nursing assistant" means a person who is licensed pursuant to this chapter to provide or assist in ~~the delivery of~~ **DELIVERING** nursing or nursing-related services under the supervision and direction of a licensed nursing staff member. Licensed nursing assistant does not include a person who:

(a) Is a licensed health care professional.

(b) Volunteers to provide nursing assistant services without monetary compensation.

(c) Is a certified nursing assistant.

15. 16. "Licensee" means a person who is licensed pursuant to this chapter or in a party state as defined in section 32-1668.

16. 17. "Limited license" means a license that restricts the scope or setting of a licensee's practice.

17. 18. "Medication order" means a written or verbal communication given by a certified registered nurse anesthetist to a health care professional to administer a drug or medication, including controlled substances.

18. 19. "Practical nurse" means a person who holds a practical nurse license issued pursuant to this chapter or pursuant to a multistate compact privilege and who practices practical nursing as defined in this section.

19. 20. "Practical nursing" includes the following activities that are performed under the supervision of a physician or a registered nurse:

(a) Contributing to the assessment of the health status of individuals and groups.

(b) Participating in the development and modification of the strategy of care.

(c) Implementing aspects of the strategy of care within the nurse's scope of practice.

(d) Maintaining safe and effective nursing care that is rendered directly or indirectly.

(e) Participating in the evaluation of responses to interventions.

(f) Delegating nursing activities within the scope of practice of a practical nurse.

(g) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a practical nurse.

~~20.~~ 21. "Presence" means within the same health care institution or office as specified in section 32-1634.04, subsection A, and available as necessary.

1 **21.** **22.** "Registered nurse" or "professional nurse" means a person
2 who practices registered nursing and who holds a registered nurse license
3 issued pursuant to this chapter or pursuant to a multistate compact
4 privilege.

5 **22.** **23.** "Registered nurse practitioner" means a registered nurse
6 who:

7 (a) Is certified by the board.

8 (b) Has completed a nurse practitioner education program approved
9 or recognized by the board and educational requirements prescribed by the
10 board by rule.

11 (c) If applying for certification after July 1, 2004, holds
12 national certification as a nurse practitioner from a national certifying
13 body recognized by the board.

14 (d) Has an expanded scope of practice within a specialty area that
15 includes:

16 (i) Assessing clients, synthesizing and analyzing data and
17 understanding and applying principles of health care at an advanced level.

18 (ii) Managing the physical and psychosocial health status of
19 patients.

20 (iii) Analyzing multiple sources of data, identifying alternative
21 possibilities as to the nature of a health care problem and selecting,
22 implementing and evaluating appropriate treatment.

23 (iv) Making independent decisions in solving complex patient care
24 problems.

25 (v) Diagnosing, performing diagnostic and therapeutic procedures,
26 and prescribing, administering and dispensing therapeutic measures,
27 including legend drugs, medical devices and controlled substances within
28 the scope of registered nurse practitioner practice on meeting the
29 requirements established by the board.

30 (vi) Recognizing the limits of the nurse's knowledge and experience
31 by consulting with or referring patients to other appropriate health care
32 professionals if a situation or condition occurs that is beyond the
33 knowledge and experience of the nurse or if the referral will protect the
34 health and welfare of the patient.

35 (vii) Delegating to a medical assistant pursuant to section
36 32-1456.

37 (viii) Performing additional acts that require education and
38 training as prescribed by the board and that are recognized by the nursing
39 profession as proper to be performed by a nurse practitioner.

40 **23.** **24.** "Registered nursing" includes the following:

41 (a) Diagnosing and treating human responses to actual or potential
42 health problems.

43 (b) Assisting individuals and groups to maintain or attain optimal
44 health by implementing a strategy of care to accomplish defined goals and
45 evaluating responses to care and treatment.

(c) Assessing the health status of individuals and groups.
(d) Establishing a nursing diagnosis.
(e) Establishing goals to meet identified health care needs.
(f) Prescribing nursing interventions to implement a strategy of care.
(g) Delegating nursing interventions to others who are qualified to do so.
(h) Providing for the maintenance of safe and effective nursing care that is rendered directly or indirectly.
(i) Evaluating responses to interventions.
(j) Teaching nursing knowledge and skills.
(k) Managing and supervising the practice of nursing.
(l) Consulting and coordinating with other health care professionals in the management of health care.
(m) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a registered nurse.

24. 25. "Registry of nursing assistants" means the nursing assistants registry maintained by the board pursuant to the omnibus budget reconciliation act of 1987 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic coverage act of 1988 (P.L. 100-360; 102 Stat. 683).

25. 26. "Regulated party" means any person or entity that is licensed, certified, registered, recognized or approved pursuant to this chapter.

26. 27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) Committing fraud or deceit in obtaining, attempting to obtain or renewing a license or a certificate issued pursuant to this chapter.
(b) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
(c) Aiding or abetting in a criminal abortion or attempting, agreeing or offering to procure or assist in a criminal abortion.
(d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.
(e) Being mentally incompetent or physically unsafe to a degree that is or might be harmful or dangerous to the health of a patient or the public.
(f) Having a license, certificate, permit or registration to practice a health care profession denied, suspended, conditioned, limited or revoked in another jurisdiction and not reinstated by that jurisdiction.

(g) Wilfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter.

(h) Committing an act that deceives, defrauds or harms the public.

(i) Failing to comply with a stipulated agreement, consent agreement or board order.

(j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter.

(k) Failing to report to the board any evidence that a registered or practical nurse or a nursing assistant is or may be:

(i) Incompetent to practice.

(ii) Guilty of unprofessional conduct.

(iii) Mentally or physically unable to safely practice nursing or to perform nursing-related duties. A nurse who is providing therapeutic counseling for a nurse who is in a drug rehabilitation program is required to report that nurse only if the nurse providing therapeutic counseling has personal knowledge that patient safety is being jeopardized.

(1) Failing to self-report a conviction for a felony or undesignated offense within ten days after the conviction.

(m) Cheating or assisting another to cheat on a licensure or certification examination.

Sec. 2. Section 32-1643, Arizona Revised Statutes, is amended to read:

32-1643. Fees; penalties

A. The board by formal vote at its annual meeting shall establish fees not to exceed the following amounts:

1. Initial application for certification for certified registered nurse anesthetist, registered nurse practitioner and clinical nurse specialist in specialty areas, ~~one hundred fifty dollars~~ \$150.

2. Initial application for school nurse certification, ~~seventy-five dollars~~ \$75.

3. Initial application for license as a registered nurse, ~~one hundred fifty dollars~~ \$150.

4. Initial application for license as a practical nurse, ~~one hundred fifty dollars~~ \$150.

5. Application for reissuance of a registered or practical nursing license. ~~one hundred fifty dollars~~ \$150.

6. Application for renewal of a registered nurse or a practical nurse license before expiration. ~~one hundred sixty dollars~~ \$160.

7. Application for renewal of license after expiration, ~~one hundred sixty dollars~~ \$160, plus a late fee of ~~fifty dollars~~ \$50 for each month ~~—~~ THE license is lapsed, but not to exceed a total of ~~two hundred dollars~~ \$200.

8. Application for renewal of a school nurse certificate, **fifty dollars** \$50.

- 1 9. Application for temporary registered nurse, practical nurse or
2 licensed nursing assistant license, ~~fifty dollars~~ \$50.
- 3 10. Retaking the registered nurse or practical nurse examination,
4 ~~one hundred dollars~~ \$100.
- 5 11. Issuing a license to an applicant to become a licensed nursing
6 assistant OR LICENSED HEALTH AIDE, ~~fifty dollars~~ \$50.
- 7 12. Issuing a license to a licensed nursing assistant OR LICENSED
8 HEALTH AIDE applicant for renewal, ~~fifty dollars~~ \$50.
- 9 13. Application for renewal of a licensed nursing assistant OR
10 LICENSED HEALTH AIDE license after its expiration, ~~twenty-five dollars~~ \$25
11 for each year it is expired, not to exceed a total of ~~one hundred dollars~~
12 \$100.
- 13 14. Issuing a duplicate license or certificate, ~~twenty-five dollars~~
14 \$25.
- 15 15. Copying a nursing program transcript, ~~twenty-five dollars~~ \$25.
- 16 16. Verification to another state or country of licensure for
17 endorsement, certification for advanced practice or licensed nursing
18 assistant licensure, ~~fifty dollars~~ \$50.
- 19 17. Providing verification to an applicant for licensure or for
20 licensed nursing assistant licensure by endorsement, ~~fifty dollars~~ \$50.
- 21 18. Application to prescribe and dispense medication and
22 application to prescribe medication, ~~one hundred fifty dollars~~ \$150.
- 23 19. Application for renewal of prescribing and dispensing
24 medication privileges before expiration and application for renewal of
25 prescribing medication privileges before expiration, ~~twenty dollars~~ \$20.
- 26 20. Application for renewal of prescribing and dispensing
27 medication privileges after expiration and application for renewal of
28 prescribing medication privileges after expiration, ~~thirty-five dollars~~
29 \$35.
- 30 21. Issuing an inactive license, ~~fifty dollars~~ \$50.
- 31 22. Writing the national council licensing examination for the
32 first time, ~~one hundred fifty dollars~~ \$150.
- 33 23. Sale of publications prepared by the board, ~~fifty dollars~~ \$50.
- 34 24. Providing notary services, ~~two dollars~~ \$2, or as allowed under
35 section 41-316.
- 36 25. Copying records, documents, letters, minutes, applications and
37 files, ~~fifty cents~~ \$.50 a page.
- 38 26. Processing fingerprint cards, ~~fifty dollars~~ \$50.
- 39 27. Registration for board seminars, ~~one hundred dollars~~ \$100.
- 40 28. Failing to notify the board of a change of address pursuant to
41 section 32-1609, ~~twenty-five dollars~~ \$25.
- 42 B. The board may collect from the drawer of a dishonored check,
43 draft order or note an amount allowed pursuant to section 44-6852.

1 Sec. 3. Section 32-1645, Arizona Revised Statutes, is amended to
2 read:

32-1645. Licensed nursing assistants; certified nursing assistants; licensed health aides; qualifications

5 A. A person who wishes to practice as a licensed nursing assistant
6 shall file a verified application on a form prescribed by the board and
7 accompanied by the fee required pursuant to section 32-1643. The
8 applicant shall also submit a verified statement that indicates whether
9 the applicant has been convicted of a felony and, if convicted of one or
10 more felonies, indicates the date of absolute discharge from the sentences
11 for all felony convictions. The applicant shall also submit proof
12 satisfactory to the board that the applicant ~~has~~ MEETS ALL OF THE
13 FOLLOWING:

14 1. Satisfactorily completed the basic curriculum of a program
15 approved by the board.

16 2. Received a valid certificate from a training program approved by
17 the board.

18 3. Satisfactorily completed a competency examination pursuant to
19 section 32-1647.

20 B. A person who wishes to practice as a certified nursing assistant
21 shall file a verified form prescribed by the board and authorized by the
22 omnibus budget reconciliation act of 1987 (P.L. 100-123; 101 Stat. 1330),
23 as amended by the medicare catastrophic coverage act of 1988 (P.L.
24 100-360; 102 Stat. 683). The applicant shall also submit proof
25 satisfactory to the board that the applicant ~~has~~ MEETS ALL OF THE
26 FOLLOWING:

27 1. Satisfactorily completed the basic curriculum of a program
28 approved by the board.

29 2. Received a valid certificate from a training program approved by
30 the board.

31 3. Satisfactorily completed the nursing assistant competency
32 examinations pursuant to section 32-1647.

33 C. A PERSON WHO WISHES TO PRACTICE AS A LICENSED HEALTH AIDE SHALL
34 FILE A VERIFIED APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND
35 ACCOMPANIED BY THE FEE REQUIRED PURSUANT TO SECTION 32-1643. THE
36 APPLICANT SHALL ALSO SUBMIT PROOF SATISFACTORY TO THE BOARD THAT THE
37 APPLICANT MEETS ALL OF THE FOLLOWING:

38 1. IS A PARENT, GUARDIAN OR FAMILY MEMBER OF AN INDIVIDUAL WHO IS
39 UNDER TWENTY-ONE YEARS OF AGE AND WHO IS ELIGIBLE TO RECEIVE CONTINUOUS
40 SKILLED NURSING OR SKILLED NURSING RESPITE CARE SERVICES PURSUANT TO
41 SECTION 36-2939, SUBSECTION G.

42 2. SATISFACTORILY COMPLETED THE BASIC CURRICULUM OF AND RECEIVED A
43 VALID CERTIFICATE FROM A TRAINING PROGRAM APPROVED BY THE BOARD THAT
44 INCLUDES MEDICATION ADMINISTRATION, TRACHEOSTOMY CARE, ENTERAL CARE AND

1 THERAPY FOR PERSONS UNDER TWENTY-ONE YEARS OF AGE, AND ANY OTHER TASKS
2 APPROVED BY THE BOARD.

3 3. SATISFACTORILY COMPLETED A COMPETENCY EXAMINATION APPROVED BY
4 THE BOARD.

5 Sec. 4. Section 36-2939, Arizona Revised Statutes, is amended to
6 read:

7 36-2939. Long-term care system services

8 A. The following services shall be provided by the program
9 contractors to members who are determined to need institutional services
10 pursuant to this article:

11 1. Nursing facility services other than services in an institution
12 for tuberculosis or mental disease.

13 2. Notwithstanding any other law, behavioral health services if
14 these services are not duplicative of long-term care services provided as
15 of January 30, 1993 under this subsection and are authorized by the
16 program contractor through the long-term care case management system. If
17 the administration is the program contractor, the administration may
18 authorize these services.

19 3. Hospice services. For the purposes of this paragraph, "hospice"
20 means a program of palliative and supportive care for terminally ill
21 members and their families or caregivers.

22 4. Case management services as provided in section 36-2938.

23 5. Health and medical services as provided in section 36-2907.

24 6. Dental services as follows:

25 (a) Except as provided in subdivision (b) of this paragraph, in an
26 annual amount of not more than \$1,000 per member.

27 (b) Subject to approval by the centers for medicare and medicaid
28 services, for persons treated at an Indian health service or tribal
29 facility, adult dental services that are eligible for a federal medical
30 assistance percentage of one hundred percent and that are in excess of the
31 limit prescribed in subdivision (a) of this paragraph.

32 B. In addition to the services prescribed in subsection A of this
33 section, the department, as a program contractor, shall provide the
34 following services if appropriate to members who have a developmental
35 disability as defined in section 36-551 and who are determined to need
36 institutional services pursuant to this article:

37 1. Intermediate care facility services for a member who has a
38 developmental disability as defined in section 36-551. For purposes of
39 this article, a facility shall meet all federally approved standards and
40 may only include the Arizona training program facilities, a state owned
41 and operated service center, state owned or operated community residential
42 settings and private facilities that contract with the department.

43 2. Home and community based services that may be provided in a
44 member's home, at an alternative residential setting as prescribed in
45 section 36-591 or at other behavioral health alternative residential

1 facilities licensed by the department of health services and approved by
2 the director of the Arizona health care cost containment system
3 administration and that may include:

4 (a) Home health, which means the provision of nursing services,
5 ~~skilled home~~ LICENSED health aide services, home health aide services or
6 medical supplies, equipment and appliances, that are provided on a
7 part-time or intermittent basis by a licensed home health agency within a
8 member's residence based on a physician's orders and in accordance with
9 federal law. Physical therapy, occupational therapy, or speech and
10 audiology services provided by a home health agency may be provided in
11 accordance with federal law. Home health agencies shall comply with
12 federal bonding requirements in a manner prescribed by the administration.

13 (b) ~~Skilled home~~ LICENSED health aide SERVICES, which means a home
14 health AGENCY service PROVIDED PURSUANT TO SUBSECTION G OF THIS SECTION
15 THAT IS ordered by a physician on the member's plan of care and provided
16 by a licensed ~~nursing assistant under the supervision of a registered~~
17 ~~nurse pursuant to subsection G of this section~~ HEALTH AIDE WHO IS LICENSED
18 PURSUANT TO TITLE 32, CHAPTER 15.

19 (c) Home health aide, which means a service that provides
20 intermittent health maintenance, continued treatment or monitoring of a
21 health condition and supportive care for activities of daily living
22 provided within a member's residence.

23 (d) Homemaker, which means a service that provides assistance in
24 the performance of activities related to household maintenance within a
25 member's residence.

26 (e) Personal care, which means a service that provides assistance
27 to meet essential physical needs within a member's residence.

28 (f) Day care for persons with developmental disabilities, which
29 means a service that provides planned care supervision and activities,
30 personal care, activities of daily living skills training and habilitation
31 services in a group setting during a portion of a continuous
32 twenty-four-hour period.

33 (g) Habilitation, which means the provision of physical therapy,
34 occupational therapy, speech or audiology services or training in
35 independent living, special developmental skills, sensory-motor
36 development, behavior intervention, and orientation and mobility in
37 accordance with federal law.

38 (h) Respite care, which means a service that provides short-term
39 care and supervision available on a twenty-four-hour basis.

40 (i) Transportation, which means a service that provides or assists
41 in obtaining transportation for the member.

42 (j) Other services or licensed or certified settings approved by
43 the director.

1 C. In addition to services prescribed in subsection A of this
2 section, home and community based services may be provided in a member's
3 home, in an adult foster care home as prescribed in section 36-401, in an
4 assisted living home or assisted living center as defined in section
5 36-401 or in a level one or level two behavioral health alternative
6 residential facility approved by the director by program contractors to
7 all members who do not have a developmental disability as defined in
8 section 36-551 and are determined to need institutional services pursuant
9 to this article. Members residing in an assisted living center must be
10 provided the choice of single occupancy. The director may also approve
11 other licensed residential facilities as appropriate on a case-by-case
12 basis for traumatic brain injured members. Home and community based
13 services may include the following:

14 1. Home health, which means the provision of nursing services, home
15 health aide services or medical supplies, equipment and appliances, that
16 are provided on a part-time or intermittent basis by a licensed home
17 health agency within a member's residence based on a physician's orders
18 and in accordance with federal law. Physical therapy, occupational
19 therapy, or speech and audiology services provided by a home health agency
20 may be provided in accordance with federal law. Home health agencies
21 shall comply with federal bonding requirements in a manner prescribed by
22 the administration.

23 2. LICENSED HEALTH AIDE SERVICES, WHICH MEANS A HOME HEALTH AGENCY
24 SERVICE PROVIDED PURSUANT TO SUBSECTION G OF THIS SECTION THAT IS ORDERED
25 BY A PHYSICIAN ON THE MEMBER'S PLAN OF CARE AND PROVIDED BY A LICENSED
26 HEALTH AIDE WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15.

27 ~~2.~~ 3. Home health aide, which means a service that provides
28 intermittent health maintenance, continued treatment or monitoring of a
29 health condition and supportive care for activities of daily living
30 provided within a member's residence.

31 ~~3.~~ 4. Homemaker, which means a service that provides assistance in
32 the performance of activities related to household maintenance within a
33 member's residence.

34 ~~4.~~ 5. Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

35 ~~5.~~ 6. Adult day health, which means a service that provides
36 planned care supervision and activities, personal care, personal living
37 skills training, meals and health monitoring in a group setting during a
38 portion of a continuous twenty-four-hour period. Adult day health may
39 also include preventive, therapeutic and restorative health related
40 services that do not include behavioral health services.

41 ~~6.~~ 7. Habilitation, which means the provision of physical therapy,
42 occupational therapy, speech or audiology services or training in
43 independent living, special developmental skills, sensory-motor

1 development, behavior intervention, and orientation and mobility in
2 accordance with federal law.

3 ~~7.~~ 8. Respite care, which means a service that provides short-term
4 care and supervision available on a twenty-four-hour basis.

5 ~~8.~~ 9. Transportation, which means a service that provides or
6 assists in obtaining transportation for the member.

7 ~~9.~~ 10. Home delivered meals, which means a service that provides
8 for a nutritious meal that contains at least one-third of the recommended
9 dietary allowance for an individual and that is delivered to the member's
10 residence.

11 ~~10.~~ 11. Other services or licensed or certified settings approved
12 by the director.

13 D. The amount of monies expended by program contractors on home and
14 community based services pursuant to subsection C of this section shall be
15 limited by the director in accordance with the federal monies made
16 available to this state for home and community based services pursuant to
17 subsection C of this section. The director shall establish methods for
18 allocating monies for home and community based services to program
19 contractors and shall monitor expenditures on home and community based
20 services by program contractors.

21 E. Notwithstanding subsections A, B, C, F and G of this section, a
22 service may not be provided that does not qualify for federal monies
23 available under title XIX of the social security act or the section 1115
24 waiver.

25 F. In addition to services provided pursuant to subsections A, B
26 and C of this section, the director may implement a demonstration project
27 to provide home and community based services to special populations,
28 including persons with disabilities who are eighteen years of age or
29 younger, are medically fragile, reside at home and would be eligible for
30 supplemental security income for the aged, blind or disabled or the state
31 supplemental payment program, except for the amount of their parent's
32 income or resources. In implementing this project, the director may
33 provide for parental contributions for the care of their child.

34 G. ~~In addition to~~ CONSISTENT WITH THE services provided pursuant
35 to subsections A, B, C and F of this section AND SUBJECT TO APPROVAL BY
36 THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, the director shall
37 implement a program under which ~~skilled home~~ LICENSED health aide services
38 may be provided to members ~~who have developmental disabilities~~, who are
39 under ~~eighteen~~ TWENTY-ONE years of age, ~~and~~ who are eligible ~~to receive~~
40 ~~continuous skilled nursing or skilled nursing respite care services~~
41 pursuant to SECTION 36-2934, INCLUDING MEMBERS WITH DEVELOPMENTAL
42 DISABILITIES AS DEFINED IN chapter 5.1, article 1 of this title, AND WHO
43 REQUIRE CONTINUOUS SKILLED NURSING OR SKILLED NURSING RESPITE CARE
44 SERVICES. THE LICENSED HEALTH AIDE SERVICES MAY BE PROVIDED ONLY by a
45 parent, guardian or family member who is a licensed ~~nursing assistant~~

1 **HEALTH AIDE** employed by a medicare-certified home health agency service
2 provider. **NOT LATER THAN SIXTY DAYS AFTER THE APPROVAL OF THE RULES**
3 **IMPLEMENTING SECTION 32-1645, SUBSECTION C**, the director shall request any
4 necessary approvals from the centers for medicare and medicaid services to
5 implement this subsection and to qualify for federal monies available
6 under title XIX of the social security act or the section 1115 waiver.
7 **THE REIMBURSEMENT RATE FOR SERVICES PROVIDED UNDER THIS SUBSECTION SHALL**
8 **REFLECT THE SPECIAL SKILLS NEEDED TO MEET THE HEALTH CARE NEEDS OF THESE**
9 **MEMBERS AND SHALL EXCEED THE REIMBURSEMENT RATE FOR HOME HEALTH AIDE**
10 **SERVICES.**

11 H. Subject to section 36-562, the administration by rule shall
12 prescribe a deductible schedule for programs provided to members who are
13 eligible pursuant to subsection B of this section, except that the
14 administration shall implement a deductible based on family income. In
15 determining deductible amounts and whether a family is required to have
16 deductibles, the department shall use adjusted gross income. Families
17 whose adjusted gross income is at least four hundred percent and less than
18 or equal to five hundred percent of the federal poverty guidelines shall
19 have a deductible of two percent of adjusted gross income. Families whose
20 adjusted gross income is more than five hundred percent of adjusted gross
21 income shall have a deductible of four percent of adjusted gross income.
22 Only families whose children are under eighteen years of age and who are
23 members who are eligible pursuant to subsection B of this section may be
24 required to have a deductible for services. For the purposes of this
25 subsection, "deductible" means an amount a family, whose children are
26 under eighteen years of age and who are members who are eligible pursuant
27 to subsection B of this section, pays for services, other than
28 departmental case management and acute care services, before the
29 department will pay for services other than departmental case management
30 and acute care services.

31 Sec. 5. Exemption from rulemaking

32 Notwithstanding any other law, for the purposes of this act, the
33 Arizona state board of nursing is exempt from the rulemaking requirements
34 of title 41, chapter 6, Arizona Revised Statutes, for one year after the
35 effective date of this act.