

COMMITTEE ON HEALTH AND HUMAN SERVICES
SENATE AMENDMENTS TO H.B. 2764
(Reference to House engrossed bill)

- 1 Page 2, line 12, after the period insert "THE DEPARTMENT MAY NOT CHARGE A FEE
2 PURSUANT TO THIS SUBSECTION FOR A COMPLAINT OR COMPLIANCE-RELATED SURVEY OR
3 INSPECTION IF A HEALTH CARE INSTITUTION IS IN SUBSTANTIAL COMPLIANCE."
4 Line 28, strike "required licensure" insert "standards"
5 Line 29, strike "fees; advertisement;"
6 Line 31, strike "LICENSURE SUBCLASS,"
7 Strike line 32, insert "STANDARDS FOR MEMORY CARE SERVICES FOR ASSISTED LIVING
8 FACILITIES THAT ARE LICENSED TO PROVIDE"
9 Line 33, strike "MEMORY" insert "DIRECTED"
10 Strike lines 34 through 36
11 Reletter to conform
12 Line 39, strike "MEMORY" insert "DIRECTED"
13 Page 3, lines 3 and 5, strike "MEMORY" insert "DIRECTED"
14 Line 6, strike "REPEAT" insert "COMPLETE"
15 Line 7, after "TRAINING" insert "WITHIN THIRTY DAYS AFTER THE DATE OF HIRE,
16 REHIRE OR RETURNING TO WORK"
17 Line 8, strike "MEMORY" insert "DIRECTED"
18 Line 11, strike "C" insert "B"
19 Between lines 18 and 19, insert:
20 Sec. 3. Section 36-411, Arizona Revised Statutes, is amended to
21 read:
22 36-411. Residential care institutions; nursing care
23 institutions; home health agencies; fingerprinting
24 requirements; exemptions; definitions

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

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

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

24 1. Contact previous employers to obtain information or
25 recommendations that may be relevant to a person's fitness to work in a
26 residential care institution, nursing care institution or home health
27 agency.

28 2. Verify the current status of a person's fingerprint clearance
29 card.

30 3. BEGINNING JANUARY 1, 2025, VERIFY THAT AN EMPLOYEE OR POTENTIAL
31 EMPLOYEE IS NOT ON THE ADULT PROTECTIVE SERVICES REGISTRY PURSUANT TO
32 SECTION 46-459. IF AN EMPLOYEE IS FOUND TO BE ON THE ADULT PROTECTIVE

1 SERVICES REGISTRY, THE OWNER SHALL TAKE ACTION TO TERMINATE THE EMPLOYMENT
2 OF THAT EMPLOYEE. IF A POTENTIAL EMPLOYEE IS FOUND TO BE ON THE ADULT
3 PROTECTIVE SERVICES REGISTRY, THE OWNER MAY NOT HIRE THE POTENTIAL
4 EMPLOYEE.

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

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

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

30 G. If a person's employment record contains a six-month or longer
31 time frame during which the person was not employed by any employer, a

1 completed application with a new set of fingerprints shall be submitted to
2 the department of public safety.

3 H. For the purposes of this section:

4 1. "Direct supportive services":

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

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

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

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

13 (iv) Transportation services, including van services.

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

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

20 3. "Home health services" has the same meaning prescribed in section
21 36-151.

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

24 36-420.05. Legal action or sale; effect on licensure

25 A. THE DIRECTOR MAY CONTINUE TO PURSUE ANY COURT, ADMINISTRATIVE OR
26 ENFORCEMENT ACTION AGAINST A LICENSEE EVEN IF THE HEALTH CARE INSTITUTION
27 IS IN THE PROCESS OF BEING SOLD OR TRANSFERRED OR HAS CLOSED.

1 B. IF THE DEPARTMENT DETERMINES PATIENT SAFETY MAY BE IN JEOPARDY
2 DUE TO THE ACTIONS OF A LICENSEE, THE DEPARTMENT MAY DENY A NEW APPLICATION
3 FOR LICENSURE OF A CURRENTLY LICENSED HEALTH CARE INSTITUTION WHILE ANY
4 ENFORCEMENT OR COURT ACTION RELATED TO THE LICENSURE OR OPERATION OF THE
5 HEALTH CARE INSTITUTION IS PENDING AGAINST THAT HEALTH CARE INSTITUTION'S
6 CURRENT LICENSEE.

7 C. THE DEPARTMENT MAY DENY THE APPROVAL OF A CHANGE IN OWNERSHIP OF
8 A CURRENTLY LICENSED HEALTH CARE INSTITUTION IF THE DEPARTMENT DETERMINES
9 THAT THE TRANSFER OF OWNERSHIP, WHETHER INVOLVING A DIRECT OWNER OR
10 INDIRECT OWNER, MAY JEOPARDIZE PATIENT SAFETY."

11 Renumber to conform

12 Page 7, between lines 40 and 41, insert:

13 "12. WHETHER THE HEALTH CARE INSTITUTION AND STAFF ARE IN COMPLIANCE
14 WITH THE REPORTING REQUIREMENTS PURSUANT TO SECTION 46-454."

15 Page 8, strike lines 21 through 37

16 Renumber to conform

17 Line 44, strike "~~eleven~~ THIRTEEN" insert "eleven"

18 Page 9, lines 3 and 5, after "article" insert "OR WHO IS RETIRED"

19 Lines 7 and 8, after "facility" insert "WHO EITHER HOLDS AN ACTIVE LICENSE
20 ISSUED PURSUANT TO THIS ARTICLE OR WHO IS RETIRED"

21 Line 10, after "~~36-401~~" insert "WHO EITHER HOLD AN ACTIVE LICENSE ISSUED
22 PURSUANT TO THIS ARTICLE OR WHO ARE RETIRED"

23 Line 12, after "~~36-401~~" insert "WHO EITHER HOLDS AN ACTIVE LICENSE ISSUED
24 PURSUANT TO THIS ARTICLE OR WHO IS RETIRED"

25 Line 17, after the second "a" insert "CURRENT OR FORMER"

26 Strike lines 25 through 28, insert:

27 "C. THE BOARD MAY NOT HAVE MORE THAN THREE BOARD MEMBERS WHO ARE
28 APPOINTED PURSUANT TO SUBSECTION B, PARAGRAPHS 1 THROUGH 5 OF THIS SECTION
29 AND WHO ARE RETIRED. EACH BOARD MEMBER SPECIFIED IN SUBSECTION B,
30 PARAGRAPHS 1 THROUGH 5 OF THIS SECTION WHO IS RETIRED MUST HAVE HAD AN
31 ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE WITHIN THE PREVIOUS TWO
32 YEARS AT THE TIME OF APPOINTMENT TO THE BOARD AND MAY NOT HAVE HAD ANY

1 DISCIPLINARY ACTION TAKEN AGAINST THE PERSON'S LICENSE OR HAD A LICENSE
2 ISSUED PURSUANT TO THIS ARTICLE REVOKED."

3 Reletter to conform

4 Page 10, between lines 9 and 10, insert:

5 "Sec. 10. Section 46-452, Arizona Revised Statutes, is amended to
6 read:

7 46-452. Protective services workers; powers and duties;
8 immunity; communications; access to records

9 A. ~~A~~ EACH protective services worker shall:

10 1. Receive reports of abused, exploited or neglected vulnerable
11 adults.

12 2. Receive from any source oral or written information regarding an
13 adult who may be in need of protective services.

14 3. On receipt of such information make an evaluation to determine if
15 the adult is in need of protective services and what services, if any, are
16 needed.

17 4. Offer an adult in need of protective services or ~~his~~ THE ADULT'S
18 guardian whatever services appear appropriate in view of the evaluation.

19 5. File petitions as necessary for the appointment of a guardian or
20 conservator or the appointment of a temporary guardian or temporary
21 conservator or make application for a special visitation warrant as
22 provided for in title 14, chapter 5.

23 6. FILE FOR AN ORDER OF PROTECTION PURSUANT TO SECTION 13-3602 OR AN
24 INJUNCTION AGAINST HARASSMENT PURSUANT TO SECTION 12-1809 AS A THIRD PARTY
25 ON BEHALF OF THE VULNERABLE ADULT TO PREVENT AN ALLEGED PERPETRATOR FROM
26 HAVING ACCESS TO THE VULNERABLE ADULT.

27 B. The department or a protective services worker employed by the
28 department may not be appointed as guardian, conservator or temporary
29 guardian.

30 C. An adult protective services worker is immune from civil
31 liability for applying for a special visitation warrant or for filing a

1 petition for guardianship or conservatorship unless the application or
2 filing is done in bad faith.

3 D. For the purposes of this chapter, communications concerning a
4 person who is incarcerated in any jail, prison, detention center or
5 correctional facility or concerning a patient in the Arizona state hospital
6 are not reports that require evaluation by a protective services worker.

7 E. THE DEPARTMENT OR A PROTECTIVE SERVICES WORKER, IN PERFORMING
8 OFFICIAL DUTIES, MAY ACCESS LAW ENFORCEMENT RECORDS RELATED TO AN ADULT
9 PROTECTIVE SERVICES CASE. A LAW ENFORCEMENT ENTITY SHALL FURNISH RELEVANT
10 RECORDS TO ADULT PROTECTIVE SERVICES ON REQUEST.

11 Sec. 11. Section 46-454, Arizona Revised Statutes, is amended to
12 read:

13 46-454. Duty to report abuse, neglect and exploitation of
14 vulnerable adults; duty to make medical records
15 available; violation; classification

16 A. A health professional, emergency medical technician, home health
17 provider, hospital intern or resident, speech, physical or occupational
18 therapist, long-term care provider, social worker, peace officer, medical
19 examiner, guardian, conservator, fire protection personnel, developmental
20 disabilities provider, employee of the department of economic security or
21 other person who has responsibility for the care of a vulnerable adult and
22 who has a reasonable basis to believe that abuse, neglect or exploitation
23 of the VULNERABLE adult has occurred shall immediately report or cause
24 reports to be made of such reasonable basis to a peace officer or to the
25 adult protective services central intake unit. The guardian or conservator
26 of a vulnerable adult shall immediately report or cause reports to be made
27 of such reasonable basis to the superior court and the adult protective
28 services central intake unit. ~~All of~~ The ~~above~~ reports REQUIRED BY THIS
29 SUBSECTION shall be made immediately by telephone or online.

30 B. If an individual listed in subsection A of this section is an
31 employee or agent of a health care institution as defined in section 36-401
32 and the health care institution's procedures require that all suspected

1 abuse, neglect and exploitation be reported to adult protective services as
2 required by law, the individual is deemed to have complied with the
3 requirements of subsection A of this section by reporting or causing a
4 report to be made to the health care institution in accordance with the
5 health care institution's procedures.

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

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

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

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

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

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

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

30 F. A person having custody or control of medical or financial
31 records of a vulnerable adult for whom a report is required or authorized
32 under this section shall make those records, or a copy of those records,

1 available to a peace officer or adult protective services worker
2 investigating the vulnerable adult's abuse, neglect or exploitation on
3 written request for the records signed by the peace officer or adult
4 protective services worker. Records disclosed pursuant to this subsection
5 are confidential and may be used only in a judicial or administrative
6 proceeding or investigation resulting from a report required or authorized
7 under this section.

8 G. If reports pursuant to this section are received by a peace
9 officer, the peace officer shall notify the adult protective services
10 central intake unit as soon as possible and make that information available
11 to them, INCLUDING ALL RELATED POLICE RECORDS. A PEACE OFFICER SHALL
12 PROVIDE THE INFORMATION TO ADULT PROTECTIVE SERVICES AS SOON AS POSSIBLE.

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

25 I. If psychiatric records are requested pursuant to subsection F of
26 this section, the custodian of the records shall notify the attending
27 psychiatrist, who may excise from the records, before they are made
28 available:

- 29 1. Personal information about individuals other than the patient.
- 30 2. Information regarding specific diagnosis or treatment of a
31 psychiatric condition, if the attending psychiatrist certifies in writing

1 that release of the information would be detrimental to the patient's
2 health or treatment.

3 J. If any portion of a psychiatric record is excised pursuant to
4 subsection I of this section, a court, on application of a peace officer or
5 adult protective services worker, may order that the entire record or any
6 portion of the record containing information relevant to the reported
7 abuse, neglect or exploitation be made available to the peace officer or
8 adult protective services worker investigating the abuse, neglect or
9 exploitation.

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

14 L. Retaliation against a person who in good faith reports abuse,
15 neglect or exploitation is prohibited. Retaliation against a vulnerable
16 adult who is the subject of a report is prohibited. Any adverse action
17 taken against a person who reports abuse, neglect or exploitation or a
18 vulnerable adult who is the subject of the report within ninety days after
19 the report is filed is presumed to be retaliation.

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

23 Sec. 12. Vulnerable adult system study committee; membership;
24 duties; report; delayed repeal

25 A. The vulnerable adult system study committee is established
26 consisting of the following members:

27 1. Two members of the house of representatives who are appointed by
28 the speaker of the house of representatives and who are members of
29 different political parties. The speaker of the house of representatives
30 shall designate one of these members to serve as cochairperson of the
31 committee.

1 2. Two members of the senate who are appointed by the president of
2 the senate and who are members of different political parties. The
3 president of the senate shall designate one of these members to serve as
4 cochairperson of the committee.

5 3. The director of the department of health services or the
6 director's designee.

7 4. The director of the department of economic security or the
8 director's designee.

9 5. The director of the Arizona health care cost containment system
10 or the director's designee.

11 6. One member who represents the governor's office and who is
12 appointed by the governor.

13 7. One member who represents the attorney general's office and who
14 is appointed by the attorney general.

15 8. One member who currently serves as the department of economic
16 security's long-term care ombudsman or the ombudsman's designee.

17 9. One member who currently serves as a public fiduciary and who is
18 appointed by the governor.

19 10. Two members who are employed by a local law enforcement agency
20 or who are employed by a statewide organization that represents law
21 enforcement and who are appointed by the governor.

22 11. The executive director of the Navajo area agency on aging or the
23 executive director's designee.

24 12. The executive director of the intertribal council of Arizona or
25 the executive director's designee.

26 13. One member who is currently employed at a licensed assisted
27 living facility and who is appointed by the speaker of the house of
28 representatives.

29 14. One member who is currently employed at a licensed nursing care
30 institution and who is appointed by the governor.

1 15. Two members who represent different statewide organizations that
2 advocate for elderly vulnerable adults and who are appointed by the
3 president of the senate.

4 16. One health care professional who is appointed by the speaker of
5 the house of representatives and who both:

6 (a) Is licensed pursuant to title 32, Arizona Revised Statutes.

7 (b) Provides health care services to elderly vulnerable adults.

8 B. The vulnerable adult system study committee shall:

9 1. Develop and implement a coordinated vulnerable adult delivery
10 system that ensures the health and safety of vulnerable adults.

11 2. Recommend best practices relating to responding and investigating
12 complaints.

13 3. Research best practices related to adult protective services at
14 the state, municipality and community levels.

15 4. Research and make recommendations on how the vulnerable adult
16 system can ensure that vulnerable adults receive services they require
17 after the vulnerable adult system completes its investigatory duties,
18 including assigning a specific agency the responsibility to provide or
19 coordinate case management.

20 5. Research and identify common, statewide outcomes.

21 6. Identify best practices for data collection and data sharing by
22 various entities involved in providing vulnerable adult services.

23 7. Review and recommend changes to the statutes and rules that
24 govern vulnerable adult services.

25 C. The cochairpersons may designate work groups to research, study
26 and make recommendations to the study committee.

27 D. Once a strategic direction is established, the department of
28 economic security, in conjunction with the work groups, shall develop an
29 action plan for implementation.

30 E. Public members are eligible to receive reimbursement of expenses
31 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

1 F. On or before October 1, 2025, the study committee shall submit a
2 report of its findings and recommendations to the governor, the president
3 of the senate and the speaker of the house of representatives and shall
4 provide a copy of this report to the secretary of state.

5 G. This section is repealed from and after December 31, 2025."

6 Renumber to conform

7 Amend title to conform

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