



ARIZONA HOUSE OF REPRESENTATIVES

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Second Regular Session

House: HHS DPA 8-0-1-1

HB 2653: long-term care; reporting; monitoring; injury

Sponsor: Representative Nguyen, LD 1

House Engrossed

Overview

Establishes requirements for electronic monitoring devices and incident reporting for assisted living facilities. Makes Arizona Department of Health Services (DHS) employee's mandatory reporters of abuse, neglect or exploitation of a vulnerable adult.

History

Long-Term Care Facilities

Residential care institutions are health care institutions other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care services, behavioral health services, directed care services or health-related services for persons who do not need continuous nursing services. *Assisted living facilities* are residential care institutions, including an adult foster care home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis. *Nursing care institutions* are health care institutions that provide inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician ([A.R.S. § 36-401](#)).

Adult Protective Services Registry

[Laws 2006, Chapter 211](#) created the Adult Protective Services (APS) registry. The law instructs the Arizona Department of Economic Security (DES) to maintain a registry of substantiated reports of abuse, neglect and exploitation of vulnerable adults. The APS registry contains the name and date of birth of the person determined to have abused, neglected or exploited a vulnerable adult, the nature of the allegation made and the date and description of the disposition of the allegation. The names of the vulnerable adult and reporting source cannot be reported to the registry. DES must maintain a report in the APS registry for 25 years after the date of the entry. A *vulnerable adult* is an individual who is 18 years of age or older and unable to protect themselves from abuse, neglect or exploitation by others because of a physical or mental impairment (A.R.S. §§ [46-451](#) and [46-459](#)).

Duty to Report Abuse, Neglect and Exploitation of Vulnerable Adults

The following individuals are required to immediately report or cause reports to be made to a peace officer or to the APS central intake unit if they have a reasonable basis to believe that abuse, neglect or exploitation is happening to a vulnerable adult: 1) health professionals; 2) emergency medical technicians; 3) home health providers; 4) hospital interns or residents; 5) speech, physical or occupational therapists; 6) long-term care provider; 7) social workers; 8) peace officers; 9) medical examiners; 10) guardians and conservators; 11) fire protection

personnel; 12) developmental disabilities providers; 13) DES employees; and 14) other persons who are responsible for the care of the vulnerable adult ([A.R.S. § 46-454](#))

Provisions

Registry Checks

1. Requires, beginning January 1, 2025, an owner of a residential care institution, nursing care institution or home health agency to verify that an employee or potential employee is not on the APS registry. (Sec. 1)
2. Requires an owner to take action to terminate the employment of an employee or not hire a potential employee if they are found to be on the APS registry. (Sec. 1)

Electronic Monitoring Devices

3. Allows a resident of a nursing care institution or an assisted living facility or their responsible person to install electronic monitoring in the resident's private living space. (Sec. 2)
4. Prohibits an owner or manager from preventing a resident or resident's responsible person from installing and paying for the cost of electronic monitoring devices if the resident or resident's responsible person agrees to the installation of electronic monitoring devices. (Sec. 2)
5. Asserts that the resident or resident's responsible person who installs and pays for the electronic monitoring device is responsible for the maintenance, internet services, if applicable, and repairs. (Sec. 2)
6. Prohibits the owner or manager from accessing the electronic record of installed electronic monitoring devices unless the resident or resident's responsible person provides access. (Sec. 2)
7. Mandates that a resident or resident's responsible person is responsible for posting notice in a conspicuous place that an electronic monitoring device is in use in the resident's private living space. (Sec. 2)
8. Requires a resident or their responsible person to do all of the following if the resident shares a private living space with at least one roommate and wants to install electronic monitoring:
 - a) obtain written permission to install electronic monitoring in the shared private living space from each roommate of the resident or each roommate's responsible person;
 - b) not install the electronic monitoring device if written permission is not received from each roommate or the responsible person of each roommate;
 - c) provide the written permission to the nursing care institution or assisted living facility, if requested by the nursing care institution or assisted living facility;
 - d) obtain written permission from each new roommate of the resident or roommate's responsible person if there is a change in a roommate in the private living space;
 - e) be responsible, if a roommate requests to no longer provide permission for electronic monitoring, for deactivating the electronic monitoring device immediately when written notice is provided to the resident or resident's responsible person requesting to rescind permission for electronic monitoring;
 - f) be responsible, if a roommate requests to provide permission for electronic monitoring, for obtaining permission for electronic monitoring from the roommate; and

- g) specify in the agreement between roommates regarding electronic monitoring each person who has access to electronic monitoring and how that person can access electronic monitoring. (Sec. 2)
- 9. Asserts that previous agreements between past roommates do not apply and permission must be obtained from all new roommates or the roommate's responsible person. (Sec. 2)
- 10. Asserts that a nursing care institution or assisted living facility is not responsible for gaining permission for the use of electronic monitoring devices in a resident's private living space and are not legally liable for the use of the installed device. (Sec. 2)

Assisted Living Facilities Injury Reportion Requirements

- 11. Directs assisted living facilities to report to DHS each incident involving any of the following:
 - a) a physical altercation between at least two residents;
 - b) a physical altercation between a resident and a staff member that is initiated by the resident; and
 - c) any incident in which a resident leaves the assisted living facility without notice and the resident's care plan includes the inability for the resident to leave the assisted living facility without supervision or notice. (Sec. 4)
- 12. Requires an assisted living facility, when making its report to DHS, to also report the injury to the family member or the resident's representative who is designated to receive such reports. (Sec. 4)
- 13. Specifies that the report to DHS and the family member or resident's representative must include any follow-up action the assisted living facility takes to prevent the incident from happening again. (Sec. 4)
- 14. Permits DHS to determine how an assisted living facility must meet the injury reporting requirements. (Sec. 4)
- 15. Specifies that information regarding the type of incidents and the number of incidents on an annual basis must be made available on DHS's website where information about assisted living facilities can be found. (Sec. 4)
- 16. Requires an assisted living facility to report to a family member or representative of the resident who is designated to receive such reports if the resident refuses to eat or drink liquids for at least 48 hours. (Sec. 4)
- 17. Requires an assisted living facility to report this information as soon as possible but not more than 24-hours after the 48-hour period. (Sec. 4)
- 18. Instructs assisted living facilities to report every six months to DHS the number of times a call was made to emergency medical services beginning January 1, 2025. (Sec. 4)
- 19. Directs DHS to publish the number of calls on its website where information about assisted living facilities can be found and review the data related to the calls at least annually to determine whether the number of calls are increasing or decreasing and whether additional training, education or corrective action is needed by staff in the assisted living facility. (Sec. 4)

Duty to Report Abuse, Neglect and Exploitation of Vulnerable Adults

- 20. Requires the DHS Director to immediately report to the Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (NCIA

Board) identifying information that a nursing care institution or an assisted living facility manager's conduct may be grounds for disciplinary action or may have resulted in abuse, neglect or exploitation of an adult in the nursing care institution or the assisted living facility. (Sec. 3)

21. Requires the NCIA Board to immediately report to APS information that a nursing care institution administrator's or assisted living facility manager's conduct may have resulted in abuse, neglect or exploitation of an adult in the nursing care institution or assisted living facility. (Sec. 5)
22. Requires the Director of the Arizona Health Care Cost Containment System and its contractors to immediately report to:
 - a) the NCIA Board information identifying that a nursing care institution administrator or an assisted living facility manager's conduct may be grounds for disciplinary action; and
 - b) DHS that an assisted living facility's conduct may be grounds for disciplinary action pursuant to DHS's requirements for health care institutions applicable to assisted living facilities. (Sec. 6)
23. Makes a DHS employee a mandatory reporter for abuse, neglect or exploitation of a vulnerable adult. (Sec. 7)

Session Law

24. Requires DHS to adopt rules for the implementation of the assisted living facility incident reporting requirements. (Sec. 8)
25. Requires the rules for assisted living facility incident reporting to include timelines for reports to DHS, the family member or resident's representative involved in any of the described incidents. (Sec. 8)
26. Directs DHS to adopt rules that require assisted living facilities to notify a resident's representative if the resident develops a stage 3 or stage 4 pressure sore. (Sec. 8)
27. Requires the notification to be made as soon as possible, but not more than 24 hours after the stage 3 or stage 4 pressure sore is discovered or determined. (Sec. 8)
28. Mandates that the rules require the resident and resident's representative to be notified of the process for determining whether the resident can remain in the assisted living facility and the level of personal care services that are available in the facility to treat the pressure sore. (Sec. 8)
29. Instructs DHS to adopt rules requiring each assisted living facility to publish its quality management plan that is required by rule on the assisted living facility's website and to provide the quality management plan to prospective resident's and their families or representative to allow them to learn about the method the facility uses to identify, document and evaluate incidents. (Sec. 8)
30. Requires the documented report required by rule to be submitted to the assisted living facility's governing authority and be provided to DHS who must then publish the reports on its website where the public can review information about assisted living facilities. (Sec. 8)

Miscellaneous

31. Defines the following terms:
 - a) *assisted living facilities*; and

b) *electronic monitoring device*. (Sec. 2 and 6)

32. Makes technical and conforming changes. (Sec. 1, 3 and 7)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note