

Arizona State Board of Nursing

Substantive Policy Statement Board Process: Nursing Programs Operating without Approval; Civil Penalties

Revised January 25, 2019

This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on the regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedures Act. If you believe that this Substantive Policy Statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement. (A.R.S. § 41-1091 (B))

A.R.S. § 32-1666. Unlawful acts -

(B) It is unlawful for a person to operate a training or educational program to prepare students for licensure or certification under this chapter unless it has been approved under this chapter.

A.R.S. § 32-1667. Violations; classification

A person is guilty of a class 6 felony who:

3) Operates a training or educational program regulated pursuant to this chapter unless the program is a currently approved program.

§32-1601. Definitions

In this chapter, unless the context otherwise requires:

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

(a) A civil penalty for each violation of this chapter, not to exceed one thousand dollars for each violation.

§32-1666.01. Cease and desist orders; injunctive relief

A. In addition to all other remedies, when it appears to the board, either upon complaint or otherwise, that any person or nursing program has violated this chapter or any rule or order of the board, the board may do either of the following:

1. Serve by certified mail or personal service a cease and desist order.

2. Through the attorney general or the county attorney of the county in which the violation is alleged to have occurred, apply to the superior court in that county for an injunction.

B. The court shall issue a temporary restraining order, a preliminary injunction or a permanent injunction without bond.

C. Service of process may be in any county of this state where the violator is found or is operating.

A.R.S. § 32-1631. Acts and persons not affected by chapter

This chapter does not prohibit:

7. Registered nurse practitioner or clinical nurse specialist practice by duly enrolled students under the competent supervision as part of a registered nurse practitioner or clinical nurse specialist program if the program is approved by a United States nursing regulatory agency in the state of the parent institution and the student is authorized to practice registered nursing in this state.

Purpose: To define Board processes, including civil penalty amounts, for addressing nursing programs that operate in Arizona without approval or exemption.

Policy:

1. Once identified by the Board, a nursing program that is operating in Arizona without approval, and is not subject to an exemption pursuant to A.R.S. § 32-1631(7), shall be notified of the approval requirements and asked to either cease operations in Arizona or submit an application within 30 days. The program shall also be notified of the opportunity to request provisional approval, pursuant to Board policy.
2. If the nursing program fails to submit an application within 30 days, and is not granted an extension, the Board shall issue a Cease and Desist Order to the program and notify law enforcement that that the program is operating unlawfully.
3. If the nursing program submits an application, but later attempts to withdraw the application or otherwise fails to promptly pursue completion of all requirements for approval, the Board may issue a Cease and Desist Order to the program and notify law enforcement.
4. Upon completion, the program's application shall be presented to the Board, and include the option for a civil penalty, as described, below. Civil penalty amounts may be increased or decreased due to specific mitigating or aggravating circumstances, including additional violations or cooperation/lack of cooperation with the Board.

No. of Months Operating Without Approval	Civil Penalty Amount (\$1,000 for each violation)
0-36 months	\$1000.00
37-520 months	\$5000.00
More than 520 months	\$10,000.00
Additional violations	Determined by Board