

**BOARD OF EXAMINERS FOR NURSING CARE
INSTITUTION ADMINISTRATORS AND ASSISTED
LIVING FACILITY MANAGERS**

Five-year-review Report: A.A.C. Title 4, Chapter 33, Article 4

Assisted Living Facility Manager Certification

June 2014

Five-year-review Report: A.A.C. Title 4, Chapter 33, Article 4

INTRODUCTION

The Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) was created in 1975 to fulfill a federal requirement that nursing care institution administrators be licensed and regulated for the state to receive federal Medicaid monies (See 42 U.S.C. Chapter 7, Subchapter XIX, § 1396a(29) and 1396g). In 1990, the Legislature added certification of assisted living facility managers to the Board's responsibilities to ensure minimum care standards for residents of assisted living facilities. The Board's statutory responsibilities include issuing and renewing licenses and certificates, conducting investigations and hearings regarding statutory violations, disciplining administrators and managers, and providing consumer information to the public.

In FY2013, the Board collected \$397,293 in fees regarding certification of managers of assisted living facilities. It was appropriated \$426,700. The fees collected by the Board cover the expense of performing all its statutory duties. The Board currently has three FTE employees.

Statute that generally authorizes the agency to make rules:

All of the rules are generally authorized by A.R.S. § 36-446.03, which provides the Board may adopt, amend or repeal reasonable and necessary rules and standards for the administration of [A.R.S. Title 36, Chapter 4, Article 6] in compliance with Title XIX of the Social Security Act, as amended.

1. Specific statute authorizing the rule:

- R4-33-401. Requirements for Initial Certification by Examination: A.R.S. §§ 36-446.03(D) and (K) and 36-446.04(C)
- R4-33-402. Requirements for a Temporary Certificate: A.R.S. § 36-446.06
- R4-33-403. Initial Application A.R.S. §§ 36-446.03(K) and 41-1080
- R4-33-404. Administration of Examination; Certificate Issuance: A.R.S. §§ 36-446.03(K) and 36-446.04(C)(3)
- R4-33-405. Renewal Application: A.R.S. §§ 36-446.03(B)(4) and 36-446.04(G)

- R4-33-406. Inactive Status: A.R.S. § 36-446.07(I)
- R4-33-407. Standards of Conduct; Disciplinary Action: A.R.S. §§ 36-446(10) and 36-446.07(B)
- R4-33-408. Referral Requirements: A.R.S. § 36-446.03(L)
- R4-33-409. Certification Following Revocation: A.R.S. § 36-446.04
- R4-33-410. Notice of Appointment: A.R.S. § 36-446.03

2. Objective of the rule including the purpose for the existence of the rule:

R4-33-401. Requirements for Initial Certification by Examination: The objective of this rule is to specify the education, work experience, examination, and training requirements to obtain initial certification. This increases efficiency in the certification process by enabling prospective assisted living facility managers to assess whether they are qualified for certification.

R4-33-402. Requirements for a Temporary Certificate: The objective of this rule is to specify the requirements for obtaining a temporary certificate before taking the examination required for certification. This enables prospective assisted living facility managers to assess whether they will be able to begin working as an assisted living facility manager before completing all requirements for certification.

R4-33-403. Initial Application: The objective of this rule is to specify the pieces of information and documents required to apply for initial certification. This increases efficiency in the certification process by enabling prospective assisted living facility managers to submit an administratively complete application.

R4-33-404. Administration of Examination; Certificate Issuance: The objective of this rule is to provide information regarding the examination required for certification and to provide notice that the Board will administratively close an application file if an applicant fails to complete the certification process within six months after passing the examination. This increases efficiency in the certification process by enabling prospective assisted living facility managers to complete the certification process timely.

R4-33-405. Renewal Application: The objective of this rule is to specify the pieces of information and documents required for certificate renewal. This increases efficiency in the certification renewal process by enabling prospective assisted living facility managers to submit an administratively complete renewal application.

R4-33-406. Inactive Status: The objective of this rule is to provide information regarding how to place a certificate on inactive status and how to resume active status. This enables assisted living facility managers to manage their certification status during times when they may be between jobs, out of state, or otherwise not actively engaged as an assisted living facility manager.

R4-33-407. Standards of Conduct; Disciplinary Action: The objective of this rule is to specify the standards of conduct with which a certificate holder must comply and the consequences of failing to comply. This enables certificate holders to avoid conduct that might lead to disciplinary action.

R4-33-408. Referral Requirements: The objective of this rule is to require that a certificate holder obtain and maintain evidence that the certificate holder disclosed to a resident or the resident's representative or legal guardian that the assisted living facility by which the certificate holder is employed pays a fee for a referral to the assisted living facility and whether the assisted living facility has an ownership interest in the individual or entity making the referral. This increases transparency in the operation of businesses that make referrals to assisted living facilities and provides the public with information necessary to make an informed decision about an assisted living facility.

R4-33-409. Certification Following Revocation: The objective of this rule is to clarify that an individual whose certification is revoked must wait a year before applying again for initial certification by examination. This protects the public by ensuring that an individual whose certification is revoked has an opportunity to correct the issues leading to revocation.

R4-33-410. Notice of Appointment: The objective of this rule is to assist the Board to know who is acting as manager at each assisted living facility in the state. This enables the Board to protect the public by ensuring that an appointed manager is certified.

3. Effectiveness of the rule in achieving the objective including a summary of any available data supporting the conclusion:

The Board concluded that the rules are effective in achieving their objectives. The Board bases this conclusion on the fact that it is able to process applications and issue certificates efficiently and within its time-frames, no criticism of the rules has been received in the last five years, and no action taken under the rules has ever been overturned on appeal.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:

Except as noted regarding R4-33-401, the rules are consistent with the statutes at A.R.S. Title 36, Chapter 4, Article 6 and the rules at 4 A.A.C. 33. Federal laws that prohibit discrimination and those that regulate workplace safety apply to operation of an assisted living facility. However, there are no federal laws uniquely applicable to assisted living facilities.

The information at R4-33-401(1)(b)(i) and (ii) needs to be deleted because the Board now has authority to approve training programs for managers of assisted living facilities (See A.R.S. § 36-446.03(O) and 4 A.A.C. 33, Articles 6 and 7).

5. Agency enforcement policy including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement:

The Board has no difficulty enforcing the rules as written. However, to avoid misleading the public, the Board intends to add to R4-33-407(B) that it is grounds for discipline if a certified manager allows the manager's Board-issued certificate to be displayed at an assisted living facility unless the manager has direct oversight at the facility.

6. Clarity, conciseness, and understandability of the rule:

The rules are generally clear, concise, and understandable and consistent with current rule writing standards.

7. Summary of written criticisms of the rule received by the agency with the past five years, including letters, memoranda, reports, written analyses submitted to the agency questioning

whether the rule is based on valid scientific or reliable principles or methods, and, written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute or beyond the authority of the agency to enact, and the result of the litigation of administrative proceedings: The Board received no written criticisms of the rules during the last five years, including analyses regarding whether the rules are based on valid scientific or reliable principles or methods.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:

2006 Rulemaking

R4-33-402, R4-33-404, R4-33-406, R4-33-407, and R4-33-408 have not been amended since 2006. The following important changes were made to these rules in the 2006 rulemaking:

- Allowing six months after passing the required examinations for an applicant to pay to have a certificate issued or the application is administratively closed;
- Requiring an applicant for manager certification to have a high school diploma or GED;
- Clarifying standards for obtaining a temporary certificate;
- Establishing standards for placing a certificate on inactive status;
- Specifying standards of conduct; and
- Increasing the score that a manager applicant must obtain to pass the Arizona examination.

There are currently 2,250 active certified managers of assisted living facilities, 39 inactive certified managers, and 16 holders of a temporary certificate. During FY2013, the Board received applications from 319 individuals seeking certification and 79 individuals seeking a temporary certificate. Since FY2009, the number of certified managers has remained fairly constant with the number of new certified managers offsetting the number who choose not to renew. The Board believes this shows that the increased educational requirement for certification had no limiting effect on applicants.

There was a decrease in the first-attempt passing rate during the first year after the passing score was increased for the Arizona examination. Since the initial decrease, the first-attempt passing rate has increased and is currently approximately 72 percent, which is greater than it was before the increase in the passing score. The Board believes the higher passing score is having the intended effect of encouraging applicants to prepare better for the examination.

During FY2013, the Board dealt with 103 complaints regarding certified managers of assisted living facilities. Most of the complaints alleged unprofessional conduct related to lack of oversight and operation of the facility. The Board disciplined 73 of the managers: 42 were placed on probation, 2 paid a civil penalty, 22 had their certification revoked, 5 had their certification suspended, and 2 surrendered their certification.

2008 Rulemaking

R4-33-401, R4-33-403, R4-33-409, and R4-33-410 were newly made or last amended in 2008. The following important changes were made to these rules in the 2008 rulemaking:

- As required by A.R.S. § 36-446.04, adds to the initial and renewal applications the requirement that an applicant have a valid fingerprint clearance card;
- Adds a Section regarding manager certification following revocation;
- Adds a Section regarding notice of manager appointment; and
- Makes changes to the educational requirement for certification.

The requirement that an applicant have a fingerprint clearance card has an economic impact on the applicant who must go through the process and cost of obtaining the card. This cost results from statute rather than rule. However, the requirement is necessary to ensure that individuals with a criminal history do not obtain a position in which they care for vulnerable individuals. The requirement also has an economic impact on the Board because there are complaints regarding non-compliance and notice from the Department of Public Safety when a certificate holder engages in criminal activity.

The Board correctly estimated that the new Sections regarding certification after revocation and notice of manager appointment would be minimal. Since the rule was made, there have been only three instances of application for certification after revocation. Only one of the previously revoked applicants was certified.

The changes to the educational requirement for certification simply aligned the rule with Board practice. The economic impact has been minimal.

2009 Rulemaking

R4-33-405 is the only rule reviewed that was last amended in 2009. The only amendment made in this rulemaking was to change the word “penalty” to “late renewal fee” to make the rule consistent with statutory language. The economic impact of this change was fully incurred when the rulemaking was completed. There is no current economic impact of the change.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

No analysis has been submitted.

10. How the agency completed the course of action indicated in the agency's previous 5YRR:

In the 5YRR approved by Council on August 18, 2009, the Board indicated it had no plan to take any action on the rules reviewed. In the intervening five years, it has not amended any of the rules.

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Board believes that protecting the public health and safety outweighs the costs and burdens of the rules on persons regulated by the rules. A person who wishes to be certified as an assisted living facility manager must meet the minimum qualifications, submit an application, take an examination, and adhere to minimum standards of conduct. Most of the cost of these requirements results from statute rather than rule. It is statute that prescribes minimum qualifications including training and a fingerprint clearance card (A.R.S. § 36-446.04(C)), requires an examination (A.R.S. § 36-446.03(D)), and prescribes minimum standards of conduct (A.R.S. § 36-446.07). The rules simply prescribe the manner in which applicants and certified managers comply with statute.

The Board has determined that requiring an applicant to complete training within one year before application for certification is unnecessarily burdensome and expensive. It intends to amend R4-33-401(1)(b) to reduce this burden. The Board has also determined it is unnecessary to require an applicant who is a licensed physician or nurse to complete an adult cardiopulmonary resuscitation and basic first-aid training program. This will be clarified in the rulemaking referenced in item 14. (See R4-33-401(4)).

12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:

No federal law applies to the rules. As indicated in the introduction, federal law makes receipt of federal funding contingent on a state licensing and regulating nursing care institution administrators. The specifics of the licensure and regulation are matters of state law.

13. For a rule made after July 29, 2010, that require issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

None of the rules was made after July 29, 2010.

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule or to make a new rule. If no issues are identified for a rule in the report, the agency may indicate that no action is necessary for the rule:

The Board plans to amend R4-33-401(1) and (4) and R4-33-407(B). The Board will submit the rulemaking for Council approval by June 2015.

**BOARD OF EXAMINERS OF NURSING
CARE INSTITUTION
ADMINISTRATORS AND ASSISTED
LIVING FACILITY MANAGERS**

Five-year-review Report: A.A.C. Title 4, Chapter 33, Articles 1-3 and 5

January 2017

Five-year-review Report

A.A.C. Title 4. Professions and Occupations

Chapter 33. Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers

INTRODUCTION

In 1966, Congress passed the Medicaid Amendments to the Social Security Act.¹ The Medicaid Amendments required that states participating in any Medicaid funding establish a board to license nursing home administrators. In 1967, Congress passed Section 1908 of the Social Security Amendments which set up the National Advisory Council on Nursing Home Administration (Council). In 1969, the Council recommended a model code to the federal government and the establishment of state licensing boards. In 1970, final regulations that govern state nursing home administrator boards were published in the Federal Register.

The Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) was created by the Arizona legislature in 1975. In 1991, the Arizona legislature also granted the Board authority to certify and regulate assisted living facility managers. In addition to licensing and certifying applicants, the Board approves AIT, continuing education, and assisted living facility training programs. Nursing care institutions and assisted living facilities are licensed by the Arizona Department of Health Services. There are currently 144 nursing care institutions in Arizona with 16,071 beds.

Statute that generally authorizes the agency to make rules: A.R.S. § 36-446.03(A)

1. Specific statute authorizing the rule:

R4-33-101: A.R.S. § 36-446.03(A)

R4-33-102: A.R.S. § 36-446.03(C)

R4-33-103: A.R.S. § 41-1073

Table 1: A.R.S. § 41-1073

¹ Title XIX § 1900, et al., codified under 42 U.S.C. § 1396 et seq., of the Social Security Act.

- R4-33-104: A.R.S. §§ 36-446.03 (B) and (N) and 36-446.12
- R4-33-105: A.R.S. § 36-446.07(J)
- R4-33-106: A.R.S. § 41-1092.09
- R4-33-107: A.R.S. §§ 36-446.03(A) and 36-446.07(K)
- R4-33-108: A.R.S. § 36-446.01
- R4-33-109: A.R.S. § 36-446.04(A)(4), (B), (C)(5), and (D)
- R4-33-201: A.R.S. § 36-446.04(A) and (B)
- R4-33-202: A.R.S. § 36-446.05
- R4-33-203: A.R.S. § 36-446.06
- R4-33-204: A.R.S. § 36-446.04
- R4-33-205: A.R.S. § 36-446.04(A)(3)
- R4-33-206: A.R.S. §§ 36-446.04(F), 36-446.07(E), and 36-446.12(A)(4)
- R4-33-207: A.R.S. §§ 36-446.07(H) and 36-446.12(A)(5)
- R4-33-208: A.R.S. §§ 36-446.04(A)(1) and 36-446.07
- R4-33-210: A.R.S. §§ 36-446.04(A)(1) and 36-446.07
- R4-33-211: A.R.S. § 36-446.01
- R4-33-212: A.R.S. § 36-446.03
- R4-33-301: A.R.S. § 36-446.04(A)(2)
- R4-33-302: A.R.S. § 36-446.04(A)(2)
- R4-33-501: A.R.S. § 36-446.07(E) and (F)
- R4-33-502: A.R.S. §§ 36-446.03(B)(8) and (10) and 36-446.12
- R4-33-503: A.R.S. § 36-446.07(E) and (F)
- R4-33-504: A.R.S. § 36-446.07(G)

2. Objective of the rule including the purpose for the existence of the rule:

R4-33-101: Definitions. The objective of the rule is to define terms used in the rules in a manner that is not explained adequately by a dictionary definition. The definitions are designed to facilitate understanding by those who use the rules.

R4-33-102: Board Officers. The objective of this rule is to specify when Board officers are elected and their duties. This provides public transparency regarding Board operation.

R4-33-103: Time-frames for Licenses, Certifications, and Approvals. The objective of this rule is to specify the time frames within which the Board will act on a license, certificate, or approval application. This enables an applicant to anticipate when the Board-approval process will be completed.

Table 1: Time-frames (in days). The objective of this rule is to specify in table form the time frames within which the Board will act on a license, certificate, or approval application. This enables an applicant to anticipate when the Board-approval process will be completed.

R4-33-104: Fees. The objective of the rule is to specify the fees that the Board charges for its licensing activities. This increases efficiency in the licensing process by enabling an applicant to submit the correct amount.

R4-33-105: Hearing Procedures. The objective of the rule is to provide notice of the procedures used by the Board when conducting a hearing. This provides public transparency regarding Board operation and enables those involved in a hearing to prepare.

R4-33-106: Rehearing or Review of Decision. The objective of the rule is to specify the procedures and standards for requesting a rehearing or review of a Board decision. This enables a licensee to know how to exhaust the licensee's administrative remedies before making application for judicial review under A.R.S. § 12-901.

R4-33-107: Change of Name or Address. The objective of the rule is to provide notice that the Board communicates with a licensee using the information the licensee has provided. This ensures that a licensee knows it is important to keep the Board apprised of changes in contact information.

R4-33-108: Display of License or Certificate. The objective of the rule is to provide notice to an administrator or manager of the requirement that a license or certificate be publicly displayed. This enables members of the public to know whether the administrator or manager of a facility is licensed.

R4-33-109: Fingerprint Clearance Card Requirements. The objective of the rule is to provide notice to an administrator or manager of the requirement to maintain a valid fingerprint clearance card. This ensures a licensee knows the law.

R4-33-201: Requirements for Initial License by Examination. The objective of the rule is to provide notice of the requirements for obtaining a license by examination as an administrator. This enables an individual to assess whether the individual is qualified for licensure and if so, to comply with the requirements.

R4-33-202: Requirements for Initial License by Reciprocity. The objective of the rule is to provide notice of the requirements for obtaining a license by reciprocity as an administrator. This enables an individual to assess whether the individual is qualified for licensure and if so, to comply with the requirements.

R4-33-203: Requirements for Temporary License. The objective of the rule is to provide notice of the requirements for obtaining a temporary license as an administrator. This enables an individual to assess whether the individual is qualified for temporary licensure and if so, to comply with the requirements.

R4-33-204: Initial Application. The objective of this rule is to specify the content of an application for a license. This increases efficiency in the licensing process by enabling applicants to submit an administratively complete application.

R4-33-205: Administration of Examinations; License Issuance. The objective of the rule is to provide information to applicants regarding the examinations that must be passed to obtain licensure. This increases efficiency in the licensure process by providing applicants with information necessary to complete the process.

R4-33-206: Renewal Application. The objective of this rule is to specify the requirements for renewal of a license, the manner in which renewal application is made, and consequences of failing to renew. This increases efficiency in the licensing process by enabling licensees to

submit a timely and administratively complete renewal application and avoid having a license expire.

R4-33-207: Inactive Status. The objective of the rule is to provide information regarding how to place a license on inactive status and how to resume active status. This enables nursing care institution administrators to manage their license status during times when they may be between jobs, out of state, or otherwise not actively engaged as a nursing care institution administrator.

R4-33-208: Standards of Conduct; Disciplinary Action. The objective of the rule is to protect the public by establishing ethical standards with which an administrator must conform and specifying the consequences of failing to comply. This enables an administrator to avoid conduct that might lead to disciplinary action and enables the Board to fulfill its statutory responsibility to protect the public.

R4-33-210: Licensure Following Revocation. The objective of the rule is to provide notice to administrators whose license is revoked of the procedure for obtaining a new license. This increases efficiency in the licensing process.

R4-33-211: Notice of Appointment. The objective of the rule is to provide notice of the requirement for an administrator to keep the Board apprised of the nursing care institution at which the administrator is appointed. This ensures that a licensee knows it is important to keep the Board apprised of changes in appointment status.

R4-33-212: Appointment as Administrator of Multiple Nursing Care Institutions. The objective of the rule is to provide notice of the limitations on being appointed as administrator at multiple nursing care institutions. This ensures a licensee knows the limitations on multiple appointments and protects the public.

R4-33-301: Approval of an AIT Program. The objective of the rule is to provide notice of the standards and procedures for Board approval of an administrator-in-training program.

This increases efficiency in the approval process by enabling a provider of an AIT program to make a complete application.

R4-33-302: Standards for an AIT Program. The objective of the rule is to specify the standards for an AIT program. This increases efficiency in the approval process by enabling an AIT program provider to comply with the standards.

R4-33-501: Continuing Education Requirement. The objective of the rule is to specify the continuing education requirement, credit hours for different kinds of activities, limitations on credit hours received, and required evidence of compliance. This increases efficiency in the regulatory process by informing a licensee of requirements and protects the public.

R4-33-502: Approval of Continuing Education. The objective of the rule is to identify continuing education the Board approves without application and the manner in which a continuing education provider may apply for Board approval. This provides a level playing field for all providers of continuing education.

R4-33-503: Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement. The objective of the rule is to provide notice to licensees that the Board will audit compliance with the continuing education requirement and the manner in which an audited licensee is required to submit evidence of compliance. This enables a licensee to avoid being sanctioned for noncompliance.

R4-33-504: Extension of Time to Complete the Continuing Education Requirement. The objective of the rule is to specify the manner in which a licensee may apply for an extension of time to complete the required continuing education and the Board standards for approving a request. This creates efficiency in the regulatory process.

3. Effectiveness of the rule in achieving the objective including a summary of any available data supporting the conclusion:

The rules are effective in achieving their objectives. The Board bases this conclusion on the fact it is able to protect the public by licensing and regulating administrators without difficulty.

Although effective, the Board would like to amend R4-33-202 to make it easier for currently licensed administrators in other states to become licensed in Arizona.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:

The Board determined the rules are consistent with state and federal statutes. Under A.R.S. § 36-446.03(A), the Board’s rules are required to be in compliance with Title XIX of the Social Security Act, as amended.

5. Agency enforcement policy including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement:

The Board enforces all the rules without difficulty.

6. Clarity, conciseness, and understandability of the rule:

The Board determined the rules are clear, concise, and understandable. However, the Board believes the following changes would enhance clarity:

1. R4-33-101: The definition of “ACHCA certified” is not written properly.
2. R4-33-103 and Table 1: The Office of the Secretary of State now prefers that the phrase “time-frame” be written without a hyphen unless used as a compound adjective.
3. R4-33-104(A)(8) and (B)(8): The rule would be clearer if it specified the late renewal fee is payable in addition to the renewal fee.
4. R4-33-204, 206, and 301: To enhance electronic communication, an accurate e-mail address needs to be obtained.
5. R4-33-204(B): This subsection would be clearer if it was divided into two subsections—one dealing with materials to be submitted by the applicant and the second dealing with materials to be submitted on behalf of the applicant.
6. R4-33-206(D)(2): It is unnecessarily burdensome to require completion of this form at the time of renewal if the form submitted at the time of initial application provided evidence of citizenship or permanent residency.

7. Summary of written criticisms of the rule received by the agency with the past five years, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and, written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute or beyond the authority of the agency to enact, and the result of the litigation of administrative proceedings:
The Board received no written criticisms during the last five years.
8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:

November 2006 Rulemaking (12 A.A.R. 4075)

The following rules have not been amended since being made in this rulemaking: R4-33-103, R4-33-105, R4-33-106, R4-33-107, R4-33-205, R4-33-207, R4-33-210, R4-33-211, R4-33-502, R4-33-503, and R4-33-504. The Board believes the economic impact estimated when the rules were made is accurate.

During FY2016 the Board complied with its time frame rules and was not required to refund or forgive any fees. Twenty-seven individuals have inactive licenses. The Board received 14 complaints against administrators last year. Most alleged unprofessional conduct. None of the complaints went to hearing so there were no requests for rehearing or review. Two administrators were disciplined for unprofessional conduct and not having a valid fingerprint clearance card. The discipline was suspension and probation. There were no applications for licensure following revocation. The Board approved 1,877 hours of CE for providers and 93 hours for individuals. The Board audited CE compliance by selecting a random sample of 50 licensees and requesting they submit evidence of compliance. There was a 100 percent compliance rate. Approximately 15 licensees requested an extension of time in which to complete the required CE.

February 2008 Rulemaking (14 A.A.R. 516)

The following rules have not been amended since being made in this rulemaking: R4-33-102, R4-33-109, R4-33-201, R4-33-202, R4-33-204, and R4-33-301. The Board believes the economic impact estimated when the rules were made is accurate.

There are currently 309 licensed administrators of nursing care institutions. During FY2016, the Board received 46 applications for licensure either by examination or reciprocity. R4-33-109 stated the requirement that an administrator maintain a valid fingerprint card. There is a cost to maintaining a valid fingerprint card but the cost results from the statutory requirement rather than rule. The Board uses the fingerprint card to conduct a background check on an applicant. This helps the Board determine whether an applicant failed to disclose a criminal act. The Board is also notified if a licensed administrator is arrested for a crime. Failure to maintain a valid fingerprint card was an issue in disciplinary proceedings in FY2016.

There are currently 12 approved AIT programs. Eleven of these are provided by accredited colleges and universities. Unless an applicant holds a master's degree in a health-related field, the applicant is required by statute (See A.R.S. § 36-446.04(A)(2)) to successfully complete an AIT program. Participation in an AIT program costs approximately \$250.

November 2009 Rulemaking (15 A.A.R. 1975)

The following rules have not been amended since being made in this rulemaking: R4-33-206 and R4-33-501. The Board believes the economic impact estimated when the rules were made is accurate.

Licenseses renew biennially in even-numbered years so all individuals licensed as an administrator on June 30, 2016 were required to renew. A licensee is required by statute to complete 50 hours of continuing education during each license period (See A.R.S. § 36-446.07(E)). There is a cost to participate in CE but the legislature determined this requirement was necessary to protect public health and safety.

June 2013 Rulemaking (19 A.A.R. 1619)

The following rules have not been amended since being made in this rulemaking: Table 1 and R4-33-104. These rules, dealing with licensing time frames and fees, were amended to establish time frames and fees for training programs for assisted living facility managers and caregivers. This report does not address the rules dealing with training programs. However, as indicated above, the Board complies with its time frames. Fees are collected. During FY2016, the Board collected \$408,271. Ten percent of this amount was contributed to the state's general fund. The Board was appropriated \$423,000 and spent \$379,515.

April 2015 Rulemaking (21 A.A.R. 543)

The following rules have not been amended since being made in this rulemaking: R4-33-101, R4-33-108, R4-33-203, R4-33-208, R4-33-212, and R4-33-302. The Board believes the economic impact estimated when the rules were made is accurate.

This rulemaking added a provision specifying the circumstances under which an administrator may be appointed at more than one nursing care institution. The provision was added to ensure proper supervision of institutions dealing with vulnerable populations. During 2016, six administrators held multiple appointments. The Board received 14 applications for a temporary license during FY2016.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

No analysis has been submitted.

10. How the agency completed the course of action indicated in the agency's previous 5YRR:

In a 5YRR approved by Council on March 2, 2012, the Board indicated that because only minor issues had been identified in the review, the Board had no plan to amend or repeal an existing rule or make a new rule.

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Board determined the rules impose the least burden and costs to regulated persons, including paperwork and other compliance costs. Most of the costs associated with being licensed as an administrator result from statute. It is statute that requires a license to be employed as an administrator. Statute specifies that an applicant for an administrator license have completed a course of instruction and training approved by the Board, passed an examination, and secured a valid fingerprint clearance card. Statute requires that a licensee complete 50 hours of CE before license renewal. And it is statute that specifies multiple grounds for disciplinary action. The rules simply establish minimal procedures and standards for accomplishing the statutory requirements.

In the interest of protecting the public, the rules require a licensee to provide notice to the Board when appointed to an administrator position and places limits on an administrator's ability to have multiple appointments.

12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:

Nursing care institutions and assisted living facilities are required to comply with Title XIX of the Social Security Act. There are numerous other federal laws with which they must also comply. However, no provision of the Act or other federal law is directly applicable to the subject matter of these rules.

13. For a rule made after July 29, 2010, that require issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

The following rules were made after July 29, 2010:

R4-33-101. Definitions

Table 1. Time-frames

R4-33-104. Fees

R4-33-108. Display of License or Certificate

R4-33-203. Requirements for a Temporary License

R4-33-208. Standards of Conduct; Disciplinary Action

R4-33-212. Appointment as Administrator of Multiple Nursing Care Institutions

R4-33-302. Standards for an AIT Program

The license issued under R4-33-203 complies with A.R.S. § 41-1037 because it is issued to qualified individuals to conduct activities that are substantially similar in nature.

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule or to make a new rule. If no issues are identified for a rule in the report, the agency may indicate that no action is necessary for the rule:

The Board believes none of the issues identified in this report is sufficiently problematic to justify the expense of amending the rules. The Board will make the necessary changes when it is necessary to amend the rules for a substantive reason.