



Office of Assisted Living Licensing

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Hello From The Program Manager

Larry Martens, LPN, BPS, Program Manager
Office of Assisted Living Licensing

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Welcome to our sixth newsletter. I would like to start off by introducing myself. Although this is my first contribution to the newsletter I have been a part of the Office of Assisted Living Licensing for almost five years now. During this time there have been many changes. But the one thing that does stay constant is the excellent job that Joy Johnson, our editor, continues to do with the newsletter.

It has been a very busy year for the Office of Assisted Living Licensing with numerous changes taking place. Specifically there are three House Bills that have taken effect.

House Bill 2366 addresses the new program of E-Licensing. This change separates the Survey from the license. In fact we longer use the term Survey. It is now referred to as a "Compliance Inspection". House Bill 2366 requires that the Office of Assisted Living Licensing conduct a compliance survey once during the licensing period. This enables the Department to effectively manage when compliance inspections are conducted.

House Bill 2467 addresses eligibility requirements for any person applying for state licensure or certification. The law requires the Department of Health Services (DHS) to verify that all applicants for initial, change of ownership, or renewal licensing or certification be a United States Citizen, a non-citizen national, or a "qualified alien" before issuing either a license or certificate. Once verification has been established, no additional verifications will be conducted unless there is a change in license or certification, the laws change, your status changes or the documents submitted expire.

House Bill 2462 deals with the reduction of the Division of Licensing operating budget by \$600,000.00. It also gave the Division of Licensing the authority to collect the \$600,000.00. The Division of Licensing wanted to collect the required revenue in the most fair and equitable manner, by raising bed fees from \$10.00 to \$25.00 across the board for both Assisted Living homes and centers.

Rest assured in these tough economic times the Office of Assisted Living will continue to provide the customer service our providers and residents have come to expect and deserve.

We wish everyone a Happy New Year!!!!!!!
Thank you!
-Larry



Increased Licensing Fees

...as posted on the ADHS website

House Bill 2462 (HB), which was passed by the Legislature and signed by the Governor, has given the Department of Health Services (Department) the authority to raise licensing fees. Additionally this HB exempts the Department from the rule making requirements of ARS Title 41, Chapter 6 requiring public input and approval by the Governor's Regulatory Review Council. You can find a copy of this HB by going to www.azleg.gov and search for HB 2462.

As you may know, the Department of Health Services Division of Licensing Services (Division) has not increased licensing fees since 1973. Therefore, in an effort to implement this increase in a fair and equitable manner, the Division has decided to increase the licensed bed capacity fees from \$10.00 per bed to \$25.00 per bed. At this point, the base fee(s) and the application fee will remain the same.

The effective date of this increase begins with licenses that expire on September 30, 2008 and each month thereafter. If you have already submitted your application and fees for licenses that expire on September 30, 2008 forward, the Division will be sending you a notice to remit the additional \$15.00 per licensed bed capacity. It will be necessary to remit this balance before the Division is able to process your application and issue your license.

For applications that have not yet been sent in, and are for the period of September 30, 2008 forward, you will be asked to remit the proper application fee, base fee(s) and new licensed bed capacity fee (of \$25.00 per bed), before the Division can process your application and issue your license.

R9-10-711.A.5.b. Requirements for Service Plans and Health-Related Services

- A. A licensee shall ensure that a resident has a written service plan that:
5. Includes the following:
 - b. The amount, type, and frequency of health-related services needed by the resident;

*This includes documentation of hospice services, for example: the resident is receiving hospice services to include personal care provided by a Certified Nursing Assistant (such as bathing, showering, shaving), Nursing services to oversee medications or check vital signs, case management to provide social services, Spiritual counseling such as clergy visits, etc.

Additionally, this includes documentation of home health services, for example: the resident receives therapy (such as Occupational/Physical/Speech Therapy), Nursing services to oversee medications, injections, check vital signs or provides treatments).



A.R.S. 36-442.C. Application for Licensure or Relicensure

An application for licensure or relicensure shall be filed at least sixty but no more than one hundred twenty days before the anticipated operation or the expiration date of the current license. An application for a substantial compliance survey submitted pursuant to section 36-425, subsection C shall be filed at least thirty days prior to the date on which the substantial compliance survey is requested.

It is your responsibility to obtain an application form. Applications can be obtained from our office Monday – Friday from 8:00 a.m. until 5:00 p.m., or you can download and print an application from our website. Go to www.azdhs.gov/als, to “Assisted Living Facilities” then follow the “Licensing Form” prompts.



LATE APPLICATIONS

***If the due date falls on a Saturday, Sunday or Holiday, the application is due on the next business day. The due date is the date the application is due in the office. POSTMARK DATES DO NOT APPLY.**

EXPIRATION DATE:

APPLICATION DUE BY:

January 31.....	December 2
February 28.....	December 30
March 31.....	January 30
April 30.....	March 1
May 31.....	April 1
June 30.....	May 1
July 31.....	June 1
August 31.....	July 2
September 30.....	August 1
October 31.....	September 1
November 30.....	October 1
December 31.....	November 1



R9-10-703.A.4. Administration/Certified Manager

A licensee is responsible for the organization and management of an assisted living facility.

A licensee shall:

Designate another manager when the manager is absent from the premises for more than 30 consecutive days.

36-446.09. Violations: classification

A. Any person who manages, directs and controls the operation of a nursing care institution or an assisted living facility without a current and valid license or certificate as required by this article or who otherwise violates any provisions of this article is guilty of a class 2 misdemeanor. Each day of violation shall constitute a separate offense.

B. Action taken under subsection A shall not be a bar to enforcement of this article and the standards and rules issued and adopted pursuant to this article, by injunction or other appropriate remedy, and the board may institute and maintain in the name of this state any such enforcement proceeding.



Changes to Enforcement Actions

The following issues are now automatically referred to enforcement:

1. Failure to submit a timely application for relicensure (including first time deficiency)
2. Failure to submit an application for fingerprint clearance within twenty working days of employment (The Department of Public Safety must receive your application for clearance within twenty working days of employment/hire date)
3. Failure to ensure that a qualified caregiver is providing care to your residents at all times
4. Failure to obtain permits as required by local jurisdiction (for modifications made to facility including modifications made prior to obtaining ownership)

TOP TEN ENFORCEMENT ACTIONS January 2008 – August 2008

#1

Late application for relicensure

#2

Fingerprint Clearance- not applying within twenty working days of employment

#3

Caregivers do not speak English

#4

No medication administration records for residents

#5

Medications

#6

Unqualified staff

#7

Over-licensed capacity

Restraints

No signatures or initials on medication administration records for residents

#8

Freedom from pulmonary tuberculosis documentation

Fingerprint clearance denial

#9

Repeat deficiencies

Hazards

Documentation of influenza/pneumonia vaccinations

Inability to intervene in a crisis

First aid and CPR training requirements

No written authorization for residency (for non-ambulatory residents)

#10

No certified manager

Not meeting scheduled and unscheduled needs of resident(s)

Unlicensed Care

What is Enforcement and Where Do Those Civil Money Penalties Go?

36-431.01. Violations: civil penalties

A. The director may assess a civil penalty against a person who violates this chapter or a rule adopted pursuant to this chapter in an amount of not to exceed five hundred dollars for each violation. Each day that a violation occurs constitutes a separate violation.

B. The director may issue a notice of assessment that shall include the proposed amount of the assessment. A person may appeal the assessment by requesting a hearing pursuant to title 41, chapter 6, article 10. When an assessment is appealed, the director shall take no further action to enforce and collect the assessment until after the hearing.

C. In determining the civil penalty pursuant to subsection A of this section, the department shall consider the following:

1. Repeated violations of statutes or rules.
2. Patterns of noncompliance.
3. Types of violations.
4. Severity of violations.
5. Potential for and occurrences of actual harm.
6. Threats to health and safety.
7. Number of persons affected by the violations.
8. Number of violations.
9. Size of the facility.
10. Length of time that the violations have been occurring.



D. Pursuant to interagency agreement specified in section 36-409, the director may assess a civil penalty, including interest, in accordance with 42 United States Code section 1396r. A person may appeal this assessment by requesting a hearing before the director in accordance with subsection B of this section. Civil penalty amounts may be established by rules adopted by the director that conform to guidelines or regulations adopted by the secretary of the United States department of health and human services pursuant to 42 United States Code section 1396r.

E. Actions to enforce the collection of penalties assessed pursuant to subsections A and D of this section shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in the county in which the violation occurred.

F. Penalties assessed under subsection D of this section are in addition to and not in limitation of other penalties imposed pursuant to this chapter. All civil penalties and interest assessed pursuant to subsection D of this section shall be deposited in the nursing care institution resident protection revolving fund established by section 36-431.02. The director shall use these monies for the purposes prescribed by 42 United States Code section 1396r, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of the deficiencies or closure and reimbursement of residents for personal monies lost.

G. The department shall transmit penalties assessed under subsection A of this section to the state general fund.

How is the General Fund used?

WHERE THE MONEY GOES

General Fund

The Legislature allocates all monies deposited into the Arizona General Fund for a number of projects in a variety of areas, including:

- Grades K-12 and Higher Education
- Health and Welfare
- Protection and Safety
- General Government
- Inspection and Regulation
- Natural Resources



By statute, 31.6 percent of Lottery Powerball sales are deposited into the General Fund. If this funding amount surpasses \$37 million, excess funds roll over to Mass Transit.

*Arizona Lottery website: www.arizonalottery.com

COMPLIANCE WITH LOCAL AUTHORITIES

Modifications Made to Your Facility...

(...before or after acquiring ownership)

R9-10-716. Physical Plant Requirements

A. A licensee shall ensure that an assisted living facility:

1. Complies with all local building codes, ordinances, fire codes, and zoning requirements. If there are no local building codes, ordinances, fire codes, or zoning requirements, the assisted living facility complies with the applicable codes and standards incorporated by reference in A.A.C. R9-1-412.

“Compliance with local authorities” may include building permits, zoning and census limitations, pet licensing, fire/equipment inspections and/or code compliance.

When in doubt, always contact the local authority in your city and/or county.



Update on Training Programs

The following training programs are no longer approved by the Department for training:

ALTP0065 My Nurse/Sara Care (effective 7/31/08)

ALTP0020 Country Living Complete Training Program (effective 9/08)

ALTP0006 Handmaker Jewish Services for the Aging (effective 9/08)

ALTP0030 J Rapha Enterprises (effective 9/08)

ALTP0032 Sunrise Senior Services (effective 9/08)

ALTP0029 Specialized Home Care (effective 9/08)

ALTP0031 Alterra Trained to the Core (effective 9/08)

For the current list of approved training programs, please see the Department's website at <http://www.azdhs.gov/als/index.htm>

Choose "assisted living facilities", then "MANAGER/CAREGIVER TRAINING PROGRAMS."
If you have questions, please contact the Department at (602) 364-2639.



Immigration-House Bill 2467

In August 1996 congress passed the Personal Responsibility and Work Opportunity Reconciliation Act, which limits eligibility for certain public benefits, including licensing and certification, based on a person's citizenship or immigration status. In addition in 2007 Arizona passed House Bill 2467, which created eligibility requirements for any person applying for a state license or certification.

These laws require the Department of Health Services (DHS) to verify that all applicants for initial, change of ownership or renewal licensing or certification be a United States citizen, a non-citizen national, or a "qualified alien" before issuing either a license or certification.

The law requires that the verification process only be conducted for individuals or non-incorporated partnerships requesting or certifications and not for corporations or limited liability companies.

Once verification has been established, no additional verifications will be conducted unless there is a change in license/certification, the laws change, your status changes or the documents you submit expire.

Monthly meetings are held with the Assistant Deputy Director, Assisted Living Program manager, AHCCCS, APS, and the Ombudsman's Office to identify and coordinate the notification of licensed providers that have not submitted the required immigration documents to the Department for verification.

The Assisted living support staff, with the cooperation of AHCCCS, APS, and the Ombudsman's Office has reduced the number of facilities that require immigration document verification. At this time there are only two (2) licensed providers that have not submitted required documents to the Department. Those licensed providers have been referred to the Enforcement Team for further action.



Deficiency-Free Compliance Inspections

When receiving a "**deficiency-free**" inspection from the Department, the fees for each year will be required. You will receive a one-year license, pay the fees and then submit another application. After fees and application is submitted, you will receive another one-year license. The benefit to a two-year license is **no compliance inspection will be conducted during the first year!!!**

****(please note that the Department has the authority to visit your facility at any time and complaint investigations will be conducted if a complaint is received by the Department...)* Our support staff supervisor, Sara Sarabia will be tracking the two year licenses



ADHS Office of Assisted Living Licensing

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Bob Ohlfest, Team Leader
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We're on the Web!

See us at:

www.azdhs.gov/als/hcb

Did you know?

We are here for YOU...

*...Our Surveyor of the Day, Our Support Staff, Our Management Team, and Your Surveyor may be able to provide technical assistance and sometimes guidelines for your questions...PLEASE feel free to call us with your questions and concerns...Surveyor of the Day (ADHS direct line) 602-364-2639 Monday through Friday from 8:00 a.m. to 5:00 p.m.
Tucson (520) 628-6965...*

**NOTE: Please speak with the surveyor who inspected your home if you have specific questions about cited deficiencies and guidelines for your plan of correction, in response to your statement of deficiencies. The survey process includes an exit interview with your surveyor. Additionally, examples of plan(s) of correction are mailed with your statement of deficiencies...*

...Information about ADVANCED DIRECTIVES can be obtained from the Dorothy Garske Center's website at: www.dgcenter.org

...Documentation of freedom from pulmonary tuberculosis should be obtained for any visitors staying overnight at the facilities.

...We welcome your comments...please call, e-mail or write to us with comments and suggestions for this newsletter. The provider newsletter is designed to provide helpful information regarding updates and rule compliance.

ADHS-Office of Assisted Living Licensing

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Thank you!