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# TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

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(Authority: A.R.S. § 32-701 *et seq.*)

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## ARTICLE 1. GENERAL

**R4-1-101. Definitions**

In these rules, unless the context otherwise requires:

1. "Board" means the Board of Accountancy created by A.R.S. § 32-701.
2. "Certificate" means a document issued by the Board authorizing the use of the CPA designation.
3. "Certified public accountant" or "public accountant" includes any individual or firm registered by the Board.
4. "Client" means the person or entity which retains a certified public accountant or public accountant, engaged in the practice of public accounting, for the performance of professional services.
5. "Contested case" means any proceedings in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
6. "Expired" means the termination of a registrant's certificate if a registrant fails to reinstate the certificate within 12 months after it has been suspended for nonregistration or if a registrant fails to reinstate a certificate that has been inactive for more than 6 years.
7. "Financial statements" means statements and footnotes related to them that purport to show financial position which relates to a point in time or changes in financial position which relate to a period of time, and statements which use a cash or other comprehensive basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of cash flows, statements of changes in owner's equity and other commonly used or recognized summaries of financial information are financial statements. The statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of the opinion.
8. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
9. "Person" may include any individual, any form of corporation, partnership, or professional limited liability company.
10. "Practice of accounting" means *the provision of any accounting services, including recording and summarizing financial transactions, analyzing and verifying financial information, reporting financial results to an employer, clients, or other parties and rendering of tax and management advisory services to an employer, clients, or other parties*. A.R.S. § 32-701.01(8)
11. "Practice of public accounting" means the practice of accounting by a certified public accountant or public accountant.
12. "Registrant" refers to any certified public accountant, public accountant, or firm registered with the Board.
13. "Relinquishment" means the voluntary surrender of a registrant's certificate pending an investigation.

**Historical Note**

Former Rule 1A; Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-01 renumbered as Section R4-1-101 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-102. Powers of the Board: Applicability; Excuse; Extension**

**A**. These rules apply to all actions and proceedings of the Board and are deemed a part of the record in every action or proceeding without formal introduction or reference. All parties are deemed to have knowledge of the rules. The Board shall supply a copy of the rules to any person free of charge.

**B**. The Board, when it is within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any of these rules.

**C.** The Board, or in case of an emergency, the President, when it is within its jurisdiction, may grant an extension of time to comply with any rule when the extension is reasonable.

**Historical Note**
Former Rules 1B, 1C, 1D, 1E; Former Section R4-1-02 renumbered as Section R4-1-102 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-103. Repealed**

**Historical Note**
Former Rule 2E; Former Section R4-1-03 renumbered as Section R4-1-103 without change effective July 1, 1983 (Supp. 83-4). Repealed effective August 21, 1986 (Supp. 86-4).

**R4-1-104. Board Records; Public Access; Copying Fees**

**A.** The Board shall maintain all records, subject to A.R.S. § 41-1351, reasonably necessary or appropriate to maintain an accurate knowledge of its official activities including, but not limited to, applications for C.P.A. and P.A. certificates and supporting documentation and correspondence, applications to take the uniform certified public accountant examination; requests for annual registration; documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.

**B.** Except as provided in R4-1-105, all records of the Board are available for public inspection and copying as provided in this Section.

**C.** Any person desiring to inspect or obtain copies of records of the Board available to the public under these rules shall make a request to the Board's Executive Director or the Director's designee, during regular office hours. The Executive Director shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director is unsure whether a record may be made available for public inspection and copying, the Executive Director shall refer the matter to the Board for final determination.

**D.** A person shall not remove original records of the Accountancy Board from the Office of the Board unless they are in the custody and control of a Board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director may designate a staff member to observe and monitor any examination of Board records.

**E.** Copies of all records available for public inspection and copying shall be provided according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.

**F.** Any person aggrieved by a decision of the Executive Director to deny access to records of the Board may request a hearing before the Board to review the Executive Director's action by filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

**Historical Note**
Adopted effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-04 renumbered as Section R4-1-104 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-105. Confidential Records**

**A.** Complaints, reports, photographs, transcripts, correspondence and other documents relating to an investigation by the Board of possible violations of the Arizona accountancy statutes or these rules shall not be made available for public inspection and copying, except that investigative records shall be made available for public inspection and copying upon the institution of civil enforcement or disciplinary proceedings against the person who is the subject of the investigation.

**B.** Correspondence between the Board, members of the Board or staff members, or members of the Board's committees and the Board's attorney shall not be made available for public inspection and copying.

**C.** The questions contained in the uniform certified public accountant examination and an examinee's answers shall not be made available for public inspection and copying except that the examinee may submit to the Board, in writing, a request for a grade review or an appeal to review specific questions and answers related to an examinee's own examination papers.

**D.** An examinee's grades on the uniform certified public accountant examination shall not be made available for public inspection and copying, except that: the Board may disclose the identity of those who pass the examination after the date set by it for the release of grades.

**E.** Letters of reference received in connection with applications for certificates shall not be made available for public inspection and copying.

**F.** Resumes, employment applications, personnel evaluations and injury reports regarding employees of the Board or applicants for employment shall not be made available for public inspection and copying, except that the records shall be disclosed as directed by the employee or applicant concerned.

**G.** Minutes of executive sessions of the Board and its committees and executive session agendas containing confidential information shall not be made available for public inspection or copying.

**H.** The Board may, in the case of a record not otherwise made confidential by this Section, order that the record not be made available for public inspection or copying whenever the Board determines that public disclosure of the record would have a significant and adverse effect on the Board's ability to perform its duties or would otherwise be detrimental to the best interests of the state.

**I.** Notwithstanding subsections (A) through (H), the Board may order that any record of the Board made confidential under this Section be made available for public inspection and copying when it determines that the reasons justifying the confidentiality of the record no longer exist.

**Historical Note**
Adopted effective January 3, 1977 (Supp. 77-1). Former Section R4-1-05 renumbered as Section R4-1-105 and amended in subsections (C) and (D) effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-106. Reserved**

**R4-1-107. Reserved**

**R4-1-108. Reserved**

**R4-1-109. Reserved**

**R4-1-110. Reserved**

**R4-1-111. Reserved**

**R4-1-112. Reserved**

**R4-1-113. Meetings; Examinations**

**A**. The Board and its committees shall conduct meetings in accordance with the current edition of Robert's Rules of Order if these rules are compatible with the laws of the state of Arizona or its own resolutions regarding meetings.

1. Regular and special meetings of the Board for the purpose of conducting business shall be called by the President or a majority of the Board members.
2. Regular and special meetings of the committees shall be called by the chairperson or a majority of the committee members.

**B**. The Board shall designate the time and place for conducting the CPA examination in accordance with A.R.S. § 32-723(A) (see Article 2).

**Historical Note**

Former Rules 2A, 2B, 2C, 2D; Former Section R4-1-13 renumbered as Section R4-1-113 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-114. Hearing; Rehearing or Review**

**A.** Hearing: The Board or an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH) shall hear all contested cases and appealable agency actions. Hearings held by the Board shall be conducted pursuant to the provisions of A.R.S. Title 41, Chapter 6, Article 10 as supplemented by R4-1-117. Hearings held by OAH shall be conducted pursuant to A.R.S. Title 41, Chapter 6, Article 10 and the rules and procedures established by OAH. To the extent they do not conflict with A.R.S. Title 41, Chapter 6, Article 10, the provisions of A.R.S. § 32-743 apply to hearings conducted by the Board and OAH. The following subsections apply to hearings conducted by the Board and hearings conducted by OAH where applicable.

1. Power to Join any Interested Party: Any Board member or the ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, who appears to have an interest in the matter before the Board.
2. Stipulation at Hearing: The parties may stipulate to any facts that are not in dispute. The stipulation may be in writing, or may be made orally by reading the stipulation into the record at the hearing, and is binding upon the parties unless the Board or the ALJ grants permission to withdraw from the stipulation. The Board or the ALJ may set aside any stipulation.
3. Settlements and Consent Orders: At any time before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of conditional settlement in which the registrant agrees to take specific remedial steps such as enrolling in continuing education courses, limiting the scope of the registrant's practice, accepting limitation on the filing of public reports, and submitting the registrant's work product for peer review to avoid formal disciplinary proceedings by the Board. If the Board determines that the proposed conditional settlement will protect the public safety and welfare and is more likely to rehabilitate or educate the registrant than formal disciplinary action under A.R.S. § 32-741, the Board may accept the offer and enter an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent order shall further provide that, upon failure of the registrant to comply with all provisions of the order, or upon the discovery of material facts unknown to the Board at the time it issued the order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent order additionally may provide that, upon failure of the registrant to comply with all provisions of the order, the Board may immediately and summarily suspend the registrant's certificate for not more than 1 year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent order.
4. Decisions and Orders: The Board shall make all decisions and orders by a majority vote of the members considering the case. The Board shall issue a final written decision in a contested case or state the decision on the record. The decision shall state separately the findings of fact and conclusions of law, upon which the decision is based, and the Board's order to implement the decision. All written decisions and orders of the Board shall be signed by the President or Secretary of the Board. When the Board suspends or revokes the certificate of a registrant, the Board may order the registrant to return the registrant's certificate within 30 days of receipt of the order. The Board shall serve each party, each attorney of record, and the Attorney General with a copy of each decision or order of the Board, as provided in R4-1-117.

**B.** ALJ: In hearings conducted by the Office of Administrative Hearings (OAH), the ALJ shall provide the Board with written findings of fact, conclusions of law, and a recommended order within 30 days after the conclusion of the hearing or as otherwise provided by A.R.S. Title 41, Chapter 6, Article 10. The Board's decision approving or modifying the ALJ's recommendations is the final decision of the Board, subject to the filing of a motion for rehearing or review as provided in subsection (C).

**C.** Rehearing or Review: Any party aggrieved by a decision of the Board may file with the Board a written motion for rehearing or review within 30 days after service of the decision specifying the particular grounds for the motion. The Attorney General may file a response to the motion for rehearing within 15 days after service of the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing or review and provide for oral argument. Upon review of the documents submitted, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting a party's rights:

1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
2. Misconduct of the Board or the ALJ;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence, that could not with reasonable diligence have been discovered and produced at the original hearing;

5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or during the progress of the proceeding; or
7. That the findings of fact, or decision is not justified by the evidence or is contrary to law.

**Historical Note**
Former Rules 5A, 5B, 5C; Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-14 renumbered as Section R4-1-114 without change effective July 1, 1983 (Supp. 83-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-115. Advisory Committees**

**A.** The Board may appoint advisory committees concerning accounting reports, taxation and other areas of public accounting as the Board deems appropriate. Such committees shall evaluate investigation files referred by the Board, hold voluntary informal interviews and make advisory recommendations to the Board concerning settlement, dismissal or other disposition of the reviewed matter.

**B.** The Board, in its discretion, may accept, reject or modify the advisory recommendation. The respondent may accept a settlement proposal communicated by the Board or submit an offer of settlement pursuant to A.A.C. R4-1-114(A)(4). If a settlement is reached, respondent may execute a consent order in lieu of formal disciplinary proceedings by the Board pursuant to A.R.S. § 32-741.

**Historical Note**
Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-115.01. Law Review Advisory Committee**

**A.** The Board may appoint an advisory committee to assist it in the evaluation of its statutory and regulatory provisions. The committee shall make advisory recommendations to the Board.

**B.** The Board, in its discretion, may accept, reject, or modify the recommendations of this advisory committee.

**Historical Note**
Adopted effective November 20, 1998 (Supp. 98-4).

**R4-1-115.02. Continuing Professional Education Advisory Committee**

**A.** The Board may appoint an advisory committee to assist it in the evaluation of continuing professional education (CPE). The committee shall make advisory recommendations to the Board concerning the following:
1. CPE programs;
2. Individual registrant's satisfaction of CPE requirements; and
3. Applications for exemption from CPE requirements under A.R.S. § 32-730.

**B.** The Board, in its discretion, may accept, reject, or modify the recommendations of this advisory committee.

**Historical Note**
Adopted effective November 20, 1998 (Supp. 98-4).

**R4-1-116. Certification Advisory Committee**

**A.** The Board may appoint an advisory committee to assist in the evaluation of applicants for the Uniform Certified Public Accountant Examination and for certified public accountant. The committee shall review applications, transcripts and related materials, and make advisory recommendations to the Board concerning the qualifications of applicants for the CPA exam and for certification of certified public accountants.

**B.** The Board, in its discretion, may accept, reject, or modify the advisory recommendation in determining the qualifications of applicants.

**Historical Note**
Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-117. Procedure: Witnesses; Service**

**A.** Pleadings; depositions; briefs; and related documents: A party shall print or type all pleadings, depositions, briefs, and related documents and, use only 1 side of the paper.

**B.** Witness' depositions: If a party wants to take the oral deposition of a witness residing outside the state, the party shall file with the Board a petition for permission to take the deposition stating the name and address of the witness and setting forth in detail the nature and substance of the testimony expected to be given by the witness. The petition may be denied if the testimony of the witness is not relevant and material. If the petition is granted, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure. The party applying to the Board for permission to take a deposition shall bear the expense of the deposition.

**C.** Witness' interrogatories: Any party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board a copy of the interrogatories and a statement showing the name and address of the witness. The adverse party may file in duplicate cross-interrogatories with a copy of the statement within 10 days following the service upon the adverse party. Any party who objects to the form of an interrogatory or cross-interrogatory may file a statement of the objections with the Board within 5 days after the service of the interrogatories or cross-interrogatories, and may suggest to the Board any amendment to an interrogatory or cross-interrogatory. The Board may amend, add, or strike out an interrogatory when in its judgment it is proper to do so.
1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require that the information be provided through written interrogatories and vice versa.
2. A copy of answers to the interrogatories shall be filed with the Board within 45 days after the interrogatories have been answered.

**D.** Subpoenas: The Board officer, presiding at a hearing, may authorize subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Any party desiring the Board to issue a subpoena for the production of evidence, documents or to compel the appearance of a witness at a hearing shall apply for it in writing stating the substance of the witness's testimony. If the testimony appears to be material and necessary, the Board shall issue the subpoena. The affixing of the seal of the Board and the signature of a Board officer is sufficient to show that the subpoena is genuine. The party applying for the subpoena shall bear the expense of service.

**E.** Service:
1. Service of any decision, order, subpoena, notice, or other paper may be made personally in the same manner as a summons served in a civil action. If a paper is served in this manner, service is deemed complete at the time of delivery.

2. Except as provided in subsection (E)(5), service of any document may also be made by personal service or by enclosing a copy of the document in a sealed envelope and depositing the envelope in the United States mail, with 1st-class postage prepaid, addressed to the party, at the address last provided to the Board.
3. Service by mail is deemed complete when the paper to be served is deposited in the United States mail. If the distance between the place of mailing and the place of address is more than 100 miles, service is deemed complete 1 day after the deposit of the paper for each 100 miles. In any event, service is deemed complete within 6 days after the date of mailing.
4. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted but, if the last day falls on a Sunday or a holiday, that day is not counted and service is considered completed on the next business day.
5. The Board shall mail each notice of hearing and final decision by certified mail to the last known address reflected in the records of the Board.
6. Service upon attorney: Service upon an attorney who has appeared for a party constitutes service upon the party.
7. Proof of service: A party shall demonstrate proof of service by filing an affidavit, as provided by law, proof of mailing by certified mail, or an affidavit of 1st-class mailing.

**Historical Note**
Former Rules 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D; Amended effective January 3, 1977 (Supp. 77-1). Former Section R4-1-15 renumbered as Section R4-1-117 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-118. Specified Forms**

**A.** Applications; certificates, registrations: All applications, certificates, and registrations shall be on forms prescribed by the Arizona State Board of Accountancy.

**B.** The forms are available from the Board Office upon request and require the following information, where applicable: Applicant/registrant name, previous name, and alias; address, telephone number, birth place, birth date, social security number, and special accommodations required because of disability; employer name, address, and telephone number; personal data, citizenship, sex, race, height, weight, eyes, hair, fingerprints, and photograph; examination, education, and work history; criminal history and authorization for investigation; affirmation of truthfulness and references; confirmation of prior certified public accountant certification or other occupational or professional certificates and status of certification; military service, continuing professional education reports; and accounting firm partners'/shareholders'/members' names, addresses, and telephone numbers.

**Historical Note**
Former Rule 8; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-16 renumbered as Section R4-1-118 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 1, 1995 (Supp. 95-4).

## ARTICLE 2. CPA EXAMINATION

**R4-1-201. Reserved**
**thru**
**R4-1-225. Reserved**

**R4-1-226. Applications; Examination**

**A.** A person desiring to take the examination for qualification as certified public accountant shall apply on a form provided by the Board. The Board shall provide different forms for original examinations and re-examinations. The applicant shall submit with the application to the Board office Registrar-certified, or the equivalent, university or college transcripts to confirm that the educational requirements set forth in A.R.S. § 32-721 have been completed.

**B.** Filing date: Examinations are held twice a year in months designated by the Board. The applicant shall file the applicable application form, fees, and photos no earlier than the 1st day of the 4th month and no later than the last day of the 3rd month preceding the examination for which the applicant applies. For purposes of this subsection, applications are considered filed on the date received by the Board office. Applications received after 5 p.m. on the last day for filing are considered late except that, if the last day for filing falls on a Saturday, Sunday or a legal holiday, the applications are considered timely if received in the Board Office by 5 p.m. on the next business day. Late applications are not accepted.

**C.** Application fees: Each applicant shall pay an examination fee pursuant to A.R.S. § 32-729 in the following amount:
1. Initial applicants: For an initial examination where the applicant has not previously filed an application in Arizona for the examination, $175.
2. Retake noncondition applicants: For an examination where the retake applicant has no condition, $175 (see also R4-1-230).
3. Retake condition applicants: For an examination where the retake applicant has a condition from this state, $50 for each section of the examination which has not been successfully completed (see also R4-1-229).
4. Out-of-state candidates: All candidates applying through a state other than Arizona, but sitting for the examination in Arizona, shall pay the applicable fee set forth in subsections (C)(1), (2), or (3).
5. Refunds:
   a. The Board shall refund 1/2 of the examination fee if a written notice of withdrawal is received in the Board office no later than 5 p.m. on the last day for filing.
   b. The Board may refund 1/2 of the examination fee to an applicant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service, or financial hardship which prevented the applicant from appearing for the examination.
   c. Except as provided in subsection (C)(5)(b), the full fee is forfeited by an applicant who withdraws after the final date for filing applications or who fails to appear for the examination.

**D.** Re-examination: Pursuant to A.R.S. § 32-723, the applicant shall apply for all sections of the examination which have not been successfully completed.

**E.** The Board shall accept or reject applications and fees as provided by law but shall not hold applications or fees for future examinations.

**Historical Note**
Former Rules 6A, 6B, 6C; Amended effective January

15, 1976 (Supp. 76-1). Amended effective December 1, 1976 (Supp. 76-5). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-26 renumbered as Section R4-1-226 and amended in subsections (B) and (C) effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended subsection (C) effective May 25, 1989 (Supp. 89-2). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-227. Repealed**

**Historical Note**

Former Rule 6D; Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-27 renumbered and amended as Section R4-1-227 effective July 1, 1983 (Supp. 83-4). Section R4-1-227 repealed effective November 20, 1998 (Supp. 98-4).

**R4-1-228. Examination Results; Review and Processing of Grades and Papers**

**A.** Grade results of the examination shall be mailed to each candidate on the grade release date established by the American Institute of Certified Public Accountants.

**B.** Examination papers; grades
1. A candidate may request a review of the candidate's examination answers by the American Institute of Certified Public Accountants by submitting a written request to the Board.
2. A candidate may file an appeal to review examination questions that were answered incorrectly by submitting a written request to the Board.

**C.** Examination papers; destruction: The Board may, in its discretion, destroy examination papers after the time-frame set forth in A.R.S. § 32-723(E) has expired.

**Historical Note**

Former Rules 6E, 6F; Former Section R4-1-28 renumbered as Section R4-1-228 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-229. Condition Credit**

**A.** Requirements. A candidate is required to pass all sections of the examination in order to qualify for a certificate. However, if, at a given sitting of the examination, a candidate passes 2 or more but not all sections, the Board grants the candidate condition credit for those sections passed and the candidate need not retake those sections provided:
1. The candidate wrote all sections of the examination at that sitting;
2. The candidate attained a minimum grade of 50 on each section not passed at that sitting;
3. The candidate passes the remaining sections of the examination within 6 consecutive examinations given after the 1 at which the 1st sections were passed;
4. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate writes all sections not yet passed; and
5. In order to receive credit for passing additional sections in any subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed at that sitting.

**B.** Transfer of condition credit. The Board shall give a candidate credit for all sections of an examination passed in another state if credit would have been given, under the then applicable requirements, had the candidate taken the examination in this state. If a candidate transfers condition credit from another state, as provided in A.R.S. § 32-723(G), the candidate shall pass the remaining sections of the examination within 3 years or within 6 consecutive examinations following the date the candidate received the condition credit in the other state.

**Historical Note**

Former Rules 6G, 6H; Former Section R4-1-29 renumbered as Section R4-1-229 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-230. Non-conditioned Candidates; Evidence of Additional Study**

**A.** Any candidate who has taken 2 examinations and has failed to receive a condition is required, before being accepted for further examination, to furnish to the Board the following evidence of additional study:
1. A candidate shall be permitted to take examination number 3 based upon a statement of self-study.
2. A candidate shall be permitted to take the 4th and subsequent examinations based upon:
   a. A statement of self-study, providing the grades on the last examination demonstrate an overall improvement over the examination immediately prior, otherwise
   b. Proof of additional formal education.

**B.** The applicant shall swear to and sign the statement of self-study required under this Section before a notary public, and ensure that the statement demonstrates a comprehensive program of self-study, described in detail as to time spent, subjects reviewed, and textbooks used.

**C.** Proof of additional formal education required under this rule means a certificate or transcript of grades from the institution, supervisor, or teacher, demonstrating the adequate completion of extension courses, correspondence courses, regular day or night college courses, or other supervised courses of study dealing with accounting or related subjects. Documentation shall be provided to the Board to confirm current enrollment in 2 or more parts of a supervised study program for the American Institute Certified Public Accountants uniform certified public accountant examination.

**Historical Note**

Former Rule 6I; Former Section R4-1-30 renumbered as Section R4-1-230 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-231. Regionally Accredited: Defined**

As contained in A.R.S. § 32-723(B)(1), the term "regionally accredited" refers, and is limited, to any of the following accrediting agencies:
1. Middle States Association of Colleges and Secondary Schools,
2. New England Association of Schools and Colleges,
3. North Central Association of Colleges and Secondary Schools,
4. Northwest Association of Schools and Colleges,
5. Southern Association of Colleges and Schools,
6. Western Association of Schools and Colleges.

**Historical Note**

Former Rule 6J; Former Section R4-1-31 renumbered as Section R4-1-231 without change effective July 1, 1983 (Supp. 83-4). Section repealed, new Section adopted

effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3).

## ARTICLE 3. CERTIFICATION AND REGISTRATION

**R4-1-301. Reserved**
**thru**
**R4-1-340. Reserved**

**R4-1-341. CPA Certificates; by Examination**

**A.** Application: Upon passing all parts of the examination prescribed by A.R.S. § 32-723(C) at 1 sitting or within the 3-year period prescribed by R4-1-229, a candidate believing himself or herself to be otherwise qualified under A.R.S. § 32-721, may apply for a certificate of certified public accountant. The candidate shall complete an application packet as prescribed by the Board. The application packet shall include the following information: applicant's background, personal data and photograph; examination scores; education and work history; university or college transcripts to confirm that the bachelor's degree and requirements have been completed; employer or employers name, address, and telephone number; authorization for investigation; and affirmation of truthfulness.

**B.** Application fee: The application fee for a certificate by examination is $100.00.

**C.** Examination: Each applicant for a certificate of certified public accountant shall pass an examination in Professional Ethics as prescribed by the Board.

**D.** An applicant for certification shall submit an application package containing the following items to the Board Office:
1. A completed application form signed by the applicant and notarized;
2. Other information required by the Board as set forth in subsection (A) necessary to determine the applicant's eligibility; and
3. The application fee.

**E.** Within 30 days of receiving an application package, the Board shall notify the applicant that the package is either complete or incomplete. If the applicant submits the items set forth in subsection (D) during the month the Board establishes the last day to file applications for examination or the subsequent month, the Board shall have an additional 60 days to notify the applicant that the package is either complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
1. Service of any written notice shall be completed in accordance with R4-1-117(F)(1)(2) and (3). Pursuant to R4-1-455.03(F), the applicant has 30 days to respond to the Board's request for additional information. If the applicant fails to timely respond to the Board's request, the Board may close the file. An applicant whose file has been closed and who later wishes to become certified, shall apply anew.
2. Within 60 days of receipt of all the missing information, the Board shall notify the applicant that the application package is complete.
3. The Board shall not process an application for certification until the applicant has fully complied with the requirements of subsection (D).
4. The Board shall issue a certification decision no later than 150 days after receipt of a completed application package. The date of receipt is the postmark date of the notice advising the applicant that the package is complete.
5. If the Board finds deficiencies during the substantive review of the application, the Board may issue a written request to the applicant for additional information.
6. The 150-day time frame for a substantive review for the issuance of a certificate is suspended from the date of the written request for additional information pursuant to subsection (E)(5) until the date that all information is received. Service of any written notice shall be completed in accordance with R4-1-117(F)(1)(2) and (3). Pursuant to R4-1-455.03(F), the applicant has 30 days to respond to the Board's request for additional information. If the applicant fails to timely respond to the Board's request, the Board shall finish its substantive review based upon the information the applicant has presented.
7. When the applicant and the Board mutually agree in writing, the substantive review time-frame may be extended in accordance with A.R.S. § 41-1075.

**F.** When the Board denies an applicant's request for certification, the Board shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time periods for appealing the denial.

**G.** With the exception in subsection (E), the Board establishes the following licensing time-frames for the purpose of A.R.S. § 41-1073:
1. Administrative completeness review time-frame: 30 days;
2. Substantive review time-frame: 150 days; and
3. Overall time frame: 180 days.

**Historical Note**
Former Rule 7A; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-41 renumbered as Section R4-1-341 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective September 24, 1997 (Supp. 97-3).

**R4-1-341.01. CPA Certificates; by Non-Arizona Examinee**

**A.** Application: An applicant for certification who sat for the CPA examination, as prescribed by A.R.S. § 32-723(C), outside of Arizona, passed all parts of the CPA examination at 1 sitting or within the 3-year period prescribed by R4-1-229, and who believes himself or herself to be otherwise qualified under A.R.S. § 32-721 shall comply with the application requirements as set forth in R4-1-341.

**B.** Application fee: The application fee for a certificate by a non-Arizona examinee is $100.00.

**C.** Examination: Each applicant for a certificate of certified public accountant shall pass an examination in Professional Ethics as prescribed by the Board.

**D.** The provisions set forth in R4-1-341(A), (D), (E), (F), and (G) apply to non-Arizona examinees.

**Historical Note**
Adopted effective November 1, 1995 (Supp. 95-4). Amended effective September 24, 1997 (Supp. 97-3).

**R4-1-342. CPA Certificates; by Reciprocity**

**A.** Application: A person applying for a certificate as a certified public accountant in Arizona on the basis of a certificate in good standing issued by another state, pursuant to A.R.S. § 32-727, shall comply with the application requirements set forth in R4-1-341.

**B.** Application fee: The application fee for a certificate by reciprocity is $100.

**C.** Examination: Each applicant for a certificate of certified public accountant shall pass an examination in Professional Ethics as prescribed by the Board.

**D.** The provisions set forth in R4-1-341(D), (E), (F), and (G) and the application packet requirements set forth in R4-1-341(A) apply to applicants seeking certification by reciprocity.

**Historical Note**
Former Rule 7B; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-42 renumbered as Section R4-1-342 without change effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective September 24, 1997 (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-343. Accounting Experience**

**A.** Definitions. For the purpose of this Section only, the following definitions apply:
1. "Employed" means engaged in providing accounting services to an employer, clients or other 3rd parties.
2. "Full time" means employed and providing accounting services at least 30 hours per week.
3. "Examination" means the critical inquiry or scrutiny and analysis of financial or accounting information.
4. "Reporting" means to communicate examination results to an employer, clients or other 3rd parties.

**B.** Graduate courses. For a course to qualify as a graduate level accounting course that meets the experience requirement of A.R.S. § 32-721(5):
1. The course shall be designated by the educational institution at which credit has been earned as a course that is normally open only to graduate students, and
2. The content of the course shall require a prerequisite and mastery of the subject matter normally required for completion of an undergraduate degree.

**C.** Certificate of experience. The applicant shall submit a completed application package which includes 1 or more certificates of experience to confirm the accounting experience required by A.R.S. § 32-721(5) and such other information as the Board may require for explanation or clarification of experience.

**Historical Note**
Former Rule 7C; Former Section R4-1-43 repealed, new Section R4-1-43 adopted effective February 22, 1978 (Supp. 78-1). Former Section R4-1-43 renumbered as Section R4-1-343 without change effective July 1, 1983 (Supp. 83-4). Amended effective May 31, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-344. Denial of Certification**

An applicant who is denied certification or registration by the Board is entitled to have a hearing before the Board or an ALJ.
1. Written application: The applicant shall file a notice of appeal pursuant to A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice: The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing: The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of proof: At the hearing, the applicant is the moving party and has the burden of proof.
5. Matters limited: At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

**Historical Note**
Former Rule 7D; Former Section R4-1-44 renumbered as Section R4-1-344 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-345. Registration; Fees, Certificate Renewal**

**A.** Initial registration: A registration fee is due when a new certificate is issued or when a new firm is registered by the Board. The initial registration fee is prorated for registration periods of less than 2 years.

**B.** Renewal registration: All registrants, individuals and firms, shall register biennially by filing with the Board the appropriate completed registration form specified in R4-1-118 and pay the registration fee prescribed by this Section. A registrant shall file the appropriate form no later than 5 p.m. on the last business day of the month. Registrations are deemed filed on the date received in the Board Office. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
1. Individual registrants: All individual registrants shall register at the following times:
   a. Registrants born in even-numbered years shall register during the month of their birth in each even-numbered year.
   b. Registrants born in odd-numbered years shall register during the month of their birth in each odd-numbered year.
2. Firms: All firms shall register at the following times:
   a. Firms which initially registered with the Board in even-numbered years shall register during the month of their initial registration in each even-numbered year.
   b. Firms which initially registered with the Board in odd-numbered years shall register during the month of their initial registration in each odd-numbered year.

**C.** Registration fees for individuals: The biennial registration fee for each certified public accountant and each public accountant is $150 per registration period. The registration fee shall be prorated by month for initial registration periods of less than 2 years.

**D.** Registration fees for firms: The biennial registration for each certified public accountant or public accountant firm is $150 per registration period.

**E.** The penalty for failure to register and pay a registration fee as provided in this Section is suspension of the registrant's registration. The Board shall vacate a suspension under this Section when the registrant has paid all past due registration fees, a $25 late fee and $25 for each full year the registrant has failed to register, total payment not to exceed $350. If a suspension under this subsection continues for more than 6 months, an individual shall return the registration certificate to the Board. If a suspension under this subsection continues for more than 12 months, an individual's certificate shall be deemed expired pursuant to A.R.S. § 32-741(C).

**F.** Registrants who have been granted inactive status shall not provide accounting services, for a fee or other form of compensation, including but not limited to: recording and summarizing financial transactions; analyzing and verifying financial information; reporting financial results to an employer, client, or other party; and rendering tax and management advisory services to an employer, client, or other party during the period of time in which the registrant's CPA certificate is inactive.

**Historical Note**
Former Rule 7E; Amended effective December 1, 1976

(Supp. 76-5). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-54 renumbered and amended as Section R4-1-345 effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective July 1, 1991; filed May 2, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-346. Notice of Change of Address**

**A.** Each registrant shall give notice to the Board, within 30 days, of any business, mailing, or residential change of address by filing a revised Biennial Registration Form.

**B.** Each registrant shall give notice to the Board of the opening of any new or additional office, or the closing of any existing office. Notice shall be given to the Board by filing a revised Biennial Registration Form.

**Historical Note**

Former Rule 7F; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-55 renumbered and amended as Section R4-1-346 effective July 1, 1983 (Supp. 83-4). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4).

## ARTICLE 4. REGULATION

**R4-1-401. Reserved**
**thru**
**R4-1-452. Reserved**

**R4-1-453. Continuing Professional Education**

**A.** Continuing professional education includes attendance at classes, authorship of articles, conducting or teaching courses, and self-study courses if they contribute to the maintenance and improvement of professional competence in accounting.

**B.** Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.

1. A class hour shall consist of a minimum of 50 continuous minutes of instruction. CPE credit shall be given for whole class-hours only. The Board shall give 1 CPE credit hour for each class hour of instruction.
2. Courses taken at colleges and universities described in R4-1-231 apply toward the CPE requirement as follows:
   a. Each semester system credit hour is worth 15 CPE credit hours,
   b. Each quarter system credit hour is worth 10 CPE credit hours, and
   c. Each noncredit class hour is worth 1 CPE credit hour.
3. Each correspondence program hour is worth 1 CPE credit hour.
4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and up to 1 additional hour of actual preparation time for each hour of presentation. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only 1 presentation of any seminar or course with no credit for repeat teaching of that course.
5. Writing and publishing articles or books that contribute to the accounting profession may be counted for a maximum of 20 hours of CPE credit during each renewal period.
   a. Credit may be earned for writing accounting material not used in conjunction with a seminar if the material addresses an audience of certified public accountants, is at least 3,000 words in length, and is published by a recognized 3rd-party publisher of accounting material or a sponsor.
   b. For each 3,000 words of original material written, the author may earn 2 credit hours. Multiple authors may share credit for material written.
6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (B)(4) and (5) above during each renewal period.
7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer related courses. Computer related courses may qualify as management advisory services pursuant to subsection (D), if they meet the provisions of subsection (C)(1).

**C.** Programs Which Qualify. CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.

1. Qualified programs shall:
   a. Be developed by persons knowledgeable and experienced in the subject matter;
   b. Provide written outlines or full text;
   c. Be administered by an instructor or organization knowledgeable in the program content; and
   d. Utilize teaching methods consistent with the study program.
2. Correspondence programs will qualify, if they meet the provisions above and if the sponsors maintain written records of each student's participation and records of the program outline for 3 years following the conclusion of the program.

**D.** Hour Requirement. A registrant shall complete the hour requirements as specified under subsections (1) through (9) below. The registrant shall ensure that a minimum of 50% of any required credit hours are in the subject areas of accounting, auditing, taxation, business law, or management advisory services, including the following credit hours required under subsections (1) through (9).

1. Registrants in public practice whose last renewal period was for 2 years shall complete 80 credit hours of CPE during the 2-year period immediately preceding biennial registration renewal.
2. Registrants for registration renewal who have been certified less than 2 years shall complete 10 credit hours of CPE for every 3 months registered before registration renewal.
3. Registrants who neither reside nor practice accounting in Arizona are required to fulfill Arizona's CPE requirement before renewing their registrations.
4. Registrants not engaged in public accounting practice, who do not perform public accounting services for compensation, shall complete 60 hours of CPE during the 2-year period immediately preceding registration renewal.
5. Registrants entering public accounting practice shall notify the Board. The registrant shall complete a total of 80 credit hours of CPE before practicing public account-

ing. CPE hours taken to satisfy the registrant's current biennial registration may be used toward meeting this requirement. The additional CPE hours submitted in support of this requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. Once entered, the registrant shall complete the applicable hours required for registration.

6. A registrant who is retired, is age 60 or more, and does not perform any accounting services, whether or not participating in the profits of a public accounting entity, does not need to complete any CPE for registration renewal.
7. Applicants for reinstatement following the suspension of a certificate pursuant to A.R.S. § 32-741(C) shall complete any deficiency in CPE not to exceed 80 credit hours. CPE hours used to meet the reinstatement requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. An applicant whose suspension has extended beyond the next biennial registration period shall complete the deficiency which resulted in the suspension as well as the 80 credit hours required for re-registration.
8. Applicants for reinstatement following the suspension of a certificate, other than that described in subsection (D)(7), shall complete the applicable credit hour requirement for registration. The CPE hours used to meet the reinstatement requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. For purposes of this subsection, an applicant whose suspension was for reasons other than nonregistration and whose suspension has extended beyond 2 registration periods (4 years) is not required to report more than 160 hours of CPE.
9. The Board may grant a partial or complete exemption from the CPE requirement to an individual registrant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service, or financial hardship which prevented the individual registrant from completing the CPE requirement.
10. A registrant shall report total CPE credit hours completed during the renewal period. Credit hours in excess of the number required for the current registration may not be carried forward to a subsequent registration period.

**E.** Reporting. Applicants for initial registration, renewal, reinstatement or who are subject to audit may provide a signed statement, under penalty of perjury, of the CPE programs for which they apply for credit. This statement shall show:

1. Sponsoring organization;
2. Location of program;
3. Title of program or description of content; and
4. Dates attended.

**F.** CPE Record Retention. Applicants shall maintain for 3 years and provide the Board upon request the following documents: course outline, proof of attendance or participation, and written proof of completion.

**Historical Note**

Adopted effective December 19, 1979 (Supp. 79-6). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-53 renumbered as Section R4-1-453 and amended in subsections (A) and (B) effective July 1, 1983 (Supp. 83-4). Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective July 15, 1988 (Supp. 88-3). Correction, Historical Note for Supp. 88-3 should read "Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective January 1, 1990, filed July 15, 1988" (Supp. 89-1). Section repealed, new Section adopted effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-454. Repealed**

**Historical Note**

Adopted effective July 1, 1983 (Supp. 83-4). Repealed effective November 20, 1998 (Supp. 98-4).

**R4-1-455. Professional Conduct: Independence, Integrity, and Objectivity**

**A.** Independence: Certified public accountants, public accountants, or firms of which they are partners or shareholders shall not express an opinion on financial statements of an enterprise unless they and their firms are independent with respect to the enterprise. Independence is considered to be impaired if, for example:

1. During the period of their professional engagement, or at the time of expressing their opinion, they or their firms:
   a. Had or were committed to acquire any direct or material indirect financial interest in the enterprise;
   b. Had any joint closely held business investment with the enterprise or any officer, director or principal stockholder of the enterprise, which was material in relation to their or their firm's net worth; or
   c. Had any loan to or from the enterprise or any officer, director or principal stockholder of the enterprise. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms and requirements:
      i. Loans obtained by certified public accountants or public accountants or their firms which are not material in relation to the net worth of the borrower;
      ii. Home mortgages; and
      iii. Other secured loans, except loans guaranteed by certified public accountants' or public accountants' firm which are otherwise unsecured.
2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, they or their firms:
   a. Were connected with the enterprise as promoters, underwriters or voting trustees, directors or officers or in any capacity equivalent to that of a member of management or of an employee; or
   b. Were trustees of any trust or executors or administrators of any estate if the trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or were trustees for any pension or profit-sharing trust of the enterprise.
3. The above examples are not intended to be all-inclusive.

**B.** Integrity and objectivity: Certified public accountants, public accountants, or firms shall not knowingly or recklessly misrepresent facts when engaged in the practice of public accounting, including the rendering of tax and management advisory services. In tax practices, certified public accountants or public accountants may resolve doubt in favor of their client as long as there is reasonable support for their position.

1. Contingent fees: A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this rule, the fees are

not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

a. A certified public accountant, public accountant, or firm engaged in the practice of public accounting shall not for a contingent fee for any client:
   i. Perform an audit or review of a financial statement;
   ii. Prepare a compilation of a financial statement when the certified public accountant, public accountant, or firm expects, or reasonably should expect, that a 3rd party will use the financial statement and the certified public accountant, public accountant, or firm's compilation report does not disclose a lack of independence;
   iii. Perform an examination of prospective financial information; or
   iv. Prepare an original or amended tax return or a claim for a tax refund.

b. The prohibitions in subsection (B)(1)(a) apply during the period in which the certified public accountant, public accountant, or firm is engaged to perform any of the services listed in subsection (B)(1)(a) and the period covered by any historical financial statements involved in the listed services.

2. Commissions and referral fees:
   a. A commission is a fee calculated as a percentage of the total sale or service.
   b. A referral fee is a fee paid in exchange for producing a purchase of goods or services.
   c. Prohibited commissions: A certified public accountant, public accountant, or firm engaged in the practice of public accounting shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission when the certified public accountant, public accountant, or firm also performs any of the following for that client:
      i. An audit or review of a financial statement;
      ii. A compilation of a financial statement when the certified public accountant, public accountant, or firm expects, or reasonably might expect, that a 3rd party will use the financial statement and the certified public accountant, public accountant, or firm's compilation report does not disclose a lack of independence; or
      iii. An examination of prospective financial information.
   d. The prohibitions in subsection (B)(2)(c) apply during the period in which the certified public accountant, public accountant, or firm is engaged to perform any of the services listed in subsection (B)(2)(c) and the period covered by any historical financial statements involved in the listed services.
   e. Disclosure of permitted commissions: A certified public accountant, public accountant, or firm engaged in the practice of public accounting who is not prohibited by this rule from performing services or receiving a commission and who is paid or expects to be paid a commission shall make a written disclosure in advance of accepting the engagement. This disclosure shall be made to any person or entity to whom the certified public accountant, public accountant, or firm recommends or refers a product or service to which the commission relates and shall include the dollar amount or percentage to be received.
   f. Disclosure of referral fees: Any certified public accountant, public accountant, or firm that accepts a referral fee for recommending or referring any product or service to any person or entity or that pays a referral fee to obtain a client shall disclose to the client, in writing, the acceptance or payment of the referral fee and its amount.

3. Incompatible occupations: Certified public accountants or public accountants who are engaged in the practice of public accounting shall not concurrently engage in any business or occupation which impairs their objectivity in rendering professional services.

**Historical Note**

Former Rule 9; Amended effective January 15, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-56 renumbered as Section R4-1-455 and amended in subsections (B) and (D) effective July 1, 1983 (Supp. 83-4). Section R4-1-455 amended and divided into R4-1-455 and R4-1-455.01 thru R4-1-455.04 effective April 22, 1992 (Supp. 92-2). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-455.01. Professional Conduct: Competence and Technical Standards**

**A.** Competence: Registrants shall not undertake any engagement for the performance of professional services which they cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subsections (B) and (C).

**B.** Auditing standards: Registrants shall not permit their names to be associated with financial statements in such a manner as to imply that they are acting with independence with respect to the financial statements unless they have complied with applicable generally accepted auditing standards.

**C.** Accounting principles: Registrants shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if the financial statements contain any departure from the accounting principle which has a material effect on the financial statements taken as a whole, unless the registrants can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been misleading. In such case, the registrants' reports shall describe the departure, the approximate effects of the departure, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

**D.** Accounting and review standards: Certified public accountants, public accountants, or firms shall not permit their names to be associated with unaudited financial statements or other unaudited financial information of a non-public entity in a manner which may imply that they are acting as independent accountants unless they have complied with all applicable standards for accounting and review services.

**E.** Forecasts and projections: Certified public accountants, public accountants, or firms shall not permit their names to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the certified public accountants, public accountants, or firms vouch for the achievability of the forecast or projection.

**F.** In expressing an opinion on representations, in financial statements which they have examined, certified public accountants, public accountants, or firms have violated A.R.S. § 32-741(A)(4) if they:
1. Fail to disclose a material fact known to them which makes the financial statements misleading;
2. Fail to report any material misstatement known to them to appear in the financial statement;
3. Are materially negligent in the conduct of their examination or in making their report on the examination;
4. Fail to acquire sufficient information to warrant expression of an opinion, or their exceptions are sufficiently material to negate the expression of an opinion; or
5. Fail to direct attention to any material departure from generally accepted accounting principles or disclose any material omission of generally accepted auditing procedure applicable under the circumstances. The provisions of this subsection are not intended to be all-inclusive or to limit the application of A.R.S. § 32-741(A)(4).

**G.** Tax practice standards: Certified public accountants, public accountants, or firms shall exercise due diligence in the conduct of their tax practices, and the current standards set forth in the American Institute of Certified Public Accountants Statements on Responsibilities in Tax Practice shall presumptively represent due diligence.

**H.** Standards: The application of standards such as "generally accepted accounting principles," "generally accepted auditing standards," and "applicable standards for accounting and review services" by certified public accountants, public accountants, or firms is to be made to the specific engagement or problem at hand by the exercise of professional judgment in the context of the literature of the accounting profession. The Board considers official statements of the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other specialized bodies dealing with accounting and auditing matters to be persuasive sources for interpretation of the standards. Persons who take positions that depart from the official statements shall be prepared to justify them.

**Historical Note**
Section R4-1-455.01 renumbered from R4-1-455(B) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-455.02. Professional Conduct: Confidentiality; Records Disposition**

**A.** Confidential client information: Certified public accountants, public accountants, or firms shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client. This rule shall not be construed to:
1. Relieve certified public accountants, public accountants, or firms of their obligation under R4-1-455.01(B) and (C);
2. Affect in any way their compliance with a validly issued subpoena or summons enforceable by order of a court;
3. Prohibit review of certified public accountants', public accountants', or firms' professional practices as a part of any peer or quality review pursuant to Board decision or authority; or
4. Preclude certified public accountants, public accountants, or firms from responding to any inquiry made by the Board under state statutes.

**B.** Records disposition responsibility: Certified public accountants, public accountants, or firms shall furnish to their client, or former client, upon request, within a reasonable time after original issuance:
1. A copy of any tax returns prepared for the client.
2. A copy of any reports, or other documents, that were previously issued to the client.
3. Any accounting or other records belonging to the client which they or their firm may have had occasion to remove from the client's premises, or to receive for the client's account, but this shall not preclude them from making copies of the documents when they form the basis for work done by them or their firm.

**Historical Note**
Section R4-1-455.02 renumbered from R4-1-455(C) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-455.03. Professional Conduct: Other Responsibilities and Practices**

**A.** Discreditable acts: Certified public accountants, public accountants, or firms shall not commit any act that reflects adversely on their fitness to engage in the practice of public accounting, including:
1. Violation of any of the provisions of R4-1-455 through R4-1-455.04;
2. Violation of a fiduciary duty or trust relationship with respect to any person; or
3. Violation of any of the provisions of A.R.S. Title 32, Chapter 6, Article 3, or any rule promulgated under these statutes.

**B.** Advertising practices: Certified public accountants, public accountants, or firms have violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising of public accounting services through any media, if those accountants willfully engage in any of the following conduct:
1. Employ any device, scheme, or artifice to defraud;
2. Make any untrue statement of material fact or fail to state any material fact necessary to make the statements made not misleading;
3. Engage in any advertising which would operate as a fraud or deceit;
4. Violate A.R.S. § 44-1522 and a court finds the violation willful;
5. Engage in fraudulent or misleading practices in the advertising of public accounting services which leads to a conviction pursuant to A.R.S. § 44-1481; or
6. Engage in fraudulent practices in the advertising of public accounting services which leads to a conviction for a violation of any other state or federal law.

**C.** Solicitation practices: Certified public accountants, public accountants, or firms have violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting, in connection with the direct or indirect personal solicitation of public accounting services, if those accountants willfully engage in any of the following conduct:
1. Violate any of the provisions of R4-1-455.03(B); or
2. Engage in direct or indirect personal solicitation through the use of coercion, duress, undue influence, compulsion, or intimidation practices.

**D.** Form of practice and name
1. Certified public accountants or public accountants may practice public accounting, whether as owners or employees, only in a firm as defined in A.R.S. § 32-701.01(6).
2. A certified public accountant or public accountant shall not use a professional or firm name or designation that is

misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company", "& Associates", or "& Consultants" unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.

**E.** Acting through others: Certified public accountants or public accountants shall not knowingly permit others to carry out on their behalf, either with or without compensation, acts which, if carried out by the certified public accountants or public accountants, would place them in violation of any of the provisions of R4-1-455 through R4-1-455.04.

**F.** Communications: When requested, certified public accountants or public accountants shall respond to communications from the Board within 30 days of the mailing of such communications by registered or certified mail.

**Historical Note**
Section R4-1-455.03 renumbered from R4-1-455(D) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-455.04. Professional Conduct: Interpretations**
Interpretations of the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants shall be persuasive but not conclusive in the Board's interpretations of R4-1-455 through R4-1-455.03.

**Historical Note**
Section R4-1-455.04 renumbered from R4-1-455(E) and amended effective April 22, 1992 (Supp. 92-2). Section number corrected (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4).

**R4-1-456. Reporting Practice Suspensions and Violations**

**A.** All registrants, individuals and firms shall report to the Board:

1. Any suspension or revocation of the right to practice accounting before the federal Securities and Exchange Commission, the Internal Revenue Service, or any other state or federal agency.
2. Any final judgment in a civil action or administrative proceeding where the court or public agency makes findings of violations, by the registrant, of any fraud provisions of the laws of this state or of federal securities laws.
3. Any final judgment in a civil action where the court makes findings of accounting violations, dishonesty, fraud, misrepresentation or breach of fiduciary duty by the registrant.
4. Any final judgment in a civil action involving negligence in the practice of public accounting by the registrant.
5. All convictions of the registrant of any felony, or any crime involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury or breach of fiduciary duty.

**B.** The report required under this rule must be in the form of a written letter and received by the Board within 30 days of the entry of any judgment or suspension or revocation of the registrant's right to practice before any agency. Such letter shall contain a description of the registrant's activities which resulted in a suspension or revocation, final judgment or conviction; the name of the state or federal agency which has restricted the registrant's right to practice; the effective date and length of any practice restriction; the case file number of any court action, civil or criminal; and the name and location of the court rendering a final judgment or conviction; and the entry date of any final judgment or conviction.

**Historical Note**
Adopted effective November 5, 1980 (Supp. 80-6). Former Section R4-1-57 renumbered as Section R4-1-456 without change effective July 1, 1983 (Supp. 83-4). Amended effective February 23, 1993 (Supp. 93-1).

**Appendix A. Repealed**

**Historical Note**
Adopted effective February 22, 1978 (Supp. 78-1). Amended effective December 19, 1979 (Supp. 79-6). Editorial correction, Footnote**, Rules reference corrected (Supp. 83-4). Repealed effective May 31, 1991 (Supp. 91-2).

**Appendix B. Repealed**

**Historical Note**
Adopted effective February 22, 1978 (Supp. 78-1). Repealed effective April 22, 1992 (Supp. 92-2).

# TITLE 4. COMMERCE, PROFESSIONS, OCCUPATIONS

## CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

Authority: A.R.S. § 23-1381 et seq.

*4 A.A.C. 2, consisting of Sections R4-2-101 thru R4-2-105, R4-2-201 thru R4-2-219, R4-2-301 thru R4-2-311, and R4-2-401 thru R4-2-407, adopted effective December 26, 1995 (Supp. 95-4).*

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### ARTICLE 1. GENERAL PROVISIONS

**R4-2-101. Terms, Definitions**

For purposes of this Chapter, the terms listed below are defined as follows:

1. "Act" means the Agricultural Employment Relations Act, A.R.S. Title 23, Chapter 8, Article 5, § 23-1381 et seq.
2. "Authorization Period" means the 4 pay periods immediately preceding the filing of a petition for election pursuant to A.R.S. § 23-1389(C).
3. "Bargaining Unit" means those employees who share a community of interest with regard to wages and terms and conditions of employment as described in A.R.S. § 23-1389(B).
4. "Board Agent" means any individual acting for and on behalf of the Board, including the Executive Secretary, the General Counsel, Hearing Officers, Trial Examiners, and investigators.
5. "Calendar Year" means the period beginning January 1 and ending December 31.
6. "Eligibility Period" means the 3 pay periods immediately preceding the filing of a petition for election pursuant to A.R.S. § 23-1389(C).
7. "Executive Secretary" means the Executive Secretary appointed by the Board pursuant to A.R.S. § 23-1388.
8. "Hearing Officer" means any person appointed by the Board to conduct a hearing in an election proceeding under the Act.
9. "Investigator" means any person employed by the Board for the purpose of investigating issues relating to unfair labor practice charges and petitions for election.
10. "Leave of Absence" means an employment status determined by the employer and the employee wherein the employee is permitted to cease work for that employer for a specified period of time.
11. "Pay Period" means the 7-day period utilized by the agricultural employer for payroll purposes. If the agricultural employer does not use a 7-day pay period, pay period means a 7-day period, Sunday through Saturday.
12. "Trial Examiner" means any person appointed by the Board to conduct a hearing in an unfair labor practice proceeding under the Act.

**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-102. Strikes**

**A.** Where the employer is an independent contractor engaged in the business of supplying labor to 1 or more farms or ranches, a dispute between the employer and the agricultural employees or their representative shall not be deemed to be a labor dispute involving the farm or the owner, lessee, or operator of that farm, and picket signs shall clearly state the persons against whom the employees of their representative are conducting the strike.

**B.** Nothing herein shall be deemed to interfere with the right of the employees or their representative to advertise their dispute with the employer or otherwise impair their right to engage in picketing of the employer; provided also that the picketing of

the employer shall not interfere with the work of neutral employers or suppliers who are not involved in the dispute.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-103. Notice of Appearance, Signing of Pleadings and Documents; Filing of Documents**

**A.** Any attorney of a party to any proceeding or matter under investigation by or before the Board shall promptly file a Notice of Appearance with the Board. Once filed, the notice shall remain in effect for the duration of the named proceeding or matter, or until the Board is notified, in writing, that authority has been revoked. The Notice of Appearance shall contain the following information:
1. The name of the party to the proceeding;
2. The name of the case, and case number if known;
3. The name, address, and telephone number of the representative; and
4. The signature of either the party or the attorney, and the date.

**B.** Whenever any pleading or document is filed by any person in any proceeding before the Board, the signature of the person appearing on that pleading or document constitutes a certification that that person has read the pleading or document, that to the best of that person's knowledge, information, and belief, there is good cause to support it, and that it is not interposed for delay.

**C.** Documents to be filed by any person, entity, or organization with the Board shall be filed at the principal office of the Board between the hours of 8 a.m. and 5 p.m. any Monday through Friday, with the exception of Arizona state legal holidays. A document shall not be considered filed unless it has actually been received by the Board.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-104. Service of Process and Legal Documents**

**A.** Service of petitions for election or petitions for decertification and subpoenas shall be made in accordance with A.R.S. § 23-1391.

**B.** If an attorney of a party has entered an appearance in the proceeding, then service of motions and papers upon the attorney or representative shall constitute service upon the party.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-105. Computation of Time**

In computing any period of the time prescribed or allowed by this Chapter, by order of the Board, the Hearing Officer or the Trial Examiner, or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. When the prescribed or allowed period of time is less than 11 days, intermediate Saturdays, Sundays, and Arizona state legal holidays shall not be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or an Arizona state legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Arizona state legal holiday.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

## ARTICLE 2. ELECTIONS

**R4-2-201. Contents of Petition for Election**

**A.** A petition for certification election, when filed pursuant to A.R.S. § 23-1389(C), by an agricultural employee, a group of agricultural employees, an individual, or a labor organization acting in their behalf shall be signed under oath and shall contain the following information:
1. The name of the agricultural employer;
2. The address of the agricultural employer;
3. A description of the bargaining unit which the petitioner claims to be appropriate;
4. The approximate number of employees in the alleged appropriate unit;
5. A brief statement that the employer declines to recognize the petitioner as a representative within the meaning of A.R.S. § 23-1382(10) or that the petitioner is currently recognized but desires certification under the Act;
6. The name, affiliation, if any, and address of petitioner;
7. The names and addresses of any other persons or labor organizations who claim to represent any employees in the alleged appropriate bargaining unit;
8. Whether a strike or picketing is in progress at the agricultural employer's establishment and, if so, the approximate number of employees participating and the date such strike or picketing commenced;
9. A statement that the petition for election is supported by 30% or more of the agricultural employees in the bargaining unit;
10. Any other relevant facts.

**B.** A petition for decertification election, when filed pursuant to A.R.S. § 23-1389(J), by an agricultural employee, a group of agricultural employees a labor organization, or an individual acting in their behalf shall be signed under oath and contain the following information:
1. The name and address of the petitioner;
2. A statement that a representative other than petitioner has been certified, or is currently recognized by the employer, and petitioner desires to rescind the certification, the unit claimed to be appropriate, a description of such unit, and the number of employees in the unit;
3. The name or names, the affiliation, if any, and the addresses of the individuals or labor organizations whose recognition or certification the petitioner desires to rescind;
4. A statement whether the agricultural employer has a contract with any labor organization or other representative of its employees and, if so, the expiration date;
5. Whether a strike or picketing is in progress at the agricultural employer's establishment and, if so, the approximate number of employees participating and the date such strike or picketing commenced.
6. A statement that the petition for decertification election is supported by 30% or more of the agricultural employees in the bargaining unit.
7. Any other relevant facts.

**C.** Any petition for election which does not contain all the information required by subsections (A) or (B) shall not be accepted for filing by the Board.

**D.** Within 10 days after the filing of a petition for election with the Board, the Executive Secretary shall send a copy of the petition to the respondent named in the petition. If a representative other than the petitioner has been certified by the Board, a copy of the petition shall also be sent to the certified labor organization.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-202. Withdrawal of Petition**

If a petition for election is filed with the Board, that petition may be withdrawn by stipulation between petitioner and respondent. With-

drawn petitions may not be refiled for a period of 6 months after withdrawal.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-203. Challenge to Petition; Waiver**

**A.** The filing of a challenge to a petition for election, pursuant to A.R.S. § 23-1389(F), shall not require a Board investigation of the challenge.

**B.** If a respondent fails to file a timely challenge to the petition for election, the challenge is deemed waived.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-204. Investigation of Petition**

**A.** Upon the filing of a petition for election with the Board, a Board agent shall, within 10 days, notify the agricultural employer by telephone of the filing of the petition. Within 7 days of the telephonic notification, the agricultural employer shall furnish all employment records, payroll signature lists, and any other pertinent data deemed necessary by the Board, or any agent thereof, to investigate the petition. Upon submission of the requested data to the Board, the agricultural employer shall certify in writing and under oath that the requested information provided to the Board is true, complete, and accurate.

**B.** In order to determine if there is reasonable cause to believe a question of representation exists pursuant to A.R.S. § 23-1389 and A.A.C. R4-2-210, the Board shall review all authorizations as part of the Board's investigation.

**C.** Upon review of the authorization cards and pertinent employment data, the Board may, in its own discretion, conduct any investigation it deems necessary to determine if a question of representation exists including, but not limited to, a field investigation.

**D.** All investigations shall be conducted in such manner as to preserve the confidentiality of the identity of the agricultural employees who may or may not have signed authorization cards. Investigative reports and the identity of persons interviewed in conjunction with the investigation shall not be disclosed to any party at any time except as required by law.

**E.** Except as provided by law or R4-2-205(B), neither the Board nor any agent thereof shall disclose to any person or party the number of authorizations filed nor any other information concerning the investigation.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-205. Time for Submission of Authorizations**

**A.** All authorizations shall be submitted with petitions for certification election or decertification election. Except as provided in subsection (B), authorizations shall not be accepted after the petition for certification election or decertification election has been filed.

**B.** If it is initially determined that the showing of interest is insufficient to warrant a pre-election hearing, the Board, or any agent thereof, shall notify petitioner that petitioner shall have until the close of business on the 2nd day thereafter to file additional authorizations with the Board. To be valid, any additional authorization must have been signed at any time starting with the day after the petition was filed. The person signing the authorization must have been an agricultural employee, at the time of signing the authorization and at any time during the eligibility period, and shall conform to the requirements of R4-2-206.

**C.** Authorizations signed by agricultural employees hired after the date the petition has been filed shall not be valid for purposes of computing the showing of interest.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-206. Form and Content of Authorizations**

**A.** If individual authorization cards are submitted to the Board as evidence of a showing of interest, each card shall contain only 1 name and 1 signature and only the following information which shall be printed unless otherwise specified:
1. The employee's name, name of employer, social security or employee I.D. number;
2. The signature of the employee and date in the employee's own handwriting; and
3. A statement that the employee is authorizing the petitioner to represent that employee for purposes of collective bargaining in the state of Arizona only, and further authorizing the petitioner to file a petition for election pursuant to A.R.S. § 23-1389.

**B.** If signature petitions are submitted as authorizations to demonstrate a showing of interest, each petition must contain:
1. The signature of the employee, social security or employee I.D. number, and date in the employee's own handwriting; and
2. The name of the employer and a statement that the employee is authorizing the petitioner to represent that employee for purposes of collective bargaining in the state of Arizona only, and further authorizing the petitioner to file a petition for election pursuant to A.R.S. § 23-1389.

**C.** Any authorization which does not contain the mandatory information shall be invalid.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-207. Validity of Authorizations**

**A.** Except as provided in R4-2-205(B), a valid authorization is 1 that is signed at any time during the authorization period by a person who is an agricultural employee at the time of signing the authorization card.

**B.** An authorization shall not be rendered invalid because the agricultural employee who signed that authorization also signed authorizations for other labor organizations.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-208. Confidentiality of Authorizations**

All authorizations and the contents thereof shall remain strictly confidential and shall not be subject to any subpoena powers under the Act.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-209. Showing of Interest Computation**

**A.** The showing of interest for any pay period within the eligibility period shall be computed by taking the total number of agricultural employees employed in the bargaining unit during that pay period and determining how many of those employees signed valid authorization cards in accordance with R4-2-205 and R4-2-207.

**B.** For purposes of determining whether an individual is an agricultural employee, permanent, within the meaning of A.R.S. § 23-1381(1), 6 months shall mean 132 work days.

**C.** Agricultural employees who were laid off or otherwise eligible for unemployment benefits for an entire pay period shall not

be included as employees in the bargaining unit for that pay period.

**D.** No agricultural employee who was on a leave of absence for an entire pay period shall be included in the bargaining unit for that pay period unless the following conditions have been met:
1. The employer produces a document in which the employee has been placed on leave of absence for a specified period of time, signed by the employee and duly acknowledged by a notary public; and
2. The date of the employee's projected return does not exceed 6 months from the date of the filing of the petition for election; and
3. Substantial evidence does not exist which would establish that the employee is not on a bona fide leave of absence or will not return from the leave of absence as scheduled.

**E.** If an agricultural employee has been placed on workers' compensation leave, that employee shall not be included in the bargaining unit unless the following conditions have been met:
1. The employer produces a document signed by a duly licensed physician which indicates the date the employee was placed on workers' compensation leave and the date of the employee's projected return, and
2. The date of the employee's projected return does not exceed 6 months from the date of the filing of the petition for election, and
3. Substantial evidence does not exist which would establish that the employee is not on a bona fide workers' compensation leave or will not return from the workers' compensation leave as scheduled.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-210. Existence of a Question of Representation**
A question of representation exists in the bargaining unit if a showing of interest of at least 30% is made in the final pay period of the eligibility period and in either of the other 2 preceding pay periods of the eligibility period.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-211. Notice of Hearing**
**A.** After a petition for election has been filed and served by the Bard upon the employer or labor organization, if it appears to the Board that there is reasonable cause to believe that a question of representation exists, the Board shall prepare and serve upon all employers and labor organizations named in the petition a notice of hearing before a Hearing Officer at a fixed time and place.

**B.** Any agricultural employer, labor organization, or any person may, by written request to the Board, receive notice of the filing of any petition for election and any related notice of hearing.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-212. Intervention by a Subsequent Labor Organization**
**A.** A subsequent labor organization may be allowed to intervene only at the initial session of the pre-election hearing on a petition filed by the first labor organization and may be placed on an election ballot only if the Hearing Officer finds:
1. The subsequent labor organization has filed with the Board a petition for certification election together with a sufficient number of signed authorizations to meet the 30% showing of interest required to establish a question of representation in accordance with R4-2-210, and
2. The subsequent labor organization filed its petition and authorizations not later than 7 days prior to the scheduled start of the initial session of the pre-election hearing.

**B.** In determining the validity of authorizations filed by a subsequent labor organization, the authorization period used shall be the same as that of the original petitioner.

**C.** In determining the showing of interest for a subsequent labor organization, the eligibility period shall be the same as that of the original petitioner.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-213. Peak Employment During Eligibility Period and Election**
**A.** A bargaining unit is at peak whenever the number of employees in the unit is not less than 66 2/3% of the maximum number of employees who have been or will be employed in the bargaining unit during the current growing season.

**B.** In determining the total number of bargaining unit employees who have been or will be employed at any one time during the current growing season, the Hearing Officer shall consider:
1. The employer's prior peak employment figures,
2. The types of crops grown,
3. The past and present acreage for the crop or crops in question,
4. The number of employees at other farms with the same or similar crops of similar acreage,
5. Any other relevant facts.

**C.** A question of representation exists in a given bargaining unit only if the bargaining unit is at peak during the pertinent pay periods of the eligibility period as required by R4-2-210. The respondent named in the petitions shall have the burden to allege and to prove that the bargaining unit is not at peak during a given pay period in an eligibility period.

**D.** An election shall be held when the bargaining unit is at peak. If peak does not occur at any time during the remainder of the current growing season, the election shall be held at peak during the following growing season.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-214. Election Procedures**
**A.** Only those persons who are agricultural employees in the appropriate bargaining unit on the date of the election shall be eligible to vote in that election.

**B.** Any party may be represented by 2 observers of its own selection, subject to the following limitations:
1. Union observers shall not be officials of any labor organization, and
2. Company observers shall not be supervisors or company officials.

**C.** Any party or the Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon conclusion of the election, the Board shall render a tally of ballots.

**D.** If the challenged ballots are sufficient in number to affect the results of the election, the Board shall, as soon as practicable, investigate such challenges and shall issue a revised tally which shall be served upon all parties.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-215. Objections to Election**
**A.** Within 7 days after the tally of the ballots has been rendered by the Board, any party may file with the Board objections to

the conduct of the election or conduct affecting the results of the election, which shall specifically set forth all facts and allegations in support of the objections. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. The party filing objections shall simultaneously serve copies of the objections on all other parties and file a statement of service with the Board. Issues raised in the objections to the conduct of the election or conduct affecting the results of the election shall exclude issues which were or could have been raised in either the challenge to the petition or the pre-election hearing.

**B.** If objections to the conduct of the election or conduct affecting the results of the election are not timely filed, or do not comply fully with the provisions of subsection (A), the Board shall take no further action. The Board shall send a written notice to all parties that no further action will be taken by the Board.

**C.** If no objections are filed within the time set forth in subsection (A) or if the challenged ballots are insufficient in number to affect the results of the election, and if no run-off election is to be held, the Board shall forthwith issue to the parties a certification of the results of the election, including certification or decertification of the representative where appropriate, and the proceedings shall be final.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-216. Investigation of Objections to Election**

**A.** If objections to the conduct of the election or conduct affecting the results of the election are timely filed, the Board shall investigate the objections. The Board may, if appropriate, dismiss the objections and certify the results of the election on the basis of an administrative investigation.

**B.** An aggrieved party may appeal to the full Board the dismissal of the objections no later than 5 days after receipt by that party of the dismissal of the objections. For good cause shown, the Board may extend the time for filing an appeal of the dismissal of the objections.

**C.** If it appears to the Board that substantial and material factual issues exist which can be resolved only after a hearing, the Board shall issue and cause to be served on the parties a notice of hearing on those issues before a Hearing Officer. At the hearing, any party may present evidence in support of, or in opposition to, the objections. The party or parties making the objections shall have the burden of proving all facts and allegations set forth in its objections. The Hearing Officer shall issue a recommended decision and proposed form of order that disposes of the issues and directs appropriate action including, without limitation, ordering that a new election be held or that the Board certify the results of the election.

**D.** Any hearing pursuant to this Section and any objection to the Hearing Officer's decision shall be conducted in accordance with the provisions of R4-2-406 and Article 4.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-217. Run-off Elections**

**A.** If an election ballot provides for the choice among at least 2 labor organizations and "no union", and none of the choices on the ballot receive a majority of valid votes cast, the Board shall, as soon as practicable, conduct a run-off election.

**B.** In any run-off election, only those persons who are agricultural employees in the appropriate bargaining unit on the date of the run-off election shall be eligible to vote in that run-off election.

**C.** The ballot in the run-off election shall provide for a selection between the labor organization receiving the highest number votes and "no union".

**D.** Upon conclusion of a run-off election, R4-2-214 through R4-2-216 and Article 4, relating to election procedures and review of decisions and orders, shall govern, insofar as applicable.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-218. Consent-election Agreements**

An agricultural employer may enter into a consent-election agreement with 1 or more individuals or labor organizations which have presented to that agricultural employer a claim to be recognized as the representative of a designated bargaining unit. The agreement shall contain a description of the appropriate bargaining unit, a proposed time and place for holding the election, and a statement specifying which agricultural employees within the appropriate bargaining unit shall be eligible to vote. A consent election will be conducted if the Board finds the consent-election agreement fair and noncollusive, and the time, place, and conditions of the election are approved by the Board. The method of conducting consent elections shall be consistent with the methods followed by the Board in conducting elections.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-219. Duties and Powers of Hearing Officer**

**A.** The Hearing Officer shall determine and issue a recommended decision and proposed form of order stating whether a question of representation exists and direct an election when appropriate and determine the bargaining unit and such issues as are raised at the hearing. In conducting election hearings, the Hearing Officer shall have all duties and powers as provided in A.R.S. § 41-1062 and Article 4 of this Chapter.

**B.** Following the conclusion of the election hearing, the Hearing Officer shall, within 30 days, unless good cause is shown, prepare and file with the Board a written recommended decision setting forth findings of fact, conclusions of law, and an order. The Board shall, within 10 days, serve a copy of the Hearing Officer's written recommended decision on all parties. The time for a party to object to the Hearing Officer's recommended decision shall commence upon receipt of the written recommended decision.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

## ARTICLE 3. UNFAIR LABOR PRACTICES

**R4-2-301. Unfair Labor Practice Charges**

A charge that any person has engaged in or is engaging in an unfair labor practice may be made by any person. Any charge may be withdrawn by the charging party prior to hearing and thereafter with the consent of the Trial Examiner. Upon withdrawal of any charge, the complaint may be dismissed at the discretion of the General Counsel.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-302. Form and Contents of Charge**

**A.** All charges shall contain the following:

1. The full name, address, and telephone number of the person, agricultural employer, or labor organization making the charge;
2. If the charge is filed by a labor organization, the full name and address of any national or international labor organization of which it is an affiliate or constituent unit;

3. The full name and address of the person, agricultural employer, or labor organization against whom the charge is made (thereinafter referred to as the respondent);
4. A clear and concise statement of the facts constituting the alleged unfair labor practice.

**B.** Any charge which does not contain all the information required in subsection (A) shall not be accepted for filing by the Board.

**C.** All charges shall be in writing, signed, and shall contain a declaration by the person signing it, under penalty of perjury, that its contents are true and correct to the best of that person's knowledge, information, and belief.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-303. Investigation of Charge**

**A.** Upon the filing of a charge, the Board shall serve a copy of the charge upon the person, agricultural employer, or labor organization against whom the charge has been made.

**B.** The General Counsel or designee shall conduct a preliminary investigation of the charge pursuant to A.R.S. § 23-1390(K). After the preliminary investigation, and at the discretion of the General Counsel, the General Counsel may either:
1. Refuse to issue a complaint;
2. File a complaint against any person, agricultural employer, or labor organization named in the charge which the General Counsel feels may have committed an unfair labor practice;
3. Seek appropriate injunctive relief, as provided for in A.R.S. § 23-1390.

**C.** No investigative reports, notes, memoranda, oral or written statements, tape recordings, any other information, or work product prepared or obtained by the General Counsel or designee during any investigation shall be subject to any subpoena powers of the Act or disclosed to any person without the consent of the General Counsel, unless otherwise provided by law.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-304. Complaint**

**A.** After a charge has been filed, if it appears to the General Counsel that formal proceedings should be instituted, the General Counsel shall issue and serve on all other parties a formal complaint in the name of the Board stating the unfair labor practice or practices. The complaint shall contain a clear and concise statement of the facts upon which the assertion of the Board's jurisdiction is predicated, and a clear and concise description of the acts which are claimed to constitute unfair labor practices.

**B.** Any complaint may be amended by the General Counsel before a hearing date has been set by the Board. Copies of the amended complaint shall be served upon all parties. After the hearing date has been set, the complaint cannot be amended except upon proper motion by the General Counsel with the consent of the Trial Examiner.

**C.** Any complaint may be withdrawn before the hearing by the General Counsel. After the opening of the hearing, the complaint may be withdrawn upon proper motion by the General Counsel with consent of the Trial Examiner.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-305. Refusal to Issue Complaint**

**A.** If, after the charge has been filed, the General Counsel declines to issue a complaint or, having withdrawn a complaint, refuses to reissue it, the General Counsel shall advise the parties in writing, accompanied by a simple statement of the procedural or other grounds for the action. The charging party may file with the General Counsel a request to reconsider the refusal to issue the complaint. A request to reconsider shall be filed within 10 days of receipt of notice of the refusal to issue or reissue the complaint, and copies shall be served simultaneously on all other parties. Any response to the request shall be filed by the General Counsel within 7 days of receipt of the request for reconsideration. Thereafter, the General Counsel shall advise all parties in writing within 7 days of a decision.

**B.** If, after the General Counsel has refused to issue or reissue a complaint, the charging party discovers new evidence which has become available only after the refusal to issue or reissue a complaint, the charging party may file with the General Counsel a request to reconsider based upon newly discovered evidence. The request for reconsideration based upon newly discovered evidence shall be filed immediately upon the discovery of the evidence and will not be entertained except where the requesting party can establish that new evidence could not have been discovered by diligent inquiry prior to the General Counsel's refusal to issue or reissue a complaint.

**C.** Nothing contained within this rule shall be construed to prohibit or limit the discretion of the General Counsel, with regard to issuing or reissuing a complaint following a notice of refusal to issue a complaint or withdrawal of a complaint.

**D.** If a complaint is withdrawn or dismissed on the General Counsel's own motion, no complaint shall be reissued more than 6 months after the date of the withdrawal or dismissal of the original complaint.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-306. Answer**

**A.** The respondent, within 10 days of receipt of the complaint, shall file an answer. The respondent shall admit or deny each of the facts alleged in the complaint. If respondent is without knowledge sufficient to permit a substantive answer, the respondent shall so state, and this statement operates as a denial. Unless for good cause shown, any allegation in the complaint not denied in the answer shall be deemed to be admitted by the Trial Examiner or the Board.

**B.** Upon good cause shown by any party, the Board may, by written order, extend the time within which the answer shall be filed.

**C.** If a respondent fails to file a timely answer, all allegations in the complaint shall be deemed to be admitted by respondent unless good cause is shown. The Board shall send notice of the untimely filing to all parties.

**D.** The respondent may amend the answer before a hearing date has been set by the Board. The respondent shall file copies of the amended answer with the Executive Secretary and shall simultaneously serve a copy of the amended answer on all parties. After the hearing date has been set, the answer cannot be amended except upon proper motion by the respondent with the consent of the Trial Examiner.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-307. Filing of Answer; Service**

**A.** Respondent shall file the original and 1 copy of the answer with the Board and shall simultaneously serve copies on all parties. The answer need not be verified or accompanied by affidavit. The answer of a party represented by counsel shall be signed by the attorney of record. A party who is not repre-

sented by an attorney shall sign the answer and state a complete mailing address.

**B.** The signature of the respondent or responding attorney constitutes a certification that the respondent has read the answer; that to the best of that person's knowledge, information, and belief there are adequate grounds to support it; and that it is not interposed for delay. If an answer is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the answer had not been served.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-308. Notice of Hearing; Continuance**

**A.** The Board shall, at least 20 days prior to the date of the hearing, serve a Notice of Hearing upon all parties setting forth the date, time, and place of the hearing and the name of the Trial Examiner who will be conducting the hearing.

**B.** Upon motion by any party and for good cause shown or upon the Hearing Officer's or Trial Examiner's own motion, a hearing may be continued.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-309. Consolidation and Severance of Proceedings**

In order to avoid any unnecessary costs or delay, any party may, after a charge has been filed, move that the charge and any other related proceeding be either consolidated with or severed from any other proceeding pending before the Board. Motions to consolidate or sever proceedings after the issuance of a complaint shall be filed with the Executive Secretary.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-310. Discovery and Disclosure**

**A.** No later than 10 days prior to the commencement of a hearing on a complaint alleging an unfair labor practice, the parties shall file with the Board and serve copies on the Trial Examiner and all other parties the following:
1. A list of all witnesses to be called by each individual party at the hearing,
2. A list of all exhibits to be offered into evidence by each party at the hearing,
3. Copies of all written or tape-recorded prehearing statements made by any person intended to be called to testify as a witness at the hearing.

**B.** The time for filing the lists of witnesses, exhibits, or statements may be extended for good cause shown.

**C.** Witnesses or exhibits not listed may not be called or used at the hearing except for impeachment purposes.

**D.** No later than 5 days prior to the commencement of the hearing on a complaint alleging an unfair labor practice, all parties shall endeavor in good faith to stipulate so far as possible to all material facts.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-311. Duties and Powers of Trial Examiner**

**A.** The Trial Examiner shall inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice as set forth in the complaint or amended complaint. In conducting the inquiry, the Trial Examiner shall have all duties and powers as provided in A.R.S. § 41-1062 and Article 4 of this Chapter.

**B.** Following the conclusion of the hearing, the Trial Examiner shall, within 30 days unless good cause is shown, prepare and file with the Board a proposed decision stating findings of fact and conclusions of law on all material issues and a recommended order. The Executive Secretary shall immediately serve the proposed decision and recommended order on the parties.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

## ARTICLE 4. HEARINGS

**R4-2-401. Hearings**

**A.** Any hearing for the purpose of taking evidence shall be conducted by a Trial Examiner or Hearing Officer. If necessary, the Board shall designate an alternate Trial Examiner or Hearing Officer to take the place of a Trial Examiner or Hearing Officer previously designated to conduct the hearing.

**B.** Hearings shall be open to the public. All hearings under this Chapter shall be conducted in accordance with A.R.S. § 41-1062 and this Article.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-402. Conduct of Hearings**

**A.** Any proceeding before a Trial Examiner or Hearing Officer shall be held in accordance with A.R.S. § 41-1062(A) except the rules of evidence applicable in the Superior Courts of the state of Arizona shall apply to the proceeding.

**B.** Any party shall have the right to appear at any hearing in person or by counsel. Any party, the Hearing Officer, or Trial Examiner shall have the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence in order to obtain a full and complete record. Witnesses shall be examined orally under oath or affirmation. Stipulations of fact may be introduced in evidence with respect to any issue.

**C.** The right to object to rulings on motions shall not be waived by the filing of an answer or by other participation in any proceedings before the Trial Examiner, the Hearing Officer, or the Board.

**D.** In all hearings before a Trial Examiner or Hearing Officer, parties shall timely present all relevant evidence which, with due diligence, could have been obtained prior to the hearing or such evidence shall be waived and shall not be raised at a later time or in a subsequent hearing.

**E.** Parties or their counsel shall appear at the time and place designated in the notice of hearing and shall be prepared to proceed with the hearing at the time. Necessary witnesses shall be available in order to avoid delaying the hearing. The parties shall provide a sufficient number of copies of all exhibits intended to be introduced as evidence so as to provide 1 copy to each of the other parties, to the Trial Examiner or Hearing Officer, and 1 copy for the record. The Hearing Officer or Trial Examiner may impose appropriate sanctions for any violations of this subsection.

**F.** Any objection to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, may be accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

**G.** Misconduct at any hearing before the Trial Examiner, the Hearing Officer, or the Board is grounds for summary exclusion from the hearing.

**H.** Upon request, before the close of the hearing, any party shall be entitled to a reasonable period of time for oral argument.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-403. Intervention**
Persons desiring to intervene in Board proceedings shall file a written motion stating appropriate grounds for the intervention. The Board, the Hearing Officer, or Trial Examiner, with appropriate discretion, may permit intervention to such extend and upon a showing of good cause. The intervenor shall then be considered a party to the proceedings for all purposes.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-404. Subpoenas and Depositions**
**A.** Any party to a hearing or the General Counsel may file a written application for subpoenas or subpoenas duces tecum with the Board. The application for subpoena shall be accompanied by the original and 1 copy of the actual form of subpoena. The subpoena shall specify the name and address of the person to be subpoenaed and, where applicable, shall state with reasonable specificity the documents or physical objects sought by the subpoena. Applications for subpoenas may be made ex parte. The Executive Secretary, the Trial Examiner, or the Hearing Officer appointed to conduct the hearing, as appropriate, shall issue the subpoenas requested. All subpoenas issued shall be returnable only at the hearing.
**B.** Any person served with a subpoena, whether ad testificandum or duces tecum, and who does not intend to comply with the subpoena, shall, within 5 days of the date of the service of the subpoena, file a motion in writing to quash the subpoena. The motion shall be filed with the Board and served simultaneously upon the parties and the Trial Examiner or Hearing Officer.
**C.** The Trial Examiner or the Hearing Officer shall quash the subpoena if, in that Trial Examiner's or Hearing Officer's discretion, the evidence sought does not relate to any matter in question in the hearing or if the subpoena does not describe with sufficient particularity the evidence sought to be produced or if for any other reason sufficient in law the subpoena is invalid. The Trial Examiner or Hearing Officer shall state the grounds for the ruling. The motion to quash and any ruling thereon shall become part of the record.
**D.** Witness fees and mileage shall be paid by the party at whose request the witness appears.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-405. Motions**
**A.** Except as provided in subsection (F), all motions shall be in writing unless made at the hearing, in which case they shall be stated orally on the record. The movant shall briefly state the grounds for the motion and order or relief sought.
**B.** If a party files a motion before a case is transferred to the Board, the movant shall file the original motion with the Board and serve copies simultaneously on the Trial Examiner or Hearing Officer and all parties. When motions are made prior to the transfer of the case to the Board, the Hearing Officer, or Trial Examiner shall rule, either orally on the record or in writing, upon all motions filed or made at the hearing.
**C.** After the transfer of the case to the Board, the movant shall file an original and 9 nine copies of the motion with the Board and serve copies simultaneously on all parties. A written notice of the disposition of the motion shall be served upon the parties by the Executive Secretary.
**D.** All motions, rulings, and orders shall become part of the record. Unless expressly authorized by ruling of the Board, the recommended decision of the Hearing Officer or Trial Examiner shall not be appealed to any court but shall be considered or reconsidered by the Board on appropriate appeal and rehearing.
**E.** All written motions made prior to the hearing shall be filed with the Board. All motions to dismiss, motions for summary judgment, or motions for judgment on the pleadings prior to the hearing shall be ruled on by the Board. All other motions made prior to the hearing shall be ruled on by the Hearing Officer or Trial Examiner. Unless otherwise provided, motions and responses shall be filed promptly and within such time as not to delay the proceedings.
**F.** Any party desiring to make an oral motion to the Hearing Officer or Trial Examiner at any time other than during a hearing shall do so by telephonic conference call in which all other parties shall have the opportunity to participate and which shall be recorded by a court reporter. In the case of written motions, the Hearing Officer or Trial Examiner may order that oral argument on the motion be heard by telephonic conference call in which all parties shall have the opportunity to participate and which shall be recorded by a court reporter.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-406. Board Review of Decisions and Orders**
**A.** Objections to a Hearing Officer's or Trial Examiner's proposed decision and recommended order shall be filed within 20 days of receipt or within such additional time as the Board may grant. An original and 9 copies shall be filed with the Board and copies shall be served simultaneously upon all other parties, pursuant to A.R.S. § 23-1391.
**B.** If no objections to the Hearing Officer's or Trial Examiner's proposed decision and recommended order are timely filed, or if the Board on its own motion declines review of the proposed decision and recommended order, the proposed decision will automatically become the final decision and order of the Board and all objections not previously made shall be deemed waived for all purposes.
**C.** Any party may, within 20 days of receipt of objections, file an original and 9 copies of a response and simultaneously serve copies all all other parties. A reply may be filed within 10 days of receipt of the response.
**D.** If any person files timely objections to the Hearing Officer's or Trial Examiner's proposed decision, the Board shall review the entire record including the Hearing Officer's or Trial Examiner's proposed decision, the objections thereto, the complete transcript of evidence, and the exhibits, briefs, and arguments. With convenient speed, the Board may conduct a hearing at which the parties may present oral argument.
**E.** Any objection or response to an objection must contain all contested issues and supporting documentation which would enable the Board to rule on the basis of its contents. The objection or response to an objection shall not raise any issue or allege any facts which could have been but were not timely presented to the Hearing Officer or Trial Examiner. The Board shall issue and serve upon the parties its order within 10 days after its decision has been made.

**Historical Note**
Adopted effective December 26, 1995 (Supp. 95-4).

**R4-2-407. Rehearing**
**A.** Any party aggrieved by a decision rendered by the Board may file with the Board, not later than 15 days after receipt of the Board's decision, a written motion for rehearing. Any motion not timely filed shall be waived and shall not be considered by the Board.

**B.** A motion for rehearing may be amended at any time before it is rules upon by the Board. A response may be filed within 10 days after receipt of the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing of the Board's decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the proceedings before the Board or any order or abuse of discretion whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board, its employees, or any party;
3. Accident or surprise which could not have been prevented by reasonable diligence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing before the Board;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify its prior decision or grant a rehearing as to all or any of the parties and on all or parts of the issues for any of the reasons set forth in subsection (C). The Board's order shall specify the grounds upon which the rehearing is granted and the rehearing shall cover only those matters.

**E.** Within the time for filing a motion for rehearing, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. If the motion for rehearing has been timely filed, the Board may grant the motion for any reason not stated in the motion. In either case, the order granting a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, the affidavits shall be served with the motion. An opposing party may, within 10 days of receipt of the motion and affidavits, serve opposing affidavits. This response period may be extended for an additional period not exceeding 20 days, either by the Board for good cause shown or by written stipulation of the parties. The Board may permit reply affidavits.

**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

## CHAPTER 3. STATE BOXING COMMISSION

(Authority: A.R.S. § 5-221 et seq.)

*This Chapter contains rules which were adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. The specific rules are Sections R4-3-415 through R4-3-424. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules. Because of the exempt rules contained within this Chapter, the Chapter is printed on blue paper.*

*Articles 1 through 4 adopted effective January 21, 1981. Former Article 2 renumbered as Article 5 effective January 21, 1981.*

### ARTICLE 1. EQUIPMENT

*Former Article 1 consisting of Sections R4-3-01 through R4-3-43 repealed effective January 21, 1981.*

Section
R4-3-101. The ring
R4-3-102. Boxing gloves
R4-3-103. Hand bandages
R4-3-104. Contestant's equipment
R4-3-105. Dressing rooms

### ARTICLE 2. WEIGH-IN AND EXAMINATION

Section
R4-3-201. Weigh-in
R4-3-202. When contestants must appear
R4-3-203. Physical examination, appearance, and weight

### ARTICLE 3. CONDUCT OF CONTESTS

Section
R4-3-301. Fair blows and fouls
R4-3-302. Intentional foul
R4-3-303. Accidental foul
R4-3-304. Substances
R4-3-305. Referee
R4-3-306. Knockdowns
R4-3-307. Conduct of seconds
R4-3-308. Method of judging
R4-3-309. Failure to resume boxing after rest period
R4-3-310. Mouthpiece

### ARTICLE 4. ADMINISTRATION

*Sections R4-3-415 through R4-3-424 recodified to R19-2-601 through R19-2-610 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).*

Section
R4-3-401. Age and physical condition of boxer applying for license
R4-3-402. Boxers injured
R4-3-403. Time between bouts
R4-3-404. Duty of matchmakers
R4-3-405. Notice to the Commission of promotions; publicity
R4-3-406. Payment of contestants
R4-3-407. Selection and payment of officials
R4-3-408. Commission seating at contests
R4-3-409. State championships
R4-3-410. Insurance for contestants
R4-3-411. Grounds for disciplinary action
R4-3-412. Licensing
R4-2-412.01. Licensing Time-frames
R4-3-413. License fees
R4-3-414. Rehearing or review of decision
R4-3-415. Recodified
R4-3-416. Recodified
R4-3-417. Recodified
R4-3-418. Recodified
R4-3-419. Recodified
R4-3-420. Recodified
R4-3-421. Recodified
R4-3-422. Recodified
R4-3-423. Recodified
R4-3-424. Recodified
Table 1. Time-frames

### ARTICLE 5. WRESTLING

Section
R4-3-501. Application and licensing
R4-3-501. Selection of match officials
R4-3-503. Matches
R4-3-504. Training and physical condition
R4-3-505. Penalty
R4-3-506. Costumes for wrestlers
R4-3-507. Payment of contestants
R4-3-508. Complaints
R4-3-509. Miscellaneous provisions

### ARTICLE 1. EQUIPMENT

**R4-3-101. The ring**

The promoter is responsible for providing a safe ring in accordance with the following. The ring shall be 18 or 20 feet square and securely assembled. The floor shall be covered with shock absorbing padding, such as Ensolite or the equivalent. The padding shall be covered with tightly stretched clean canvas securely laced to the platform. Ring ropes shall be three or four in number, not less than one inch in diameter, and covered with soft material to avoid rope burns.

**Historical Note**

Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-102. Boxing gloves**

The promoter is responsible for providing boxing gloves for contestants in accordance with the following. Gloves shall be eight ounces in weight for all divisions other than heavyweights, and ten ounces for heavyweights, and in sanitary, safe and good condition. The promoter shall keep on hand two extra sets of eight ounce gloves, and, when a heavyweight contest is scheduled, one extra set of ten ounce gloves. Gloves for main events shall be new and delivered to the Commission inspector with the packaging unbroken.

**Historical Note**

Adopted effective January 21, 1981 (Supp. 81-1)

**R4-3-103. Hand bandages**

**A.** Contestants shall use soft surgical bandage not over two inches wide, and up to ten yards long, for each hand, held in place by not more than three feet of surgeon's adhesive tape for each hand. Tape shall not be applied on the knuckle part of the first. No substance may be applied to bandages or tape.

**B.** Bandages and tape shall be applied in the dressing room in the presence of a Commission representative. A contestant has the right, upon giving due notice to the Commission representa-

tive in charge, to have one of his seconds witness the bandaging of his opponent's hands.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-104. Contestant's equipment**
Each contestant has the duty to provide himself with appropriate hand bandaging, boxing trunks, robe, boxing shoes, abdominal guard, mouthpiece, water bottle, bucket, and towel for use during a contest.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-105. Dressing rooms**
The promoter is responsible to provide contestants with dressing rooms or areas which shall be equipped with showers, be sanitary, safe, ventilated, and have sufficient benches.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

## ARTICLE 2. WEIGH-IN AND EXAMINATION

**R4-3-201. Weigh-in**
The weigh-in shall be held on the day of the scheduled match between 8 and 12 hours before the first scheduled bout at a time and place approved by the Commission. It shall be supervised by a Commission representative. Promoters are required to contact the Commission at least 48 hours in advance of the weigh-in to make appropriate arrangements therefor.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-202. When contestants must appear**
**A.** Contestants must appear at the weigh-in and the failure to do so will disqualify a contestant from competing unless special circumstances exist.
**B.** Contestants must appear at the arena at least one hour before the first scheduled contest on the card on which they will compete.
**C.** Contestants scheduled to box ten rounds or more shall be present in the city of the scheduled contest at least 24 hours before the contest and make their presence known to the Commission.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-203. Physical exmination, appearance, and weight**
**A.** Contestants will be physically examined at the weigh-in and will be re-examined within one hour before the first scheduled contest of the card on which they will compete. A contestant must satisfy the examining physician that he is in good physical condition and able to compete in the scheduled contest.
**B.** Facial hair must be trimmed by the time of the weigh-in and must not be so long that it may create a hazard to safety or interfere with the conduct of the contest. Additional trimming may be required in the discretion of the Commission representative at the weigh-in.
**C.** A contestant who exceeds by more than one pound the weight prescribed by contract when weighed-in will be considered not to have complied with his contract. He will be permitted a second opportunity to make the weight within two hours if he has a reasonable excuse for not making the weight when first weighed.
**D.** Except in the heavyweight class, the following are impermissible differences in weight unless the approval of both contestants and the approval of the Commission is obtained: 10 pounds when the lighter contestant is more than 135 pounds, and 6 pounds when the lighter contestant is less than 135 pounds.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

## ARTICLE 3. CONDUCT OF CONTESTS

**R4-3-301. Fair blows and fouls**
**A.** The only fair blow is one delivered with the padded knuckle part of the glove on the front or sides of the head and body above the belt.
**B.** All blows that are not fair as described in subsection (A) above are fouls. The following practices are also classified as fouls:
1. Hitting an opponent who is down or in the process of getting up after being down.
2. Holding an opponent with one hand and hitting with the other.
3. Holding or maintaining a clinch after directed by the referee to break.
4. Pushing or wrestling.
5. Butting with the head or shoulder.
6. Hitting on the break.
7. Hitting after the bell has sounded ending the round.
8. Any unsportsmanlike trick or action likely to cause injury to an opponent in the opinion of the referee.
9. Refusal to obey the commands of the referee.
10. Falling down intentionally.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-302. Intentional foul**
**A.** The referee shall have discretion as to the penalty for fouling. He may direct the deduction of points and, in the case of persistent or major fouling, or where the foul incapacitates the victim of the foul from continuing, disqualify the wrongdoer. Normally, in the case of minor fouling, the referee should issue a warning before imposing a penalty. Penalties shall be imposed during or immediately after the round in which the foul occurs. The referee shall personally advise the corners and each judge of the points deducted immediately upon imposition of the penalty.
**B.** If a contestant is injured (e.g., cut) by an intentional foul but can continue, the referee shall notify the judges and the Commission representative at ringside that if the foul-inflicted injury is subsequently aggravated to the point that the injured contestant cannot continue, a technical win will be rendered in favor of the injured contestant if he is ahead on points, or the points are even, and a technical draw will be rendered if he is behind on points.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-303. Accidental foul**
**A.** If a contestant is accidently fouled (e.g., butted) so that he cannot continue, the referee shall stop the contest and a technical decision shall be rendered in favor of the contestant ahead on points. If the points are even, or if the butt occurs in the first three rounds, a technical draw shall be declared.
**B.** If a contestant is injured (e.g., cut) by an accidental foul but can continue, the referee shall notify the judges and the Commission representative at ringside that if the foul-inflicted injury is subsequently aggravated to the point that the injured contestant cannot continue, the contest will be stopped and a technical win will be rendered in favor of the contestant ahead on points. If the points are even, or if the stoppage occurs in the first three rounds, a technical draw shall be declared.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-304. Substances**

**A.** No drugs or stimulants may be given to a contestant within 24 hours preceding or during a contest.
**B.** Only plain water may be administered to a contestant during a contest.
**C.** Coagulants such as adrenalin 1/1000, and others expressly approved by the ringside physician, may be used between rounds to stop bleeding of cuts. "Iron type" coagulants, such as Monsel's solution are absolutely prohibited.
**D.** Small amounts of vaseline may be used around the eyes.
**E.** Upon specific request of the Commission, a contestant shall provide a urine sample before and/or after a contest.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-305. Referee**

**A.** The referee shall have direction and control over contestants and their seconds during a contest subject to the governing laws and rules. He shall have final authority to decide if an injury is produced by a fair or foul blow and if an act is intentional or accidental. He shall have final authority to stop a contest when in his opinion a contestant is unfit to continue or otherwise cannot compete.
**B.** In the case of a cut or other injury which the referee believes may be incapacitating, the referee may consult with the ringside physician before making a decision and may interrupt a round and have the clock stopped for this purpose.
**C.** Where a contestant is incapacitated because of a foul, the referee has the discretion to interrupt a round and have the clock stopped to enable the contestant to recover.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-306. Knockdowns**

**A.** When contestant is considered knocked down. A contestant is considered down when any part of his body but his feet is on the floor, or he is on the ropes and unable to stand on his own, or he is knocked out of the ring.
**B.** Counting. When the contestant is knocked down the referee shall order the opponent to the farthest neutral corner of the ring, pointing to the corner. The count shall begin by the timekeeper immediately upon the knockdown. The timekeeper, by audible counting and hand signaling, shall give the referee the correct one-second interval for his count. The referee shall pick up and audibly announce the passing of the seconds, accompanying the count with appropriate hand motions. The referee's count is the official count.
**C.** Mandatory eight. A contestant who is knocked down shall not be allowed to resume boxing until the referee has finished counting eight. A contestant may take the count either on the floor or standing.
**D.** Neutral corner. Should the contestant causing a knockdown fail to stay in the farthest neutral corner during the count, the referee shall cease counting until the contestant has returned to that corner. The referee shall than go on with the count from the point at which it was interrupted.
**E.** Signaling. The referee shall wave both arms to indicate that a contestant has been counted out or cannot otherwise continue, and shall raise the hand of the opponent as the winner.
**F.** No saving by bell. Except in the last round, there is no saving by the bell. If a contestant is knocked down during the last ten seconds of a round, the count shall continue after the end of the round as if the round was not ended. The one minute rest period will begin from the time he rises after the knockdown. If a contestant is knocked down during a round, and counted out after the end of a round, the knockout shall be considered as having taken place during the round which was last finished.
**G.** Wipe gloves. Before a contestant resumes boxing after having been knocked, or having slipped, to the floor, the referee shall wipe any accumulated resin from the contestant's gloves before allowing the bout to resume.
**H.** Three knockdowns. Except in championship contests, upon consent of both contestants and the Commission, when a contestant is knocked down for the third time in a round, the referee shall stop the contest and raise the hand of the opponent as the winner.
**I.** Knocked out of ring. A contestant who is knocked or fallen out of the ring, may be helped back onto the ring apron by anyone except his manager or seconds. He has a total of 20 seconds to get into the ring and rise.
**J.** Double knockout. A simultaneous double knockout shall be declared a technical draw.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-307. Conduct of seconds**

**A.** A contestant may have up to three seconds and shall designate to the referee which of them is the chief second. The chief second is responsible for the conduct of the assistant seconds.
**B.** A second may not enter the ring or stand on the apron during the progress of a round. He may not administer aid to a contestant during a round. During an officially interrupted round, a second may stand on the apron only with the express permission of the referee.
**C.** Seconds must remain seated outside the ring between the progress of a round and must comport themselves in such a way as not to interfere with the progress of a round. The referee has the discretion to disqualify a second whose conduct is interfering with the contest.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-308. Method of judging**

**A.** Three judges shall score all contests. Under special circumstances two judges and the referee may score. The method of judging shall be the 10-point must system. In this system the better contestant receives 10 points and his opponent proportionately less, but not less than 7 points. If the round is even, each contestant receives 10 pounds. A fraction of points may not be given. Points for each round shall be awarded immediately after the termination of the round and not subsequently changed. Judges shall sign their scorecards.
**B.** The referee shall pick up the scorecards of the judges and then deliver the cards to the Commission representative assigned to check them for the mathematical accuracy. When the Commission representative has completed his checking he shall advise the announcer of the decision, and the announcer shall then inform the audience of the decision over the speaker system. The Commission representative shall stand at the ring apron when checking the scorecards.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-309. Failure to resume boxing after rest period**

The failure to resume boxing after a rest period shall be considered as if a knockout occurred in the next round.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-310. Mouthpiece**

**A.** Mouthpieces knocked out or spit out during the course of a round shall not be replaced until it can be done without interfering with the advantage the aggressor may have. As soon as it can be properly replaced, the referee shall direct a second to wash the mouthpiece and the referee shall then replace it with all deliberate speed.

**B.** A contestant who intentionally spits out his mouthpiece in an apparent attempt to cause the progress of a round to be interrupted is subject to penalty to be determined by a referee.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

## ARTICLE 4. ADMINISTRATION

**R4-3-401. Age and physical condition of boxer applying for license**

**A.** All contestants must have attained their eighteenth birthday before being licensed. No boxer over 32 years of age shall be granted a license except by special action of the Commission considering an applicant's demonstrated competence, status as a boxer and physical condition.

**B.** Any boxer applying for a license or renewal thereof must be examined by a Commission physician and satisfy the Commission that he has the ability to compete.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).
Amended subsection A. effective December 31, 1984 (Supp. 84-6).

**R4-3-402. Boxers injured**

**A.** At the conclusion of a contest, the ringside physician shall enter the ring and examine and tend to a contestant who has been knocked out or is otherwise injured. The seconds of the injured contestant must not interfere with the physician.

**B.** Contestants who have been knocked down and out shall be kept in a prone position until they have recovered.

**C.** A contestant who has been knocked out shall not be permitted to compete until 30 days has elapsed or until such later time as a Commission physician and the Commission shall determine. The term "knockout" as used herein includes technical knockout.

**D.** A boxer who has been knocked out three consecutive times within the twelve month period preceding a scheduled contest will not be permitted to compete. The term "knockout" as used herein includes technical knockout.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-403. Time between bouts**

Unless special approval is obtained from the Commission, if a contestant has competed anywhere in a contest of six rounds or less, he shall not be allowed to box until five days have elapsed. Ten days must elapse after a bout of more than six rounds.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-404. Duty of matchmakers**

**A.** Matchmakers are required to use due diligence to determine and report to the Commission in writing, on a form to be provided by the Commission, no later than 48 hours prior to a scheduled contest, the following information which is a predicate to licensing contestants and seconds:

1. The true identity of contestants.
2. The boxing record of contestants.
3. The date and result of the last contest engaged in by the contestants.
4. Whether contestants are under suspension from any boxing commission.
5. The ability of the contestants to compete.

**B.** Matchmakers will be held responsible for the making of mismatches. For the protection of boxers and the public, the persistent making of mismatches is ground for the suspension or revocation of a matchmaker's license.

**C.** The cost of record checks to commissions in other states will be charged back to the promoter unless suitable provision therefor has been made in the Commission's budget or the promoter has supplied the Commission with the requisite information.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-405. Notice to the Commission of promotions; publicity**

**A.** A promoter's request to the Commission for reservation of a date shall be made as soon as possible and shall be deemed by the Commission to be a representation by the promoter of his good faith intention to actually hold the card on that date. A promoter is prohibited from requesting dates solely for the purpose of preempting the conduct of promotion by others on or near the scheduled date or for any other anti-competitive reason. A pattern of requesting and cancelling dates is prohibited.

**B.** The Commission's sanction of a card shall constitute a license to conduct, hold or give a boxing contest within the meaning of A.R.S. § 5-229.

**C.** The Commission will not sanction the conduct of a card scheduled to take place within 72 hours before a previously sanctioned card in the same county, unless the second promoter compensates the first promoter or special circumstances exist. In order for a promoter to have a date protected by the Commission in accordance with this rule, he must have a commitment for an arena and a main event, and have advanced funds with respect to his scheduled card.

**D.** Proof of contracts between main event contestants must be filed with the Commission at least 72 hours prior to the date of the contest and before such bout is given any publicity. Forty-eight hours notice to the Commission is required for preliminary events. Copies of all contracts, on a form approved by the Commission, must be complete and filed with the Commission no later than the weigh-in.

**E.** Publicity for a scheduled card must be factual and not misleading to the public. Tickets shall be priced and available as represented to the public.

**F.** The Commission will not sanction a scheduled card until the promoter discloses in writing all persons having a financial interest in the promotion and otherwise complies with these rules insofar as they apply to promoters.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-406. Payment of contestants**

**A.** All contestants shall be paid in full according to their contracts, and no part or percentage of their remuneration may be withheld except by order of an official of the Commission, nor shall any part thereof be returned through arrangement with the boxer or his manager to any matchmaker or promoter.

**B.** Payment shall be made immediately after the contest or card under the supervision of a Commission representative.

**C.** In cases where the Commission does not require a promoter's bond, the promoter shall execute an assignment in favor of the Commission of box office proceeds to the extent necessary to secure the payment of purses. Such assignment is a condition

to the sanctioning of a card. When all contestants have been paid, the assignment shall be returned to the promoter and he shall be released therefrom.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-407. Selection and payment of officials**

**A.** The referee, judges, timekeepers, ringside physicians, and inspectors shall be selected by the Commission prior to the scheduled card and paid by a Commission representative, no later than immediately after the last scheduled contest in accordance with the Commission's fee schedule. The fee schedule shall be made known to the promoter before the scheduled card at such time as requested by the promoter.

**B.** A promoter or contestant may protest the assignment of officials only upon specific grounds submitted to the Commission in writing prior to the start of the scheduled card.

**C.** Referees shall be given a physican examination as determined by the ringside physician before officiating at a contest.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-408. Commission seating at contests**

The promoter is to provide a table and contiguous front row seating for the three members of the Commission and the executive secretary in the middle of one side of the ring where no judge is seated. The promoter is also required to provide front row seating for three judges, two timekeepers (one counting for the knockdowns), and two ringside physicians. The promoter is further required to provide ten ringside seats selected by him in the area where the Commission is seated, and within eye view and earshot of the Commission, for deputies, inspectors, judges, referees, and other officials assigned to work the scheduled card.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-409. State championships**

**A.** The Commission may sanction a contest as one for a State championship where:
1. One of the contestants is a bona fide resident of Arizona and the other is either
   a. Also a bona fide resident of Arizona or,
   b. A resident of California, Nevada, Texas, Utah, Colorado, or New Mexico, who has fought in Arizona at least two times within the twelve month period prior to the time the Commission's sanction is requested.
2. The contestants are qualified to fight for a State championship by virtue of demonstrated boxing ability and record.
3. The contestants make the weight for the pertinent weight classification at the weigh-in on the day of the contest.

**B.** State championship contests shall be scheduled for twelve rounds.

**C.** A contest may not be promoted as one for a State championship, or as a State championship elimination, without the prior consent of the Commission.

**D.** State championships shall be defended in Arizona, as determined by the Commission, whenever a promoter shall offer a challenger qualified to fight under this rule and the purse offered to the champion is fair.

**E.** The Commission may vacate a State championship title for violation of these rules.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-410. Insurance for contestants**

A promoter is required to provide insurance for each contestant who competes on his card for medical, surgical and hospital care for injuries sustained in the ring in the amount of $1,000, with $10 deductible, payable to the contestant as beneficiary, and for life insurance in the amount of $2,500 in case of accidental death, resulting from injuries in the ring, payable to the contestant's designated beneficiary.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-411. Grounds for disciplinary action**

**A.** Disciplinary action shall include suspension of license, revocation of license, and such other action as may be appropriate under the circumstances.

**B.** Grounds for disciplinary action are:
1. Violation of these rules, which a licensee is obliged to know, or an order of the Commission.
2. Violation of any of the provisions of Arizona Revised Statutes, Title 5, which a licensee is obliged to know.
3. Breach of a boxer-promoter or boxer-manager contract.
4. Where the licensee's conduct is lacking in honesty, ethics, or moral character so as to reflect discredit to boxing and thereby render disciplinary action consistent with the public interest and the purpose of Arizona Revised Statutes, Title 5, and these rules.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-412. Licensing**

**A.** A licensee is obliged to know that his license will expire on December 31 at midnight on the year of its issuance and he has the responsibility to apply for renewal prior to such expiration.

**B.** A license will not be issued unless the applicant provides proof of his true identity, and other material information requested on the license application and otherwise required by the Commission.

**C.** Expenses necessarily incurred by the Commission in the investigation of an applicant will be charged back to the applicant unless suitable provision therefor has been made in the Commission's budget.

**D.** Absent special circumstances, there will be a minimum ten day waiting period prior to the approval of an application or a license as a promoter, matchmaker, or manager.

**E.** A manager who is not a resident of Arizona, who comes into Arizona for the purpose of working the corner of his boxer, who is also not a resident of Arizona, need not obtain a manager's license. A second's license is sufficient.

**F.** A licensed manager may act as a second.

**G.** The licensing of the parties is a condition precedent to the making of a boxer-manager and boxer-promoter contract recognized by the Commission as valid. Such contracts shall be on a form approved by the Commission.

**Historical Note**
Adopted effective January 21, 1981 (Supp. 81-1).

**R4-3-412.01. Licensing Time-frames**

**A.** Overall time-frame. The Commission shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.

**B.** Administrative completeness review.
1. The applicable administrative completeness review time-frame established in Table 1 begins on the date the Commission receives the application. The Commission shall

notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Commission does not provide notice to the applicant, the license application shall be considered complete.

2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Commission mails the notice of missing information to the applicant until the date the Commission receives the information.
3. If the applicant fails to submit the missing information before expiration of the completion request period, the Commission shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.

**C.** Substantive review. The substantive review time-frame established in Table 1 begins after the application is administratively complete.

1. If the Commission makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date the Commission mails the request until the information is received by the Commission. If the applicant fails to provide the information identified in the written request the Commission shall consider the application withdrawn.
2. The Commission shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Commission shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Historical Note**
Adopted effective October 8, 1998 (Supp. 98-4).

**R4-3-413. License fees**

Fees for the issuance of annual licenses shall be as follows:

1. Promoters, $200.
2. Matchmakers, $100.
3. Managers, $50.
4. Judges, referees, announcers and ringside physicians, $25.
5. Timekeepers, boxers and wrestlers, and their trainers and seconds, $10.

**Historical Note**
Former Section R4-3-43 adopted effective January 16, 1981 now renumbered as Section R4-3-413 effective January 21, 1981 (Supp. 81-1).

**R4-3-414. Rehearing or review of decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Arizona State State Boxing Commission who is aggrieved by a decision rendered in such case may file with the Arizona State State Boxing Commission, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Arizona State State Boxing Commission. A response may be filed within ten days after service of such motion or amended motion by any other party. The Arizona State State Boxing Commission may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Arizona State State Boxing Commission or its hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Arizona State State Boxing Commission may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Arizona State State Boxing Commission may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Arizona State State Boxing Commission may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Arizona State State Boxing Commission for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Arizona State State Boxing Commission makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Arizona State State Boxing Commission's final decisions.

**H.** For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any Statute providing for rehearing of decisions of the Arizona State State Boxing Commission, such statutory provisions shall govern.

**Historical Note**
Adopted effective July 27, 1981 (Supp. 81-4).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-415. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-415 recodified to R19-2-601 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-416. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-416 recodified to R19-2-602 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-417. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-417 recodified to R19-2-603 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-418. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-418 recodified to R19-2-604 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-419. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-419 recodified to R19-2-605 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-420. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-420 recodified to R19-2-606 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-421. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-421 recodified to R19-2-607 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-422. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-422 recodified to R19-2-608 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication***

***of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-423. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-423 recodified to R19-2-609 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

***Editor's Note: The following Section was adopted pursuant to an exemption from A.R.S. Title 41, Chapter 6 as specified in Laws 1992, Ch. 337, § 12. Exemption from Title 41, Chapter 6 means that the agency did not submit these rules for publication of notice of proposed rulemaking; the Governor's Regulatory Review Council did not review these rules; the agency was not required to hold public hearings on these rules; and the Attorney General has not certified these rules.***

**R4-3-424. Recodified**

**Historical Note**
Adopted pursuant to an exemption from A.R.S. § 41-1001 et seq. effective February 24, 1993 (Supp. 93-1). Section R4-3-424 recodified to R19-2-610 at 5 A.A.R. 1175, April 23, 1999 (Supp. 99-2).

**Table 1. Time-frames (Calendar days)**

| License | Statutory Authority (Title 4) | Administrative Completeness Review | Response to Completion Request | Substantive Completeness Review | Response to Additional Information | Overall Time-frame |
|---|---|---|---|---|---|---|
| Promoter, Matchmaker, Corporation, Manager, Judge, Referee | A.R.S. § 5-228 R4-3-412 | 35 | 10 | 30 | 7 | 65 |
| Boxer, Boxers' Seconds, Trainer, Ring Announcer, Timekeeper, Physician | A.R.S. § 5-228 R4-3-412 | 10 | 10 | 30 | 14 | 40 |

**Historical Note**
Adopted effective October 8, 1998 (Supp. 98-4).

## ARTICLE 5. WRESTLING

**R4-3-501. Application and licensing**

**A.** No wrestler's license shall be issued to any person who is over 55 or under 18 years of age. All applications for wrestler's licenses must be in writing. Any person who gives incorrect information in any application for a wrestler's license may be permanently suspended by the Commission and any purse to which he might be entitled may be confiscated.

**B.** Every applicant for a wrestler's license shall furnish positive proof that he is the person he represents himself to be. He may be required to give a true record of all matches in which he has engaged, including wins, draws and losses for at least the last year in which he participated actively in the sport.

**Historical Note**
Former Rules 10 and 11; Former Section R4-3-50 renumbered as Section R4-3-501 effective January 21, 1981 (Supp. 81-1).

**R4-3-502. Selection of match officials**

**A.** The Commission shall appoint the referee, timekeeper and other officials at all wrestling matches.

**B.** The referee is the principal match official and shall be responsible for the proper conduct of the match and the enforcement of the Act and the rules and regulations of the Commission.

**Historical Note**
Former Rule 12; Former Section R4-3-51 renumbered as Section R4-3-502 effective January 21, 1981 (Supp. 81-1).

**R4-3-503. Matches**

At least four days before each wrestling match the promoter shall furnish the Commission an advance notice giving the names of the wrestlers to be used in the match and if any promoter is unable to complete his entire card, he shall notify the chief inspector of the district in which the match is to be held.

**Historical Note**
Former Rule 13; Former Section R4-3-52 renumbered as Section R4-3-503 effective January 21, 1981 (Supp. 81-1).

**R4-3-504. Training and physical condition**

Contestants in all matches must be properly trained and in good physical condition.

**Historical Note**
Former Rule 14; Former Section R4-3-53 renumbered as Section R4-3-504 effective January 21, 1981 (Supp. 81-1).

**R4-3-505. Penalty**

In no circumstances shall any wrestler molest, hit or physically abuse a spectator or manhandle the referee.

**Historical Note**
Former Rule 15; Former Section R4-3-54 renumbered as Section R4-3-505 effective January 21, 1981 (Supp. 81-1).

**R4-3-506. Costumes for wrestlers**

Contestants must be properly clothed, in neat and clean athletic apparel. Trunks and tights must be well fitted and whole with high waistbands. The skin of each contestant must be clean and free from grease, lotions or other foreign substance.

**Historical Note**
Former Rule 16; Former Section R4-3-55 renumbered as Section R4-3-506 effective January 21, 1981 (Supp. 81-1).

**R4-3-507. Payment of contestants**

Wrestlers shall be paid for their services in the same manner as is prescribed for the payment of boxers. Nothing in these rules shall be construed to imply that a promoter must deal with a booking

agent. Promoters are free to deal directly with the wrestlers or managers.

**Historical Note**
Former Rule 17; Former Section R4-3-56 renumbered as Section R4-3-507 effective January 21, 1981 (Supp. 81-1).

**R4-3-508. Complaints**
Complaints charging any violation of the Act or rules shall be investigated by the Commission and if in its judgment the evidence is sufficient to warrant a hearing, such hearing shall be held at such time and place as the Commission shall direct. Wrestlers who believe a referee was unfair in any ruling in any match may appeal to the Commission from the decision rendered and a hearing will be granted.

**Historical Note**
Former Rule 18; Former Section R4-3-57 renumbered as Section R4-3-508 effective January 21, 1981 (Supp. 81-1).

**R4-3-509. Miscellaneous provisions**
**A.** Each promoter shall be directly responsible to the Commission for the conduct of its employees and any violation of the rules and regulations of the Commission by an employee of a promoter shall be deemed to be a violation by the promoter.
**B.** It shall be the duty of the referee, promoter and his agents, attaches and employees and the participants in any wrestling match to maintain peace, order and decency in the conduct of any match.
**C.** There shall be no discrimination against any contestant on account of race, color or creed.
**D.** No matchmaker may be licensed as such for more than one club, without the express written consent and approval of the Commission.
**E.** The license of any licensee who violates or is knowingly a party with others in the violation of any of the provisions of this Section, shall be subject to revocation or suspension, as may be deemed expedient by the Commission.
**F.** The issuance of a license or the granting of permission of any sort to women for the purpose of engaging in wrestling in Arizona is authorized.

**Historical Note**
Former Rule 19; Former Section R4-3-58 renumbered as Section R4-3-509 effective January 21, 1981 (Supp. 81-1).

Recodified

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 4. RECODIFIED

*Title 4, Chapter 4, the rules of the Banking Department, has been recodified to Title 20, Chapter 4, pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

## CHAPTER 5. BOARD OF BARBER EXAMINERS

(Authority: A.R.S. § 32-301 et seq.)

### ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of R4-5-101 through R4-5-106, adopted effective May 11, 1994 (Supp. 94-2).*

*Article 1, consisting of R4-5-01 through R4-5-04, repealed effective May 11, 1994 (Supp. 94-2).*

Section
R4-5-101. Definitions
R4-5-102. Fees
R4-5-103. Payment of Fees
R4-5-104. Safety and Sanitation
R4-5-105. Board Approval of Disinfectants
R4-5-106. Change of Ownership or Location

### ARTICLE 2. EXAMINATION AND LICENSING

*Article 2, consisting of R4-5-201 and R4-5-202, adopted effective May 11, 1994 (Supp. 94-2).*

*Article 2, consisting of R4-5-14 through R4-5-26, repealed effective May 11, 1994 (Supp. 94-2).*

Section
R4-5-201. Examinations
R4-5-202. License Renewal

### ARTICLE 3. SHOPS/SALONS

*Article 3, consisting of R4-5-301 and R4-5-303, adopted effective May 11, 1994 (Supp. 94-2).*

*Article 3, consisting of R4-5-36 and R4-5-37, repealed effective May 11, 1994 (Supp. 94-2).*

Section
R4-5-301. Shop/Salon Premises and Equipment
R4-5-302. Supervision of a Shop/Salon
R4-5-303. Shop/Salon Mobile Units

### ARTICLE 4. SCHOOLS

*Article 4, consisting of R4-5-401 through R4-5-407, adopted effective May 11, 1994 (Supp. 94-2).*

*Article 3, consisting of R4-5-47 and R4-5-49, repealed effective May 11, 1994 (Supp. 94-2).*

Section
R4-5-401. Notification of Changes
R4-5-402. Use of "Accredited", "Approved", or Similar Terms
R4-5-403. General Requirements for Schools
R4-5-404. School Records
R4-5-405. School Closure
R4-5-406. Operation at More than One Location
R4-5-407. Limited-scope Training Facilities

### ARTICLE 5. PRACTICE AND PROCEDURE

*Article 3, consisting of R4-5-501, adopted effective May 11, 1994 (Supp. 94-2).*

*Article 3, consisting of R4-5-59, repealed effective May 11, 1994 (Supp. 94-2).*

Section
R4-5-501. Rehearing and Review of Decisions

### ARTICLE 1. GENERAL PROVISIONS

**R4-5-101. Definitions**

For the purposes of this Chapter and of A.R.S. Title 32, Chapter 3, the following definitions apply unless the context otherwise requires:

1. "Barbering implement" means any tool or device used for barbering.
2. "Diploma from a high school or its equivalent" means any of the following:
   a. Receipt of a diploma from any school recognized by the basic education authority of that state or country as a high school;
   b. Receipt of an overall score of 45 points on a General Education Development test administered by an authorized authority; or
   c. Receipt of any academic degree from a college or university recognized by the education authority of that state or country as a college or university.
3. "Domestic administration" means barbering performed on a person by that person or by another person when those persons are related to each other by one of the following relationships:father, mother, grandfather, grandmother, child, step-child, brother, sister, foster parent, legal guardian, step-parent, or spouse.
4. "Dry sanitizer" means a container which is large enough to store those barbering implements which must be stored in a dry sanitizer, utilizing a Board-approved fumigant or ultraviolet radiation, and which can maintain the sanitation of barbering implements.
5. "Establishment" means a distinct physical location but does not include a limited-scope training facility.
6. "Liquid sanitizer" means a container which is large enough to completely immerse those barbering implements which must be sanitized using a disinfectant solution.
7. "One year's experience as a licensed barber" means that a person has been licensed as a barber for at least one year and during that time has engaged in barbering for at least 1,200 hours.
8. "Patron" means a person who receives barbering services.
9. "Practiced barbering for at least two years" means that a person has engaged in barbering for at least 1,200 hours in each of two full years.
10. "Study" means to receive classroom instruction in a subject.
11. "Two years of high school education or its equivalent" means any of the following:
    a. Receipt of ten high school credits, or
    b. Receipt of an overall score of 39 points on a General Education Development Test.
12. "Work station" means the place within a shop/salon, mobile unit, limited-scope training facility, or school where barbering, other than cleansing of hair, is performed.

**Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-102. Fees**

The Board shall charge the following fees:

1. Barbers

a. Examination $75.00
b. Reciprocity 150.00
c. First barber license 30.00
d. Renewal 60.00
e. Late renewal penalty
i. First time in five-year period 25.00
ii. Second time in five-year period 50.00
iii. Third time in five-year period 75.00

2. Instructors
a. Examination $100.00
b. First license 40.00
c. Renewal 50.00
d. Late renewal penalty
i. First time in five-year period 25.00
ii. Second time in five-year period 50.00
iii. Third time in five-year period 75.00

3. Shop/Salon
a. Application and initial inspection $150.00
b. Change of location 75.00
c. Change of ownership 75.00
d. Renewal 40.00
e. Late renewal penalty
i. First time in five-year period 25.00
ii. Second time in five-year period 50.00
iii. Third time in five-year period 75.00

4. Schools
a. Application and initial inspection $1,000.00
b. Change of location 450.00
c. Change of ownership 450.00
d. Renewal 400.00
e. Late renewal penalty
i. First time in five-year period 50.00
ii. Second time in five-year period 100.00
iii. Third time in five-year period 150.00

5. Re-examination
a. Written $25.00
b. Practical 50.00

6. Copies of Records
a. Name and address of licensee (per licensee) .10
b. Public records (per page) .50

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-103. Payment of Fees**
Any fee paid to the Board shall be paid in full, in cash or in collectible funds, on or before its due date. A fee is paid on or before its due date if the fee is actually received by the Board on or before the due date or if the fee is mailed to the Board, by first-class U.S. mail, postage prepaid, and postmarked on or before the due date.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-104. Safety and Sanitation**
All barbering subject to A.R.S. Title 32, Chapter 3 shall be performed in compliance with the following requirements:

1. Barbering implements shall be free from defects and in good repair and shall be either new and disposed of after use on a patron or shall be sanitized before use on a patron as follows:
a. Immersible barbering implements, except scissors and razors, shall be sanitized as follows:
i. Remove all hair and debris,
ii. Wash with soap and water,
iii. Completely immerse in a Board-approved disinfectant solution according to the solution manufacturer's instructions,
iv. Rinse with water,
v. Dry, and
vi. Store in a dry sanitizer.
b. Scissors and razors shall be sanitized either by following the procedures in subparagraph (1)(a) or by wiping with a towel or cloth which contains a Board-approved disinfectant. Sanitized scissors and razors shall be stored in a dry sanitizer.
c. Nonimmersible barbering implements shall be sanitized by wiping or spraying those parts of the implements which come in contact with a patron with a Board-approved disinfectant and shall be stored in a dry sanitizer.
2. Oils, gels, lotions, shampoos, creams, antiseptics, clays, ointments, and other preparations used in barbering whose containers do not incorporate a dispensing mechanism shall be removed from their containers by using a new disposable device or a sanitized device, such as a spatula, spoon, or similar instrument, and shall not be removed by the use of the hands.
3. A Board-approved liquid sanitizing solution shall be set up at all times when barbering is being performed. The liquid sanitizing solution shall immediately be replaced if it becomes contaminated.
4. A towel or cloth used in barbering shall either be new and disposed of after use on a patron or sanitized before use on a patron. Towels and other cloths shall be sanitized by laundering. New or sanitized towels and cloths shall be stored in a closed cabinet or container. Soiled towels and other cloths which will be sanitized shall be stored in a separate covered or closed receptacle.
5. Garbage and hair shall be stored in a separate covered or closed receptacle.
6. Shops/salons, mobile units, schools, and limited-scope training facilities, including their dispensary fixtures, furniture, and window coverings, shall be clean and orderly at all times.
7. Bottles and other containers of products used in barbering shall be clearly and correctly labeled to show the nature and intended use of the contents.
8. Persons engaged in barbering shall wash their hands with soap before serving each patron.
9. Styptic pencils and lump alum shall not be used in barbering. Neck strips, end papers, and depilatory wax shall not be used on more than one patron.
10. The flooring within six feet of a work station shall be constructed of a smooth, durable, and impervious material.
11. Neck strips shall be used to prevent any non-sanitized item, such as a chair cloth, from coming in direct contact with a patron's neck.
12. Neck dusters shall be stored in a dry sanitizer when not in use.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-105. Board Approval of Disinfectants**
The Board approves any disinfectant, liquid sanitizing solution, spray, vapor sterilization product, ultraviolet sterilizing equipment, or other sterilizing method which is registered by the Environmental Protection Agency (EPA) as a virucidal, bactericidal, and fungicidal disinfectant. Each product must be used in accordance with the manufacturer's instructions.

1. Approved liquid sanitizing solutions shall include one or more of the following chemicals:
   a. Quatenary Ammonium Compounds (Quats): liquid or tablet, 1:1000 solution; immerse implements into solution for 20 minutes or more unless otherwise specified by manufacturer's directions.
   b. Formalin: liquid, 25% solution; immerse implements into solution for ten minutes or more unless otherwise specified by manufacturer's directions.
   c. Formalin: liquid, 10% solution; immerse implements into solution for 20 minutes or more unless otherwise specified by manufacturer's directions.
   d. Ethyl, Grain, or Isopropanol Alcohol: liquid, 70% solution; sanitize sharp cutting implements and electrodes for ten minutes or more unless otherwise specified by manufacturer's directions.
   e. Sodium Hypochlorite: liquid, 10% solution; immerse implements into solution for ten minutes or more unless otherwise specified by manufacturer's directions.
2. Approved dry sanitizing methods shall include one of the following:
   a. Fumigant: one tablespoon of borax and one tablespoon of formalin or premanufactured tablet or container.
   b. Ultraviolet ray electric sanitizer manufactured for the purpose of sanitation.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-106. Change of Ownership or Location**
Within 15 days after a change of the ownership of a shop/salon or a school, the new owner shall notify the Board in writing of the change of ownership and shall submit to the Board an application to operate a shop/salon or a school, as applicable, along with the change of ownership fee prescribed in R4-5-102. Within 15 days after a change of the location of a shop/salon or a school, the shop/salon or the school licensee shall notify the Board in writing of the change of location and shall submit to the Board an application to operate a shop/salon or a school, as applicable, along with the change of location fee prescribed in R4-5-102.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

## ARTICLE 2. EXAMINATION AND LICENSING

**R4-5-201. Examinations**
Examinations by the Board shall be conducted in conformity with the following:
1. Applicants for barber and instructor licenses shall be notified by the Board of the times assigned for their examination.
2. Applicants shall supply the barbering implements, supplies, and models for the practical portion of the examination. A model shall not be a former or current barber, cosmetologist, barber or cosmetology instructor, or barber or cosmetology student in any state or foreign country.
3. Examinations shall be in the English language. An applicant may use an interpreter. An interpreter shall be provided by the applicant and shall not be a former or current barber, cosmetologist, barber or cosmetology instructor, or barber or cosmetology student in any state or foreign country.
4. Examination papers are Board records and shall not be returned to barber schools or applicants.
5. The questions used in examinations shall not be made available for inspection or copying.
6. Except for barbering implements and supplies for the practical portion of the examination, an applicant shall not bring anything into the examination.
7. Any applicant copying or asking for any information from another person, except the examiner, shall be dismissed from the examination and shall forfeit the examination fee.
8. An applicant shall apply for a license within one year of successful completion of the examination or shall retake the examination if such application is made after more than one year of the successful completion of an examination.
9. An applicant who does not pass one or both portions of an examination may review the portion not passed if a request to do so is made in writing to the Board within 30 days after the examination.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-202. License Renewal**
A license issued by the Board is renewed within 30 days before its expiration date if the required fee is actually received by the Board during the 30 days preceding the expiration date or on the expiration date itself, or the fee is mailed to the Board, by first-class U.S. mail, postage prepaid, and postmarked during the 30 days preceding the expiration date or on the expiration date itself.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

## ARTICLE 3. SHOPS/SALONS

**R4-5-301 Shop/Salon Premises and Equipment**
Each shop/salon shall have at least the following:
1. A sink with hot and cold running water, soap, and towels;
2. A covered or closed receptacle for garbage and hair; and
3. A covered or closed receptacle for soiled, reusable towels and cloths.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-302. Supervision of a Shop/Salon**
**A.** The shop/salon licensee and the barber under whose direct supervision a shop/salon operates shall ensure that:
   1. The shop/salon, all employees and independent contractors practicing barbering within the shop/salon, and the supervising barber have current licenses;
   2. All required licenses and the latest Inspector's Record from the Board are conspicuously posted in the shop/salon; and
   3. The shop/salon and all employees and independent contractors practicing barbering within the shop/salon are in compliance with applicable barbering laws and rules.

**B.** The shop/salon licensee and the supervising barber shall be responsible for any violation of barbering laws or rules which occurs in the shop/salon or which is committed by any person under their supervision or control.

**C.** A shop/salon licensee who is a licensed barber may directly supervise the shop/salon.

**D.** Contracts between a chop/salon and an independent contractor barber in the shop/salon shall require that the independent contractor, and the independent contractor's employees, shall be under the direct supervision of the barber who supervises the shop/salon.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-303. Shop/Salon Mobile Units**
A mobile unit may be licensed as a shop/salon if:
1. The unit is self-contained;
2. The Board receives notice, either written or oral, of the location of the mobile unit at least 15 days in advance; and
3. The mobile unit meets the other requirements for a shop/salon.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**ARTICLE 4. SCHOOLS**

**R4-5-401. Notification of Changes**
A school shall notify the Board in writing within 15 days of when any of the following changes occurs and shall submit to the Board the updated documents or information:
1. The school's catalogue is amended or replaced,
2. A new course is offered,
3. The school's operating schedule is changed,
4. The name of the school is changed,
5. The manager of the school is changed, or
6. The school opens an additional location or establishes a limited-scope training facility.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-402. Use of "Accredited", "Approved", or Similar Terms**
Whenever "accredited", "approved", or similar terms are used in school catalogues or advertising, the approving or accrediting organization shall be identified.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-403. General Requirements for Schools**
**A.** A school shall file its operating schedule with the Board before the first scheduled class begins.
**B.** A school shall have the following minimum facilities, equipment, supplies, materials, and personnel:
1. An instructor licensed to teach each required course of instruction;
2. Instructional fixtures and facilities for instructors and students, such as desks or tables and chairs;
3. A work station for each student scheduled for practical instruction;
4. Filing cabinets for school and student records;
5. Chalkboards or feltboards;
6. A dispensary for the preparation, mixing, storage, and disposal of supplies and chemicals used for the sanitation of barbering implements;
7. One liquid sanitizer and one dry sanitizer at each work station;
8. At least one latherizer for every ten students;
9. At least one sink, with hot and cold running water, soap, and towels for every three students; and
10. A library for student use which contains at least a dictionary, current barbering instruction manuals and textbooks, and current Arizona statutes and rules governing barbering.

**C.** A school shall furnish the equipment, barbering implements, materials, and supplies needed for instructional purposes. All equipment, barbering implements, and materials shall be of shop/salon quality and maintained in good repair at all times.
**D.** A school shall use a monthly grading schedule.
**E.** A school shall maintain current transcripts and records of each student enrolled, including the hours and dates of attendance and grades of all examinations. A record of completion form shall be signed jointly by the school owner or manager and the graduate and presented to the Board within 14 days after a student's graduation.
**F.** Safety and sanitary measures relating to each subject shall be taught with that subject.
**G.** Refresher courses, post-graduate, and continuing education courses in barbering may be conducted in a licensed school for anyone, including licensees and students, without a licensed instructor present. Students and other unlicensed individuals shall not receive credit hours for such training.
**H.** An instructor may assist students in the performance of barbering.
**I.** A person who does not hold an instructor license may not teach in a school but may demonstrate to enrolled students any process, product, or appliance when an instructor is present and observing.
**J.** A patron of a barber school shall not be dismissed from a chair until all work performed by the student has been inspected and approved by an instructor.
**K.** Students shall not be permitted to attend school more than eight hours in a day.
**L.** Students shall be permitted to operate only safe equipment in good repair.
**M.** A student instructor shall not teach students until the student instructor has received 40 hours of training in methods of teaching as a part of the student instructor's training as an instructor.
**N.** Students shall not be prevented or discouraged from making complaints to the Board.
**O.** Students may receive a maximum of 20 hours credit for field trips pertaining to barbering.
**P.** Students shall not be called from classroom instruction or practical or written examinations to perform barbering to the public.
**Q.** Students shall wear name tags while in school which identify them as students.
**R.** Before enrolling a student, a school shall provide the student in writing with the applicable Notice set forth below and shall require that the student acknowledge the receipt of the Notice by signing and dating the Acknowledgment portion of the Notice. A copy of the signed Notice and Acknowledgment shall be given to the student, and the original shall be maintained by the school for a period of five years. This Notice shall be on a separate sheet of 8 1/2" x 11" paper.
1. If the student is enrolling for training as a barber, the Notice shall state the following:

NOTICE

This Notice is required by the Arizona State Board of Barbers.

You have applied to this school for training which will qualify you to apply for a license to be a barber in Arizona. The Arizona State Board of Barbers will not issue you a license unless you are at least 16 years of age when you apply for the license and you can demonstrate to the Board of Barbers that you have completed and received appropriate credits for at least two years of high school education or its equivalent.

It is your responsibility to make sure that you can meet the requirements of the Board of Barbers, particularly regarding the completion of two years of high school or its equivalent. If you are unsure about

whether you can meet the requirements, you should contact the Board of Barbers for further information.

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

I hereby acknowledge that I have received and understand the foregoing Notice.

2. If the student is enrolling for training as an instructor, the Notice shall state the following:

NOTICE

This Notice is required by the Arizona State Board of Barbers.

You have applied to this school for training which will qualify you to apply for a license to be a barber instructor in Arizona. The Arizona State Board of Barbers will not issue you a license unless you are at least 19 years of age when you apply for the license and you can demonstrate to the Board of Barbers that you hold a high school diploma or its equivalent.

It is your responsibility to make sure that you can meet the requirements of the Board of Barbers, particularly regarding the holding of a high school diploma or its equivalent. If you are unsure about whether you can meet the requirements, you should contact the Board of Barbers for further information.

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

I hereby acknowledge that I have received and understand the foregoing Notice.

**S.** Within five days of enrolling a student, a school shall notify the Board that the student is enrolled by providing the Board with a copy of the student's application to the school and two passport-size photographs of the student. A student application to a school shall be in writing, be signed by the student, and contain at least the student's name and address, the date on which the student enrolled in the school, and an identification of whether the student is enrolled in a barber course or an instructor course.

**T.** Upon receipt of the notification, the Board shall issue an Educational Card to the student. The Educational Card shall be displayed at the student's work station. Upon graduation, the school shall return the Educational Card to the Board.

**U.** Each student's work station shall have the following:
1. A wall mirror;
2. A workstand;
3. A chair for the patron;
4. A covered receptacle for soiled towels and cloths;
5. A covered receptacle for garbage and hair; and
6. A sufficient supply of tonics, lotions, shampoos, and chemical preparations used in processing curly hair and hair weaving.

**V.** All barbering implements and school equipment, including furniture and fixtures, shall be kept in good working order and repair.

**W.** Unless a student has already received the following items from a school at which such student was previously enrolled, a school shall provide each student with a nonreturnable training kit which shall include the following:
1. Textbooks used for the courses,
2. One mannequin on which to practice barbering,
3. Twelve combs and six brushes without defects,
4. One hair dryer,
5. One straight razor with interchangeable blades,
6. One pair of haircutting shears,
7. One pair of thinning shears,
8. One clipper with interchangeable blades sizes 1 and .000 or an adjustable clipper, and
9. One neck duster.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-404. School Records**

**A.** A student's records shall be kept in the school where the student is enrolled.

**B.** At least weekly, a school shall prepare and maintain a written class record for each student. The class record shall identify the student, the date, the subjects in which credit hours were earned, an identification of whether the subjects were classroom instruction or practice, and the number of hours for each subject. Each week's class record shall be signed or initialed by the student within three days of its preparation. A school shall also maintain a file for each student which contains the contract between the school and the student, the student's current transcript, and the original Notice required by R4-5-403.

**C.** A school shall submit a report to the Board no later than 15 days after the end of each month. The report shall include:
1. A certified list of those students who have met the school graduation requirements within the report month;
2. The name and license number of the instructor in charge of the school;
3. The signature and identification of the person who prepares and certifies the report as true and correct;
4. A list of each student instructor's name and current barber license number;
5. A list of the total hours earned by each student that month, which list shall not be amended without presenting to the Board satisfactory proof of error;
6. A list of the cumulative hours earned by each student;
7. The signature of each student indicating approval of the hours certified for that student; and
8. A list of the name of any student who transfers, withdraws, or takes a leave of absence during the report month.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-405. School Closure**

A school is deemed closed if it fails for five consecutive days to provide instruction in accordance with its operating schedule on file with the Board. A school shall notify all students and the Board in writing of a planned closure of the school at least ten days in advance of the closure unless the time of closure could not reasonably have been anticipated, in which event the notice shall be given within five days after the closure. A school shall send all student records to the Board within ten days after the school closure including, but not limited to, student class records and student files.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-406. Operation at More than One Location**

A school may operate at more than one location. Each location shall be a separate school for the purposes of licensing and regulation, except that a school may keep its required records at a single location.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

**R4-5-407. Limited-scope Training Facilities**

**A.** A school may operate a limited-scope training facility. The facility shall be under the supervision of a licensed instructor, who may be an employee of the school or an independent contractor. A limited-scope training facility may train students in any course related to barbering, but a student shall not receive more than 50% of the student's total training at a limited-scope training facility. A limited-scope training facility shall comply

with the provisions of R4-5-403(C), (F), (H), (I), (J), (K), (L), (M), (N), (P), (Q), and (V).

**B.** In addition to the requirements in subsection (A) above, if the training at the facility does not include study, the facility shall comply with R4-5-403(B)(1), (3), (8), and (9). If the training at the facility includes study, the facility shall also meet the requirements of R4-5-403(B)(2) and (5).

**C.** In addition to the requirements in subsection (A) above, a limited-scope training facility may be located in a shop/salon. A limited-scope training facility in a shop/salon shall post a sign that informs patrons that barbering services at the facility are provided by students. Before providing barbering services to a patron, the student shall orally notify the patron of the student's status as a student. In addition, there shall be a demarcation of the limited-scope training facility which is sufficient to delineate to the public which portion of the shop/salon is devoted to the limited-scope training facility. Students shall provide barbering services only in the portion of the shop/salon that has been designated as the limited-scope training facility.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

## ARTICLE 5. PRACTICE AND PROCEDURE

### R4-5-501. Rehearing and Review of Decisions

**A.** For the purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**B.** Except as provided in subsection (H), any party in a contested case before the Board who is aggrieved by a decision rendered in such a case may file a petition for rehearing or review with the Board not later than ten days after service of the decision specifying particular grounds therefor. For purposes of this subsection, a decision is served when personally delivered or mailed to the party at the party's last known residence or place of business.

**C.** A petition for rehearing or review under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such petition or amended petition by any other party. The Board may require the filing of written briefs upon the issues raised in the petition and may provide for oral argument.

**D.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the petition's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or abuse of discretion, whereby the petitioner was deprived of a fair hearing;
2. Misconduct of the Board or its hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. A decision which is not justified by the evidence or is contrary to law.

**E.** Within a reasonable time following the Board's receipt of a petition for rehearing or review, the Board may affirm or modify the decision or grant a rehearing or review to all or any of the issues for any of the reasons set forth in subsection (D). An order granting a rehearing or review shall specify with particularity the ground or grounds on which rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.

**F.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on petition of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a petition for rehearing or review for a reason not stated in the petition. In either case, the order granting such a rehearing or review shall specify the grounds therefor.

**G.** When a petition for rehearing or review is based upon affidavits, they shall be served with the petition. An opposing party may, within ten days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**H.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impractical, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for rehearing. Any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decision.

**I.** The executive director or other person designated by the Board may negotiate a proposed consent agreement. A consent agreement is not final until approved by the Board.

**Historical Note**
Adopted effective May 11, 1994 (Supp. 94-2).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

(Authority: A.R.S.§ 32-3253(A)(1))

### ARTICLE 1. DEFINITIONS

*Article 1, consisting of Section R4-6-101, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-101. Definitions

### ARTICLE 2. GENERAL PROVISIONS

*Article 2, consisting of Sections R4-6-201 through R4-6-213, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-201. Board Meetings
R4-6-202. Board Elections
R4-6-203. Credentialing Committee Meetings
R4-6-204. Credentialing Committee Elections
R4-6-205. Change of Address
R4-6-206. Change of Name
R4-6-207. Confidential Records
R4-6-208. Conviction of a Felony
R4-6-209. Date of Service Extensions
R4-6-210. Education - Accreditation Requirements
R4-6-211. Supervision - Prohibition
R4-6-212. Fees
R4-6-213. Foreign Equivalency Determination

### ARTICLE 3. CERTIFICATION

*Article 3, consisting of Sections R4-6-301 through R4-6-304, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-301. Application Process
R4-6-302. Reassessment
R4-6-303. Reciprocity
R4-6-304. Inactive Status

### ARTICLE 4. SOCIAL WORK

*Article 4, consisting of Sections R4-6-401 through R4-6-405, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-401. Curriculum
R4-6-402. Examination
R4-6-403. Work Experience for the Independent Social Work Certification
R4-6-404. Professional Supervision for Independent Social Work Certification
R4-6-405. Certified Master Social Worker and Certified Baccalaureate Social Worker Independent Practice Prohibition

### ARTICLE 5. COUNSELING

*Article 5, consisting of Sections R4-6-501 through R4-6-505, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-501. Curriculum
R4-6-502. Examination
R4-6-503. Work Experience for the Professional Counselor Certification
R4-6-504. Supervision for Professional Counselor Certification
R4-6-505. Certified Associate Counselor
R4-6-506. Independent Practice Exemption for Certified Associate Counselor

### ARTICLE 6. MARRIAGE AND FAMILY THERAPY

*Article 6, consisting of Sections R4-6-601 through R4-6-606, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-601. Curriculum
R4-6-602. Examination
R4-6-603. Work Experience for Marriage and Family Therapy Certification
R4-6-604. Professional Supervision for Marriage and Family Therapy Certification
R4-6-605. Post-degree Programs
R4-6-606. Certified Associate Marriage and Family Therapist

### ARTICLE 7. SUBSTANCE ABUSE COUNSELING AND TREATMENT

*Article 7, consisting of Sections R4-6-701 through R4-6-704, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-701. Education and Work Experience
R4-6-702. Examination
R4-6-703. Work Experience for the Substance Abuse Counselor Certification
R4-6-704. Professional Supervision for Substance Abuse Counselor Certification

### ARTICLE 8. CERTIFICATE RENEWAL AND CONTINUING EDUCATION

*Article 8, consisting of Sections R4-6-801 through R4-6-803, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-801. Renewal of Certification
R4-6-802. Continuing Education
R4-6-803. Continuing Education Documentation

### ARTICLE 9. APPEAL OF CERTIFICATION OR RENEWAL INELIGIBILITY

*Article 9, consisting of Sections R4-6-901 and R4-6-902, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-901. Appeal Process for Certification Ineligibility
R4-6-902. Appeal Process for Certificate Renewal Ineligibility

## ARTICLE 10. DISCIPLINARY PROCESS FOR UNPROFESSIONAL PRACTICES

*Article 10, consisting of Sections R4-6-1001 through R4-6-1003, adopted effective November 15, 1996 (Supp. 96-4).*

Section
R4-6-1001. Disciplinary Process for Unprofessional Practices
R4-6-1002. Summary Suspension
R4-6-1003. Review or Rehearing of a Board Decision

## ARTICLE 1. DEFINITIONS

**R4-6-101. Definitions**

In addition to the definitions set forth at A.R.S. § 32-3251, in this Chapter, unless the context otherwise requires:

"Administrative completeness review" means the Board's determination of whether all documents and information required by statute or rule to be contained in an application packet have been provided and are complete.

"Applicant" means an individual who seeks certification or renewal of certification by submitting a completed application packet to the Board Office.

"Application packet" means a variety of forms and documents obtained from and submitted to the Board Office by an applicant.

"A.A.S.S.W.B." means the American Association of State Social Work Boards.

"C.A.C.R.E.P." means the Council on Accreditation for Counseling and Related Educational Programs.

"C.O.R.E." means the Council on Rehabilitation Education.

"Certified behavioral health professional" means an individual holding a current Board of Behavioral Health Examiners certification.

"Clock hour" means 60 minutes.

"Continuing education" means attendance at programs such as seminars, workshops, or institutes at which a topic is presented in detail, and that have stated learning objectives and are appropriate for the purpose of maintaining and furthering the skills and competency of the professional.

"Council on Social Work Education" (CSWE) means the nationally recognized accrediting body for schools of social work.

"Cut score study" means the methodology used to establish the minimum acceptable score that an applicant must obtain on a certification examination.

"Date of service" means the date mailed by regular United States mail to the last address placed on file in the Board Office in writing by the applicant or certified professional.

"Days" means calendar days.

"Direct supervision" means the supervisor has immediate responsibility and oversight for all client contact by a supervisee.

"Equivalent foreign degree" means completion of a program of study at a school outside of the U.S. that is either accredited by an agency whose academic accreditation standards meet or exceed those of a regionally accredited college or university or approved by the appropriate Credentialing Committee.

"Equivalent part-time work experience" means the accumulation of 3,200 hours of work experience during more than 24 months.

"Four years of work experience" means the accumulation of 6,400 hours of work experience in no less than 48 months within the 7 years before the date of application.

"Full-time work experience" means the accumulation of 1,600 hours of work experience in 12 months.

"Gross negligence" means the careless disregard of established principles of practice or the repeated failure to exercise the care that a prudent practitioner would exercise within the scope of professional practice.

"Group supervision" means the supervision of 2 but no more than 6 supervisees.

"Immediate family" means parents, spouse, former spouse, siblings, half-siblings, children, cousins, in-laws (present or former), aunts, uncles, grandparents, grandchildren, stepchildren, and stepparents.

"Independent practice" means acting as a certified behavioral health professional without direct supervision and outside the context of an employee-employer relationship usually on a fee-for-service basis.

"Inactive status" means a certified professional has temporarily suspended practice under Arizona certification by postponing renewal of certification for a maximum of 24 months.

"Individual supervision" means personal, one-to-one communication with the supervisee.

"Ineligible" means failure to meet the required minimum standards for certification.

"Licensed behavioral health professional" means an individual holding a license to practice a behavioral health profession in Arizona or another state.

"One year of work experience" means the accumulation of 1,600 hours of work experience in not less than 12 months.

"Practice of substance abuse counseling" means the direct application of professional counseling techniques to individuals who are dependent upon or abuse substances, and related persons affected by the abuse or dependency.

"Professional supervision" means the relationship between a supervisee and a certified or licensed behavioral health professional that assists the supervisee to develop skill and responsibility to provide behavioral health services.

"Quorum" means 7 members of the Board or a majority of the appointed members of a Credentialing Committee.

"Reciprocity" means the acceptance of a license, certification, or registration from another state as meeting all certification requirements for Arizona.

"Regionally accredited college or university" means an institution of higher education that is recognized as maintaining applicable standards by the:

New England Association of Schools and Colleges,
Middle States Association of Colleges and Schools,
North Central Association of Colleges and Schools,
Northwest Association of Schools and Colleges,
Southern Association of Schools and Colleges, or
Western Association of Schools and Colleges.

"Substance abuse or chemical dependency" means the chronic, habitual, or compulsive use of any chemical matter, which when introduced into the body is capable of altering human behavior or mental functioning, and which with extended use may cause psychological or physiological dependence or both.

"Substantive review" means a determination by a Credentialing Committee that an applicant is eligible for certification.

"Two years of work experience" means the accumulation of 3,200 hours of work experience in no less than 24 months.

"Work experience" means practicing Social Work, Marriage and Family Therapy, Counseling, or Substance Abuse Counseling for remuneration or on a voluntary basis.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).
Amended effective May 7, 1997 (Supp. 97-2).

## ARTICLE 2. GENERAL PROVISIONS

**R4-6-201. Board Meetings**
The Board shall meet at least annually in December. The Board shall hold additional meetings as necessary to conduct the Board's business. Meetings may be convened by the Chair, a majority vote of the Board members, or upon written request from 2 Board members. The Board shall conduct official business only when a quorum is present.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-202. Board Elections**
At the annual meeting in December, the Board shall elect, by a majority vote of the Board members present, a Chair and a Secretary/Treasurer. A vacancy that occurs in either office shall be filled, by a majority vote of the Board members present, at the 1st Board meeting following the vacancy.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-203. Credentialing Committee Meetings**
Each Credentialing Committee shall meet at least annually in December. A Credentialing Committee shall hold additional meetings as necessary to conduct the Credentialing Committee's business. Meetings may be convened by the Chair of the Credentialing Committee, a majority vote of the Credentialing Committee, or upon written request from 2 Credentialing Committee members. A Credentialing Committee shall conduct official business only when a quorum is present.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-204. Credentialing Committee Elections**
At the Credentialing Committee meeting in December of each year, the Credentialing Committee shall elect, by a majority vote of the Credentialing Committee members present, a Chair and Secretary/Treasurer. A vacancy that occurs in either office shall be filled, by a majority vote of the Credentialing Committee members present, at the 1st Credentialing Committee meeting following the vacancy.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-205. Change of Address**
A certified behavioral health professional or applicant shall notify the Board in writing within 30 days of any change of mailing address.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-206. Change of Name**
A certified behavioral health professional or an applicant shall notify the Board in writing within 30 days of a name change.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-207. Confidential Records**
**A.** All Board or Credentialing Committee records shall be open to public inspection and copying, except the following, which have been determined to be confidential:
1. Minutes of executive session;
2. Records classified as confidential by other laws, rules, or regulations applicable to the Board or Credentialing Committees;
3. College or university grades, medical or mental health information, and professional references of applicants except that the individual who is the subject of the information may view or copy the records;
4. Records for which the Board or Credentialing Committee determines that public disclosure would have a significant adverse effect on the Board's or Credentialing Committee's ability to perform its duties or which would otherwise be detrimental to the best interests of the state. When the Board or Credentialing Committee determines that the reason justifying the confidentiality of the records no longer exists, the record shall be made available for public inspection and copying; and
5. Information regarding a complaint under investigation if that information may compromise the investigation.

**B.** Persons wanting to inspect Board or Credentialing Committee records may do so at the Board Office Monday through Friday, 8 a.m. to 5 p.m., except holidays.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-208. Conviction of a Felony**
The Board shall consider the following factors to determine whether a felony conviction will result in imposing disciplinary sanctions on a Certified behavioral health professional, refusing to renew the certification of a Certified behavioral health professional, or refusing to issue a certificate to an applicant:
1. Length of time since the conviction;
2. Relationship between the practice of the profession and the conduct giving rise to the conviction; and
3. Efforts made toward rehabilitation.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-209. Date of Service Extensions**
Deadlines established by date of service may be extended a maximum of 2 times by the chair of the Board or the chair of the Credentialing Committee if good cause is documented in a written request postmarked or received by the Board Office no later than the required deadline. Good cause may be shown through documented illness or other unavoidable hardship. Extensions shall not be granted for renewal submission deadlines or late renewal submission deadlines.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-210. Education - Accreditation Requirements**
An applicant shall fulfill the education requirements by earning the degree required for certification at a college or university regionally accredited at the time of the applicant's graduation or by earning an equivalent foreign degree.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-211. Supervision - Prohibition**
Supervision (including direct, group, individual, or professional) shall not be provided by an immediate family member or other indi-

vidual whose objective assessment of the supervisee's performance may be limited by a relationship with the supervisee.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-212. Fees**

**A.** The Board shall establish at its December meeting fees for:
1. Application for certification,
2. Biennial renewal,
3. Duplicate certificate,
4. Late renewal,
5. Inactive status,
6. Transfer of application from 1 certification level to another within the same profession,
7. Transfer of application for certification in 1 profession to another profession before a Credentialing Committee vote on eligibility,
8. Reassessment of eligibility,
9. General copying of records,
10. Commercial copying of records,
11. Copying audio tapes,
12. Verification of certification,
13. Publications of private practice status,
14. Duplicate identification card,
15. Rules/Statutes/Directory, and
16. Returned personal checks due to insufficient funds.

**B.** All fees shall be paid by certified check, cashier's check, or money order for any amount greater than $25. Cash or personal or business checks for amounts less than $25 shall be accepted.

**C.** The Board shall make the current fee schedule available to the public upon request to the Board Office.

**D.** Fees for the required examination are set by contract between the Board and the examination service.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-213. Foreign Equivalency Determination**

To enable the Credentialing Committee to determine whether a foreign degree meets the educational standards set by the Board, the applicant shall have the foreign degree evaluated by an agency that has demonstrated competence in determining the equivalency of educational standards and shall cause the results of the evaluation to be mailed directly to the Credentialing Committee.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**ARTICLE 3. CERTIFICATION**

**R4-6-301. Application Process**

**A.** An applicant for certification shall submit the following to the Board Office:
1. A completed application form signed by the applicant and notarized;
2. Certified check, cashier's check, or money order for the application fee; and
3. Other documents requested by the Credentialing Committee to determine the applicant's eligibility.

**B.** An applicant shall cause an official transcript or official education documentation acceptable to the Credentialing Committee to be sent directly to the Board Office by the educational institution.

**C.** The Board Office shall finish an administrative completeness review within 90 days from the date of receipt of an application.
1. The Board Office shall issue a written notice of administrative completeness to an applicant if no deficiencies are found in the application packet.
2. If deficiencies are found in the application packet, the Board Office shall provide a written comprehensive list of the deficiencies to the applicant and the 90-day time frame for the Board Office to finish the administrative completeness review shall be suspended from the date the deficiency notice is served until the applicant provides the Board Office with all deficient information.

**D.** An applicant shall submit all of the deficient information within 60 days of the date of service of the deficiency notice.
1. If an applicant cannot submit all deficient information within 60 days of the date of service of the deficiency notice, the applicant may obtain an extension by submitting a written request to the Board Office postmarked or delivered no later than 60 days from the date of service of the deficiency notice.
2. The written request for an extension shall document the reasons the applicant is unable to meet the 60-day deadline.
3. The Credentialing Committee shall review the request for an extension of the 60-day deadline and grant the request if the Credentialing Committee determines that an extension of the 60-day deadline will enable the applicant to assemble and submit the deficient information. An extension of the 60-day deadline shall be for no more than 60 days. An applicant who requires an additional extension shall submit an additional written request in accordance with this subsection. The Credentialing Committee shall notify the applicant in writing of its decision to grant or deny the request for an extension.

**E.** From the date on which the administrative completeness review of an application is finished, the appropriate Credentialing Committee shall complete a substantive review of the applicant's qualifications in no more than 180 days.
1. If an applicant is found to be ineligible, the Credentialing Committee shall issue a written notice of denial to the applicant.
2. If an applicant is found to be eligible, the Credentialing Committee shall recommend to the Board that the applicant be certified. Upon receipt of the Credentialing Committee's recommendation, the Board shall either certify the applicant or if the Board determines the applicant does not meet eligibility requirements, return the matter to the Credentialing Committee.
3. If the Credentialing Committee finds deficiencies during the substantive review of the application, the Credentialing Committee shall issue a written request to the applicant for additional documentation. If the Credentialing Committee determines the applicant has not taken and passed a certification examination, the request for additional information shall include the approval and requirement that the applicant take and pass a certification examination.
4. The 180-day time frame for a substantive review for the issuance of a certificate or denial shall be suspended from the date of the written request for additional documentation until the date that all documentation is received.
5. When the applicant and the Credentialing Committee mutually agree in writing, the 180-day substantive review time frame may be extended for no more than 60 days.

**F.** For the purpose of A.R.S. § 41-1072 et. seq., the Board establishes the following time frames for both initial and renewal certifications:
1. Administrative completeness review time frame: 90 days;

2. Substantive review time frame: 180 days;
3. Overall time frame: 270 days.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-302. Reassessment**

**A.** An applicant who is found ineligible may submit to the Board Office a written request for reassessment of the application within 12 months of the date of service of the notice of ineligibility.

**B.** The Credentialing Committee shall grant a request for reassessment if:
1. There has been a statutory or rule change that enables the previously ineligible applicant to meet the requirements for certification; or
2. The applicant was initially determined ineligible because of deficiencies in experience, supervision, or course work and has removed all deficiencies.

**C.** An applicant requesting a reassessment shall use a form provided by the Board and shall submit the proper fee with the reassessment form.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-303. Reciprocity**

**A.** An applicant eligible for certification by reciprocity shall be exempt only from the required certification examination. An applicant requesting certification by reciprocity shall:
1. Submit a completed application for certification by reciprocity;
2. Submit a certified check, cashier's check, or money order for the proper fee; and
3. Cause an official statement, on a form approved by the Board, to be sent directly to the Board Office from the state in which the applicant is currently licensed, certified, or registered indicating whether the license, certification, or registration is in effect and in good standing.

**B.** The Credentialing Committee shall review applications for certification by reciprocity to determine whether the applicant is eligible. The Credentialing Committee shall base its decision upon a determination of whether the other state's requirements for certification, licensure, or registration at the time the applicant was credentialed, meet or exceed the requirements for Arizona certification.

**C.** The Credentialing Committee shall exempt from the Arizona examination requirement, applicants for certification by reciprocity who were credentialed without an examination by another state on or before December 31, 1991.

**D.** Certification by reciprocity is not available for applicants who were credentialed in another state on or after January 1, 1992.

**E.** Certification by reciprocity is not available for applicants for certification as an Associate Marriage and Family Therapist or a Marriage and Family Therapist.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-304. Inactive Status**

**A.** To go on inactive status, a certified behavioral health professional shall:
1. Submit a written request to be placed in inactive status to the Credentialing Committee before expiration of the current certification, and
2. Submit a late fee if the request to be placed in inactive status is submitted after but within 3 months of expiration of the current certification.

**B.** The Credentialing Committee shall grant a request to be placed in inactive status if the certified behavioral health professional making the request establishes that a hardship situation exists.

**C.** To remove certification from inactive status, a certified behavioral health professional in inactive status shall meet all continuing education requirements including completion of 40 clock hours of continuing education activities during the 24 months before renewal of certification.

**D.** A written request for modification or reduction of the continuing education requirement received from a certified behavioral health professional in inactive status shall be granted by the appropriate Credentialing Committee upon a showing of good cause.

**E.** A certified behavioral health professional in inactive status shall not practice as a certified behavioral health professional.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

## ARTICLE 4. SOCIAL WORK

**R4-6-401. Curriculum**

**A.** An applicant for certification as a Baccalaureate Social Worker shall have earned a Baccalaureate degree in social work from a regionally accredited college or university in a program accredited by the Council on Social Work Education or an equivalent foreign degree evaluated by the Foreign Equivalency Determination Service of the Council on Social Work Education.

**B.** An applicant for certification as a Master Social Worker or an Independent Social Worker shall have earned a Master's degree in social work from a regionally accredited college or university in a program accredited by the Council on Social Work Education or an equivalent foreign degree evaluated by the Foreign Equivalency Determination Service of the Council on Social Work Education.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-402. Examination**

**A.** To be certified as a Baccalaureate Social Worker, an applicant shall receive a passing score, established by a cut score study, on the Basic Examination offered by A.A.S.S.W.B. The passing point shall be a scaled score of 75.

**B.** To be certified as a Master Social Worker, an applicant shall receive a passing score, established by a cut score study, on the Intermediate Examination offered by A.A.S.S.W.B. The passing point shall be a scaled score of 75.

**C.** To be certified as an Independent Social Worker, an applicant shall receive a passing score, established by a cut score study, on either the Advanced or Clinical Examination offered by A.A.S.S.W.B. The passing point shall be a scaled score of 75.

**D.** An applicant for certification by examination shall pass the required examination for the level of certification requested within 6 months after the date of service of the written request for additional documentation described in R4-6-301(E)(3) which includes the requirement that the applicant take and pass the certification examination. If the examination is not passed within 6 months after the date of service of the request for additional documentation, the application file shall be closed with no recourse to appeal. To receive further consideration for certification, the applicant shall submit a new application and fee.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-403. Work Experience for the Independent Social Work Certification**

After completing a Master's degree, an applicant for the Independent Social Work certification shall complete a minimum of 2 years of full-time or the equivalent part-time supervised work experience in social work.

**R4-6-404. Professional Supervision for Independent Social Work Certification**

**A.** During the 2 years of required supervised work experience, an applicant for Independent Social Work certification shall receive at least 100 hours of professional supervision. There shall be 50 hours of professional supervision during each year of work experience.

**B.** Professional supervision of an applicant for Independent Social Work certification shall be provided by a Certified Independent Social Worker (CISW).

**C.** An applicant for Independent Social Work certification who completed the professional supervision requirement before December 31, 1991, may have been supervised by an individual who was a behavioral health professional certified or licensed by a state or national professional organization acceptable to the Social Work Credentialing Committee.

**D.** Professional supervision may include both individual and group supervision. Group supervision hours shall not exceed individual supervision hours.

**E.** An applicant may make a written request to the Social Work Credentialing Committee for an exemption from the requirements of subsections (B) or (D) or both. The Social Work Credentialing Committee shall review the request for exemption to determine whether the proposed supervisor has the necessary education, training, and experience to provide supervision acceptable for an Independent Social Work certificate. If the proposed supervisor has the necessary education, training, and experience, the Social Work Credentialing Committee shall grant the request for exemption. Exemptions to the supervision requirement shall not be granted retroactively for supervision received before the date of the request, unless approved by the Social Work Credentialing Committee on an individual basis.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-405. Certified Master Social Worker and Certified Baccalaureate Social Worker - Independent Practice Prohibition**

Neither a Certified Master Social Worker nor a Certified Baccalaureate Social Worker shall practice independently. A Certified Master Social Worker and a Certified Baccalaureate Social Worker shall practice only under direct supervision.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4).

## ARTICLE 5. COUNSELING

**R4-6-501. Curriculum**

**A.** An applicant for certification as an Associate Counselor or a Professional Counselor shall have earned a Master's degree or a higher degree, with a major emphasis in counseling. The degree shall either be from a regionally accredited college or university in a program that consists of a minimum of 48 semester or 72 quarter credit hours or be from a program accredited by C.A.C.R.E.P. or C.O.R.E., or shall be an equivalent foreign degree.

**B.** The curriculum for the 48 semester or 72 quarter credit hour degree shall include:

1. One 3-semester or 4-quarter credit hour course from each of the following 4 content areas:
   a. Counseling Theory - study of theories, principles, and their application. This includes but is not limited to such theories as client-centered, behaviorism, psychoanalytic, gestalt, rational-emotive, reality, Adlerian, and Jungian theories;
   b. Supervised Counseling Practicum - provision of counseling services within an educational or professional setting under the direction of a faculty member or supervisor designated by the college or university;
   c. Multi-cultural Foundations - studies that provide a broad understanding of cultures and the implications for counseling with individuals and families within the major racial and cultural groups in the U.S.; and
   d. Professional Counseling Ethics - studies that provide a broad understanding of professional counseling ethics, legal standards, and responsibilities; and
2. Five 3-semester or 4-quarter credit hour courses from the following 7 content areas:
   a. Human Growth and Development - studies that provide a broad understanding of the personality development of individuals, including normal and abnormal behavior;
   b. The Helping Relationship - studies that provide a broad understanding of the counseling processes, basic and advanced interview skills, consultation theories, and their applications;
   c. Group Dynamics Processing and Counseling - studies that provide a broad understanding of group development and dynamics, group counseling theories, group leadership styles, and basic and advanced group counseling methods and skills;
   d. Life and Career Development - studies that provide a broad understanding of career development theories; occupational and educational information sources and systems; career and leisure counseling, guidance, and education; career decision making, and career development program planning and placement;
   e. Social and Lifestyle Issues - studies that provide a broad understanding of social norms, changes, and trends, human roles, and alternative lifestyles;
   f. Appraisal of Individuals - studies that provide a broad understanding of group and individual psychometric theories, formal and informal approaches to appraisal, data and information gathering methods, validity and reliability, factors influencing appraisals, diagnostic procedures, and use of appraisal results in the helping process; and
   g. Research and Evaluation - studies that provide a broad understanding of types of research, statistics, research-report development, research implementation, program evaluation, needs assessment, and publication of research.
3. The remaining 48 semester or 72 quarter credit hours of the Master's degree or a higher degree shall consist of courses in counseling-related subjects which include psychology, marriage and family studies, substance abuse, career counseling, and rehabilitation studies.

**C.** To receive credit towards certification, an applicant shall complete each course with a passing grade.

**D.** To be applicable towards curriculum requirements, a course taken before an applicant was accepted into a Master's degree program shall have been used by the applicant to meet Master's degree requirements.

**E.** An applicant with a degree of less than 48 semester or 72 quarter credit hours shall be deemed to have fulfilled the curriculum requirement for certification if the degree was received before July 1, 1989, and all other current curriculum requirements are met.

**F.** An applicant for Certified Professional Counselor who received a Master's degree before July 1, 1989 and whose program of study did not include a practicum shall complete 3 years of post-master's degree work experience in counseling, 2 years of which must be supervised, before being eligible for certification. One year of a doctoral-clinical internship may be substituted for 1 year of supervised work experience.

**G.** An applicant who does not meet all curriculum requirements shall be determined ineligible.

1. If an applicant is determined ineligible but has a Master's degree or a higher degree with a major emphasis in counseling, the applicant may submit a request for reassessment in accordance with R4-6-302.
2. An ineligible applicant is considered to have a degree with a major emphasis in counseling if the ineligibility results from curriculum deficiencies that constitute no more than 15 semester or 20 quarter credit hours.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-502. Examination**

**A.** The Counseling Credentialing Committee approves the certification examinations of the following organizations:

1. National Board for Certified Counselors,
2. Commission on Rehabilitation Counselor Certification, and
3. National Academy of Certified Clinical Mental Health Counselors.

**B.** To be certified, an applicant for Professional Counselor and Associate Counselor certification shall receive a passing score, established by a cut score study, on an approved certification examination.

**C.** An applicant for certification by examination shall pass the examination within 6 months after the date of service of the written request for additional documentation described in R4-6-301(E)(3), which includes the requirement that the applicant take and pass the certification examination. The requirement that the certification examination be passed within 6 months may be extended as described in subsection (D).

**D.** The Board shall schedule the National Board for Certified Counselors examination for applicants who have not previously taken and passed an approved examination. If the National Board for Certified Counselors examination is offered only once within the 6 months referenced in subsection (C), the Board shall grant the applicant an automatic extension to the date of the 2nd examination. If the examination is not passed within the 6 months referenced in subsection (C) or, if applicable, the automatic extension to the date of the 2nd examination, the applicant's file shall be closed with no recourse to appeal. To receive further consideration for certification, the applicant shall submit a new application and fee.

**E.** Applicants who wish to take a certification examination other than that of the National Board for Certified Counselors, shall apply directly to take the examination of the Commission on Rehabilitation Counselor Certification or the National Academy of Certified Clinical Mental Health Counselors and shall cause the score obtained on the certification examination to be submitted directly to the Board by the examining organization.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-503. Work Experience for the Professional Counselor Certification**

**A.** After completing a Master's degree, an applicant for the Professional Counselor certification who obtained the Master's degree from a program not accredited by C.O.R.E. or C.A.C.R.E.P. shall complete a minimum of 2 years of full-time or the equivalent part-time supervised work experience in counseling.

**B.** After completing a Master's degree, an applicant for the Professional Counselor certification who obtained the Master's degree from a program accredited by C.O.R.E. or C.A.C.R.E.P. shall complete a minimum of 1 year of full-time or the equivalent part-time supervised work experience in counseling.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-504. Supervision for Professional Counselor Certification**

**A.** During the period of required full-time or equivalent part-time supervised work experience, an applicant for Professional Counselor certification shall receive at least 50 hours of professional supervision during each year of work experience.

**B.** An applicant for Professional Counselor certification shall receive the professional supervision required by subsection (A) from a Certified Behavioral Health Professional Counselor or an individual eligible for such certification. Under Laws 1991, Ch. 253, § 4(c), an applicant for Professional Counselor certification who meets all other requirements may submit a written request to the Counseling Credentialing Committee for waiver of the requirement that professional supervision be provided by a Certified Behavioral Health Professional Counselor or an individual eligible for such certification. The Counseling Credentialing Committee shall grant the waiver if it determines the applicant was supervised by a certified or licensed behavioral health professional or other behavioral health professional who has education, supervision, and experience acceptable to the Counseling Credentialing Committee.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-505. Certified Associate Counselor**

**A.** There is no experience requirement for certification as an Associate Counselor.

**B.** A Certified Associate Counselor shall not practice independently. A Certified Associate Counselor shall practice only under direct supervision.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-506. Independent Practice Exemption for Certified Associate Counselor**

A behavioral health professional certified and practicing independently as a Certified Associate Counselor before November 15, 1996, may continue to practice independently until November 15, 1998. To maintain certification after November 15, 1998, a Certified Associate Counselor shall practice in compliance with R4-6-505(B). An individual initially certified as an Associate Counselor on or after November 15, 1996, shall immediately practice in compliance with R4-6-505(B). This Section is repealed on November 16, 1998.

**Historical Note**
Adopted effective May 7, 1997 (Supp. 97-2). Section automatically repealed November 16, 1998 (Supp. 98-4).

## ARTICLE 6. MARRIAGE AND FAMILY THERAPY

**R4-6-601. Curriculum**

**A.** An applicant for certification as an Associate Marriage and Family Therapist or a Marriage and Family Therapist shall have earned a Master's degree or a higher degree in a behavioral science from a regionally accredited college or university. The degree shall be a program:
1. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or
2. That the Marriage and Family Therapy Credentialing Committee determines is substantially equivalent. A program is substantially equivalent if it includes the following courses for a minimum of 3-semester or 4-quarter credit hours each:
   a. Marriage and Family Studies (3 courses): Studies of introductory systems theory, family development, family systems (marital, sibling, individual subsystems), special family issues, and gender and cultural issues, all with a major focus from a systems theory orientation;
   b. Marriage and Family Therapy (3 courses): Studies of advanced systems theory and interventions, major systemic marriage and family treatment approaches, structural, strategic, neo-analytic, group therapy, behavioral marriage and family therapy, communications, and sex therapy;
   c. Human Development (3 courses): Studies of normal and abnormal human development, personality theory, human sexuality, and psychopathology and abnormal behavior, which may be integrated with systems theory;
   d. Professional Studies (1 course): Studies of professional ethics as a therapist including legal and ethical responsibilities and liabilities, and family law; and
   e. Research (1 course): Studies of research design, methodology, and statistics in marriage and family therapy.

**B.** An applicant for certification as a Marriage and Family Therapist shall complete a supervised internship as part of the Master's degree curriculum or a supervised internship of a minimum of 12 months after completion of the Master's degree.
1. The supervised internship, whether fulfilled during or after completion of the Master's degree, shall consist of at least 300 client-contact hours under direct supervision.
2. A Certified Marriage and Family Therapist or an individual determined by the Marriage and Family Therapy Credentialing Committee as qualified to provide supervision shall supervise the internship of an applicant for certification as a Marriage and Family Therapist. The Marriage and Family Therapy Credentialing Committee shall determine whether an individual is qualified to provide supervision by evaluating the individual's education, experience, and training.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-602. Examination**

**A.** The Marriage and Family Therapy Credentialing Committee approves the certification examination of the Professional Examination Service's Licensing Examination for Marital and Family Therapy.

**B.** To be certified, an applicant for Associate Marriage and Family Therapy or Marriage and Family Therapy certification shall receive a passing score, established by the cut score study, on an approved certification examination.

**C.** An applicant shall pass the examination within 6 months after the date of service of the written request for additional documentation described in R4-6-301(E)(3), which includes the requirement that the applicant take and pass the certification examination. The requirement that the certification examination be passed within 6 months may be extended as described in subsection (D).

**D.** The Board shall schedule the Professional Examination Service's Licensing Examination for Marital and Family Therapy for applicants who have not previously taken and passed an approved examination. If the Professional Examination Service's Licensing Examination for Marital and Family Therapy is offered only once within the 6 months referenced in subsection (C), the Board shall grant the applicant an automatic extension to the date of the 2nd examination. If the examination is not passed within the 6 months referenced in subsection (C) or, if applicable, the automatic extension to the date of the 2nd examination, the applicant's file shall be closed with no recourse to appeal. To receive further consideration for certification, the applicant shall submit a new application and fee.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-603. Work Experience for Marriage and Family Therapy Certification**

After completing a Master's degree, an applicant for certification as a Marriage and Family Therapist shall complete a minimum of 2 years of full-time or the equivalent part-time professionally supervised work experience in the practice of Marriage and Family Therapy.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-604. Professional Supervision for Marriage and Family Therapy Certification**

An applicant for certification as a Marriage and Family Therapist shall receive at least 200 hours of direct supervision of 1,000 client-contact hours during the 2 years of professionally supervised work experience prescribed in R4-6-603.
1. An applicant may apply no more than 30 hours of direct supervision and 300 client-contact hours obtained during the internship prescribed in R4-6-601(B) towards the direct supervision requirement.
2. An applicant may meet the direct supervision requirement by receiving both individual and group supervision. Group supervision shall consist of no more than 100 of the 200 required hours of direct supervision during the 2 years of professionally supervised work experience.
3. Supervision of an applicant shall be provided by an Arizona Certified Marriage and Family Therapist.
4. An applicant who completed the professional supervision requirement before December 31, 1991, was supervised by a behavioral health professional licensed or certified by a state or national professional organization acceptable to the Marriage and Family Therapy Credentialing Committee may apply the hours to the direct supervisor requirement.
5. An applicant may make a written request to the Marriage and Family Therapy Credentialing Committee for an exemption from the requirement of subsection (3). The Committee shall review the request to determine whether the proposed supervisor has the education, training, and experience to provide the supervision. If the proposed

supervisor is qualified, the Committee shall grant the request for an exemption.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).
Amended effective November 5, 1998 (Supp. 98-4).

**R4-6-605. Post-degree Programs**

**A.** An applicant who has a Master's degree or a higher degree in a behavioral health science, but who does not meet all curriculum requirements may take post-graduate courses to remove any deficiencies.

**B.** Applicants for certification as a Marriage and Family Therapist shall be permitted to remove deficiencies by attending a non-accredited institute approved by the Marriage and Family Therapy Credentialing Committee. The Marriage and Family Therapy Credentialing Committee shall approve a non-accredited institute if it determines the institute meets the following criteria:
1. Supervision of the applicant is provided by a Certified Marriage and Family Therapist,
2. Curriculum is consistent with current Board requirements, and
3. Faculty has credentials consistent with the standards of the field.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-606. Certified Associate Marriage and Family Therapist**

**A.** There is no experience requirement for certification as an Associate Marriage and Family Therapist.

**B.** A Certified Associate Marriage and Family Therapist shall not practice independently. A Certified Associate Marriage and Family Therapist shall practice only under direct supervision.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**ARTICLE 7. SUBSTANCE ABUSE COUNSELING AND TREATMENT**

**R4-6-701. Education and Work Experience**

**A.** An applicant for certification as a Substance Abuse Counselor shall meet 1 of the following:
1. A Master's or Doctorate degree with an emphasis in counseling. The degree shall be:
   a. From a regionally accredited college or university, in a behavioral science, with at least 24 semester or 32 quarter credit hours of counseling-related courses;
   b. From a regionally accredited college or university, in a program the Substance Abuse Credentialing Committee determines is substantially equivalent to the degree described in subsection (A)(1)(a); or
   c. An equivalent foreign degree;
2. A Bachelor's degree with an emphasis in counseling and 2 years of work experience counseling substance abusers under professional supervision. The degree shall be:
   a. From a regionally accredited college or university, in a behavioral science, with at least 30 semester or 40 quarter credit hours of counseling-related courses;
   b. From a regionally accredited college or university, in a program the Substance Abuse Credentialing Committee determines is substantially equivalent to the degree described in subsection (A)(2)(a); or
   c. An equivalent foreign degree;
3. An Associate of Applied Science degree in Chemical Dependency with an emphasis in counseling and 2 years of work experience counseling substance abusers under professional supervision. The degree shall be:
   a. From a regionally accredited college or university, in a behavioral science, with at least 30 semester or 40 quarter credit hours of counseling-related courses;
   b. From a regionally accredited college or university, in a program the Substance Abuse Credentialing Committee determines is substantially equivalent to the degree described in subsection (A)(3)(a); or
   c. An equivalent foreign degree; or
4. A high school diploma or equivalent (GED) and 4 years of work experience counseling substance abusers under professional supervision.

**B.** An applicant who does not meet all curriculum requirements in the applicant's Doctorate, Master's, Bachelor's, or Associate of Applied Science degree in Chemical Dependency with an emphasis in counseling shall be determined ineligible. If the applicant is determined ineligible, the applicant may make up the deficiency and submit a request for reassessment in accordance with R4-6-302.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-702. Examination**

**A.** The Substance Abuse Counseling Credentialing Committee approves the certification examinations of the following organizations:
1. International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC/AODA), and
2. National Association of Alcoholism and Drug Abuse Counselors (NAADAC).

**B.** To be certified, an applicant for Substance Abuse Counselor certification shall receive a passing score, established by a cut score study, on an approved certification examination.

**C.** An applicant for certification by examination shall pass the examination within 6 months after the date of service of the written request for additional documentation described in R4-6-301(E)(3), which includes the requirement that the applicant take and pass the certification examination. The requirement that the certification examination be passed within 6 months may be extended as described in subsection (D).

**D.** The Board shall schedule the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse examination for applicants who have not previously taken and passed an approved examination. If the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse examination is offered only once within the 6 months referenced in subsection (C), the Board shall grant the applicant an automatic extension to the date of the 2nd examination. If the examination is not passed within the 6 months referenced in subsection (C) or, if applicable, the automatic extension to the date of the 2nd examination, the applicant's file shall be closed with no recourse to appeal. To receive further consideration for certification, the applicant shall submit a new application and fee.

**E.** Applicants who wish to take a certification examination other than that of the Certification Reciprocity Consortium/Alcohol and Other Drug Abuse, shall apply directly to the National Association of Alcoholism and Drug Abuse Counselors to take its examination and shall cause the score obtained on the certification examination to be submitted directly to the Board by the examining organization.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-703. Work Experience for the Substance Abuse Counselor Certification**

**A.** An applicant for certification as a Substance Abuse Counselor shall complete paid or volunteer work experience in a program that provides alcohol or drug abuse diagnosis, treatment, or referral for treatment.

**B.** An applicant for certification as a Substance Abuse Counselor shall demonstrate satisfactory performance in the following areas: intake, assessment, triage, crisis intervention, treatment planning, family, group, and individual counseling, outreach, and consultation with other professionals by having the applicant's supervisor submit performance evaluations on forms available from the Board.

**C.** If an applicant is unable to have a supervisor submit a performance evaluation, the applicant shall request a waiver of the requirement by filing with the Board a written statement explaining the reason why a performance evaluation cannot be obtained. The applicant requesting a waiver shall supply a written statement from other Behavioral Health Professionals eligible for Substance Abuse Counselor certification attesting to the applicant's competence in the skills listed in subsection (B).

**D.** The time span covered by the performance evaluations or the statements shall equal that for the work experience required by R4-6-701 for the applicant's education level.

**E.** All work experience required for Substance Abuse Counselor certification shall be professionally supervised.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-704. Professional Supervision for Substance Abuse Counselor Certification**

Supervision of the work experience required for Substance Abuse Certification shall be provided by a Certified Substance Abuse Counselor or a behavioral health professional who has education, training, and experience acceptable to the Substance Abuse Credentialing Committee.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

## ARTICLE 8. CERTIFICATE RENEWAL AND CONTINUING EDUCATION

**R4-6-801. Renewal of Certification**

**A.** To renew certification, a certified behavioral health professional shall submit the following to the Board Office:
1. A completed renewal application form that includes verification of all completed continuing education activities, is signed by the behavioral health professional, and is notarized;
2. Certified check, cashier's check, or money order for the renewal fee; and
3. Other documents requested by the Credentialing Committee to determine the behavioral health professional's continued eligibility.

**B.** The certification of a certified behavioral health professional shall expire unless the certified behavioral health professional submits to the Board Office the items listed in subsection (A) on or before the certification expiration date.

**C.** The Board shall permit a behavioral health professional whose certification has expired, to renew certification by submitting a complete renewal application, and other documents requested by the Credentialing Committee, and a late fee within 3 months of the certification expiration date. Certification that is renewed under this rule shall be considered effective on the 1st of the month following the expiration date with no lapse in certification.

**D.** The Board shall permit a certified behavioral health professional with insufficient continuing education hours for renewal to have 90 days from the date of service of notification of the insufficient hours to complete and submit documentation of the necessary continuing education hours. If the documentation of completed continuing education hours is not postmarked or received by the Board within 90 days from the date of service of notification, the certified behavioral health professional's certification shall expire, and the certified behavioral health professional's file will be closed with no recourse to appeal.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-802. Continuing Education**

**A.** To be eligible to renew certification, a certified behavioral health professional shall complete 40 clock hours of continuing education during the 2 years before the renewal date. A certified behavioral health professional shall maintain documentation of continuing education activities for 48 months following the date of the renewal certificate.

**B.** The Board shall permit a certified behavioral health professional who maintains more than 1 certificate to apply the same continuing education hours for each certificate renewal if the content of the continuing education is relevant to each specific certification.

**C.** A certified behavioral health professional shall report only continuing education clock hours obtained during the 2 years before renewal of certification.

**D.** A maximum of 10 clock hours of continuing education may be from independent study, small group study, or professional research. A maximum of 10 clock hours of continuing education may be from 1st time presentations by the certified behavioral health professional.

**E.** Continuing education activities shall relate to the scope of practice of the specific certification held. Continuing education activities include:
1. Activities sponsored or approved by national, regional, or state professional associations or organizations in the specialties of Marriage and Family Therapy, Professional Counseling, Social Work, Substance Abuse Counseling, or in the allied professions of Psychiatry, Psychiatric Nursing, Psychology, or Pastoral Counseling;
2. Programs in the behavioral health field sponsored or approved by a regionally accredited college or university;
3. In-service training, courses, or workshops in the behavioral health field sponsored by federal, state, or local social service agencies, public school systems, or licensed health facilities and hospitals;
4. Graduate-level or undergraduate course work in the behavioral health field offered by regionally accredited colleges or universities. One semester-credit hour is equivalent to 15 clock hours of continuing education and 1 quarter-credit hour is equivalent to 10 clock hours of continuing education. Audited courses shall have hours in attendance documented;
5. Independent or small group study in the behavioral health field including any of the following activities: listening to audio tapes, viewing video tapes, and reading, editing, or writing professional books or articles. Small group study may also include making presentations and reviewing case studies;

6. Presentation by the applicant for the first time of an academic course, in-service training workshop, or seminar;
7. Professional research on behavioral health topics; and
8. Workshops, seminars, and conferences by nationally recognized presenters in the fields of behavioral health or related fields such as medicine or law.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-803. Continuing Education Documentation**
The certified behavioral health professional shall retain the following documentation as evidence of participation in continuing education activities:

1. Independent study: a description of the activity, the subject material covered, and the dates and number of hours involved.
2. Conferences, seminars, and workshops: a signed certificate of attendance; a statement from the provider verifying participation in the activity; or other documents sufficient to demonstrate attendance such as canceled checks or conference programs.
3. First time presentations by the certified behavioral health professional: outlines, syllabi, or the curriculum used.
4. Independent or small group studies: a list of books, articles, and tapes reviewed and hours, and cases studied and hours.
5. Graduate or undergraduate course: an official transcript.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**ARTICLE 9. APPEAL OF CERTIFICATION OR RENEWAL INELIGIBILITY**

**R4-6-901. Appeal Process for Certification Ineligibility**

**A.** An applicant for certification may be found ineligible because of an unprofessional practice or failure to meet the certification requirements of education, experience, or supervision, or both.

**B.** If an applicant for certification is alleged to have engaged in an unprofessional practice, the procedures found in subsection (D) shall be followed.

**C.** If an applicant for certification is found ineligible because of failure to meet the certification requirements of education, experience, or supervision and if there is no allegation of unprofessional practice, the following procedures shall be used:

1. The Credentialing Committee shall send a letter to the applicant that provides the applicant notice of the determination of ineligibility and explains the basis for the determination.
2. An applicant who wishes to appeal a determination of ineligibility shall submit a written request for review to the Credentialing Committee within 21 days from the date of service of the notice of ineligibility. If a review is not requested within the time provided, certification shall be denied and the applicant's file shall be closed without recourse to appeal.
3. Upon receipt of an appeal of ineligibility, the Credentialing Committee shall consider the request; determine whether the applicant meets credentialing requirements; and issue a 2nd decision in writing. The Credentialing Committee shall send a written notice of this decision to the applicant.
4. If the 2nd decision by the Credentialing Committee again denies eligibility for certification, an applicant who wishes to appeal the 2nd decision shall submit to the Credentialing Committee, a written request for an informal meeting with the Credentialing Committee within 21 days of the date of service of notice of the Credentialing Committee's 2nd decision. If an informal meeting is not requested within 21 days, certification shall be denied and the applicant's file shall be closed without recourse to appeal.
5. If a request for an informal meeting is received within the required 21 days, the Credentialing Committee shall schedule the informal meeting and provide the applicant with written notice of the date, time, and location of the meeting at least 5 days before the meeting. At the informal meeting, the Credentialing Committee shall allow the applicant to present additional information verbally and in writing regarding the applicant's qualifications for certification.
6. Upon completion of the informal meeting, the Credentialing Committee shall determine whether the applicant is eligible for certification and shall issue a 3rd decision. The Credentialing Committee shall send written notice of this decision to the applicant.
7. If the 3rd decision by the Credentialing Committee again denies eligibility for certification, an applicant who wishes to appeal the 3rd decision shall submit within 21 days of the date of service of notice of the Credentialing Committee's 3rd decision, a written request to the Board for a formal administrative hearing under the Administrative Procedure Act, A.R.S. § 41-1061 et. seq. The request shall either be referred to the Office of Administrative Hearings for scheduling or scheduled before the Board. If a formal administrative hearing is not requested within 21 days, certification shall be denied and the applicant's file shall be closed with no recourse to appeal.
8. If the formal administrative hearing is held before the Office of Administrative Hearings, the Board shall review the findings of fact and conclusions of law and shall enter an order either to grant or deny certification.
9. If the formal administrative hearing is held before the Board, the Board shall issue the findings of fact and conclusions of law and shall enter an order either to grant or deny certification.
10. The Board shall send the applicant a copy of the final findings of fact, conclusions of law, and order.

**D.** If a complaint or allegation of unprofessional practice is received before or while an applicant is under review for certification the following procedures shall be used:

1. The Credentialing Committee shall determine if the applicant has met the education, experience, and supervision requirements.
   a. If an applicant is determined to be ineligible because of deficiencies in education, experience, or supervision, the Credentialing Committee shall notify the applicant of its determination in accordance with subsection (C)(1) and shall include in the notification a statement that an allegation that the applicant engaged in an unprofessional practice has been received by the Board and must be resolved in the applicant's favor before the applicant may be certified. If the applicant appeals this determination of ineligibility, the procedures in R4-6-1001(A) through (C) shall be followed. These procedures shall include a review and determination of all reasons the applicant may be determined ineligible.
   b. If an applicant against whom an allegation of unprofessional practice has been made meets all education, experience, and supervision requirements, the

procedures in R4-6-1001(A) through (C) shall be followed.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-902. Appeal Process for Certificate Renewal Ineligibility**

**A.** A certified behavioral health professional for renewal may be found ineligible because of an unprofessional practice or failure to meet other renewal requirements, or both.

**B.** If an allegation of unprofessional practice has been made against a certified behavioral health professional for renewal, the Credentialing Committee shall determine whether the alleged unprofessional practice, if true, is severe enough to result in revocation of certification. If the Credentialing Committee determines that revocation is a likely outcome if the allegation is substantiated, the Credentialing Committee shall not renew the certified behavioral health professional's certificate and shall investigate the allegation in accordance with R4-6-1001. The Credentialing Committee shall include in the investigation a review and determination regarding all renewal requirements. If the Credentialing Committee determines that the alleged unprofessional practice, if substantiated, would not result in revocation of certification and if all other renewal requirements have been met, the Credentialing Committee shall issue a renewal certification to the certified behavioral health professional and shall investigate the allegation in accordance with R4-6-1001.

**C.** If an applicant for renewal certification is determined to be ineligible because of failure to meet renewal requirements and if there is no allegation of unprofessional practice, the following procedures shall apply:

1. The Credentialing Committee shall send a letter to the certified behavioral health professional that informs the certified behavioral health professional of the determination of ineligibility and explain the basis for the determination.
2. A certified behavioral health professional who wishes to appeal a determination of ineligibility for renewal certification shall submit a written request for an informal meeting to the Credentialing Committee within 21 days from the date of service of the notice of ineligibility. If an informal meeting is not requested within the time provided, the renewal shall be denied and the certified behavioral health professional's file shall be closed without recourse to appeal.
3. If a request for an informal meeting is received within the required 21 days, the Credentialing Committee shall schedule an informal meeting with the certified behavioral health professional and provide written notice of the date, time, and location of the meeting at least 5 days before the meeting. At the informal meeting, the Credentialing Committee shall allow the certified behavioral health professional to present additional information verbally and in writing regarding the certified behavioral health professional's qualifications for renewal.
4. Upon completion of the informal meeting, the Credentialing Committee shall determine whether the certified behavioral health professional meets renewal requirements and shall issue a decision in writing. The Credentialing Committee shall send a written notice of this decision to the certified behavioral health professional.
5. A certified behavioral health professional who wishes to appeal a denial of renewal that results from an informal meeting, shall submit within 21 days of the date of service of notice of the Credentialing Committee's decision a written request to the Board for a formal administrative hearing under the Administrative Procedure Act, A.R.S. § 41-1061 et. seq. The request shall either be referred to the Office of Administrative Hearings for scheduling or scheduled before the Board. If a formal administrative hearing is not requested within 21 days, the renewal shall be denied and the certified behavioral health professional's file shall be closed without recourse to appeal.
6. If the formal administrative hearing is held before the Office of Administrative Hearings, the Board shall review the findings of fact and conclusions of law and shall enter an order either to grant or deny renewal.
7. If the formal administrative hearing is held before the Board, the Board shall issue the findings of fact and conclusions of law and shall enter an order either to grant or deny renewal.
8. The Board shall send the certified behavioral health professional a copy of the final findings of fact, conclusions of law, and order.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

## ARTICLE 10. DISCIPLINARY PROCESS FOR UNPROFESSIONAL PRACTICES

**R4-6-1001. Disciplinary Process for Unprofessional Practices**

**A.** If a written complaint alleging unprofessional practice by a certified behavioral health professional or an applicant is received by the Board, the Board shall immediately notify the individual complained against and require the individual complained against to submit a written response within 21 days from the date of service of notice of the complaint.

**B.** When the response of the individual complained against is received, the Credentialing Committee Chair or designee shall evaluate the complaint and response, and either schedule an informal meeting before the full Credentialing Committee with the individual complained against or schedule a document review of the written complaint and response by the full Credentialing Committee.

1. Complaints that the Credentialing Committee Chair or designee determines need further investigation shall be scheduled for an informal meeting with the individual complained against.
2. Complaints that the Credentialing Committee Chair or designee determines do not need further investigation shall be scheduled for a document review.

**C.** After the Credentialing Committee completes a document review of a complaint:

1. The Credentialing Committee shall dismiss the complaint if the Credentialing Committee finds the complaint is not a violation of a professional practice.
2. The Credentialing Committee shall schedule an informal meeting with the individual complained against if the Credentialing Committee finds there is a possible violation of a professional practice or further investigation is required.
3. The Credentialing Committee shall provide written notice of its decision to the complainant and the individual complained against within 15 days of its decision.

**D.** After the Credentialing Committee completes an informal meeting with an individual complained against:

1. The Credentialing Committee shall dismiss the complaint if the Credentialing Committee finds the complaint is not a violation of a professional practice.
2. The Credentialing Committee shall offer a consent agreement including general terms to the individual complained against if the Credentialing Committee finds a

possible violation or violations of professional practices, and shall send a report of its findings to the individual complained against and the Board, and shall send its recommendation to the Board.

3. Upon receipt of the report of the Credentialing Committee's findings and recommendation, the Board shall affirm, reverse, adopt, modify, supplement, amend, or reject the report, in whole or in part, and shall enter an order to dismiss the complaint, refer the complaint to a formal administrative hearing under the Administrative Procedure Act, A.R.S. § 41-1061 et. seq., or accept the consent agreement.
4. The Board shall send written notice of its order to the complainant and the individual complained against within 15 days of entering the order.

**E.** If the Board refers the complaint to a formal administrative hearing:

1. The complaint shall either be referred to the Office of Administrative Hearings for scheduling or scheduled before the Board.
2. If the formal administrative hearing is held before the Office of Administrative Hearings, the Board shall review the findings of fact and conclusions of law and may issue an order of censure, impose a civil penalty of not more than $500, impose probation, refuse to issue or renew a certificate, suspend or revoke a certificate for unprofessional practice, dismiss the complaint, or any combination of these disciplinary measures.
3. If the formal administrative hearing is held before the Board, the Board shall issue the findings of fact and conclusions of law and may issue an order of censure, impose a civil penalty of not more than $500, impose probation, refuse to issue or renew a certificate, suspend or revoke a certificate for unprofessional practice, dismiss the complaint, or any combination of these disciplinary measures.
4. The Board shall send written notice of its order to the complainant and the within 15 days of entering the order.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-1002. Summary Suspension**

If the Credentialing Committee Chair or designee finds, after conducting an initial evaluation of a complaint, that the alleged unprofessional conduct of a certified behavioral health professional, if true, poses an imminent danger to the public, the Credentialing Committee Chair or designee shall notify the certified behavioral health professional of the finding and shall request that the Board Chair or designee call an emergency meeting of the Board. The Board shall request that the certified behavioral health professional attend the meeting. At the meeting the Board shall review all available information including statements by the certified behavioral health professional. The Board shall determine, based on this information, whether the interests of the public are in imminent danger. If so, the Board shall issue an order to suspend the certified behavioral health professional's certificate summarily.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

**R4-6-1003. Review or Rehearing of a Board Decision**

**A.** Except as provided in subsection (F), a party aggrieved by a decision of the Board that results from a formal administrative hearing may seek a review or rehearing of that decision by submitting a written request for a review or rehearing to the Board within 21 days from the date of service of the decision. The request shall specify the grounds for a review or rehearing. The Board shall grant a request for a review or rehearing for any of the following reasons materially affecting the rights of the aggrieved party:

1. Irregularity in the Board or Credentialing Committee's proceedings that deprived the aggrieved party of a fair hearing;
2. Misconduct of the Board, the Credentialing Committee, or any duly authorized agent of the Board or the Credentialing Committee;
3. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
4. Excessive penalties;
5. Decision, findings of fact, or conclusions not justified by the evidence or contrary to law;
6. Errors regarding the admission or rejection of evidence or errors of law that occur at the hearing.

**B.** The Board shall determine whether 1 of the reasons listed in subsection (A) materially affected the rights of the aggrieved party and enter an order either to grant or deny the request for review or rehearing. The Board shall specify with particularity the reason the request is granted or denied.

**C.** The Board shall send written notice of the decision to grant or deny a request for review or rehearing to the complainant and the certified behavioral health professional or applicant.

**D.** If the Board grants a request for a review or rehearing, the new hearing shall address only the question or questions with respect to which the decision is found from erroneous, if separable.

**E.** A party may make application for judicial review of the final order issued by the Board in accordance with A.R.S. § 12-901 et seq.

**F.** If the Board makes a specific finding in a particular order that the immediate effectiveness of the order is necessary to preserve the public health, safety, or welfare, and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for a rehearing or review. If the Board issues a decision as a final decision without an opportunity for a review or rehearing, the certified behavioral health professional or applicant may make an application for judicial review of the decision in accordance with A.R.S. § 12-901 et seq.

**Historical Note**
Adopted effective November 15, 1996 (Supp. 96-4).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

## CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

(Authority: A.R.S. § 32-904 et seq.)

*All former rules renumbered, new Article 10 added (Supp. 85-5).*

### ARTICLE 1. BOARD OF CHIROPRACTIC EXAMINERS

Section
R4-7-101. Definitions
R4-7-102. Repealed
R4-7-103. Renumbered
R4-7-104. Meetings

### ARTICLE 2. COMMITTEES

Section
R4-7-201. Formation
R4-7-202. Powers and duties
R4-7-203. Renumbered

### ARTICLE 3. HEARINGS

Section
R4-7-301. Investigation of Complaints
R4-7-302. Service
R4-7-303. Conduct of Hearing
R4-7-304. Repealed
R4-7-305. Rehearing; Review of Decision

### ARTICLE 4. EXAMINATIONS

Section
R4-7-401. Repealed
R4-7-402. Renumbered
R4-7-403. Repealed
R4-7-404. Investigation
R4-7-405. Refusal to Issue Licenses
R4-7-406. Repealed

### ARTICLE 5. LICENSES

Section
R4-7-501. Display of licenses
R4-7-502. Procedures for Processing Initial License Applications
R4-7-503. Renewal License: Issuance, Reinstatement
R4-7-504. License: Denial
R4-7-505. Renumbered

### ARTICLE 6. ACUPUNCTURE CERTIFICATION

Section
R4-7-601. Definition of acupuncture as applied to chiropractic
R4-7-602. Repealed
R4-7-603. Renumbered
R4-7-604. Renumbered
R4-7-605. Renumbered
R4-7-606. Renumbered

### ARTICLE 7. STANDARDS OF EDUCATION

Section
R4-7-701. Qualifications for Accreditation by Board from College not Otherwise Accredited
R4-7-702. Standards of Education as Determined by the Board

### ARTICLE 8. CONTINUING EDUCATION

*New Article 8, consisting of Sections R4-7-801 through R4-7-803, adopted effective June 19, 1997 (Supp. 97-2).*

*Article 8, consisting of Sections R4-7-60 through R4-7-62, renumbered as Sections R4-7-801 through R7-4-803, effective September 27, 1985 (Supp. 85-5).*

*Article 8, consisting of Sections R4-7-60 through R4-7-63, repealed effective May 14, 1980 (Supp. 80-3).*

Section
R4-7-801. Continuing Education Requirements
R4-7-802. Documenting Compliance with Continuing Education Requirements
R4-7-803. Effect on Suspension of Continuing Education Requirements

### ARTICLE 9. UNPROFESSIONAL CONDUCT

Section
R4-7-901. Advertising of a deceptive and fraudulent nature
R4-7-902. Unprofessional or Dishonorable Conduct Activities

### ARTICLE 10. PRECEPTORSHIP TRAINING PROGRAM

*Former Sections R4-7-1001 through R4-7-1003 repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2). New Sections R4-7-1001 through R4-7-1003 adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).*

*Article 10, consisting of Sections R4-7-1001 through R4-7-1003, adopted effective September 27, 1985.*

Section
R4-7-1001. Eligibility; Application
R4-7-1002. Practice Limitations
R4-7-1003. Regulation and Termination of the Preceptorship Program
Appendix A. Repealed
Appendix B. Repealed
Appendix C. Repealed
Appendix D. Repealed
Appendix E. Repealed
Appendix F. Repealed

### ARTICLE 11. CHIROPRACTIC ASSISTANTS

*Article 11, consisting of Sections R4-7-1101 through R4-7-1103, adopted effective December 18, 1992 (Supp. 92-4).*

Section
R4-7-1101. Use of the Term "Chiropractic Assistant"
R4-7-1102. Chiropractic Assistant Training
R4-7-1103. Scope of Practice

### ARTICLE 1. BOARD OF CHIROPRACTIC EXAMINERS

**R4-7-101. Definitions**

In addition to the definitions in A.R.S. § 32-900, unless otherwise specified, the following terms have the following meanings:

1. "Business day" means Monday through Friday, 8 a.m. to 5 p.m. except for State recognized holidays.
2. "C.A." means a chiropractic assistant under A.R.S. § 32-900.
3. "Certification" means approval to practice chiropractic specialties under A.R.S. § 32-922.02.
4. "Chiropractor" means doctor of chiropractic, chiropractic physician, or the abbreviation "D.C.".
5. "Diagnosis" means the physical, clinical, and laboratory examination of the patient and the use of x-ray for diag-

nostic purposes, as taught in accredited chiropractic colleges.

6. "Extern" means a student of a Board-approved chiropractic college who participates in the preceptorship training program.
7. "License" means a document issued by the Board to practice chiropractic
8. "Preceptor" means a supervising chiropractor approved by the Board to supervise a student in a Board approved preceptorship training program.
9. "Preceptorship training program" means a Board approved program by which a student may practice chiropractic under the supervision of a preceptor.
10. "Supervision" means a licensed chiropractor is present in the office, sees a patient, and assigns the work to be done. The chiropractor is available to check the work of the supervised individual as it progresses and approves the completed work.

**Historical Note**
Adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-01 renumbered as Section R4-7-101 and amended effective September 27, 1985 (Supp. 85-5). Amended effective December 18, 1992 (Supp. 92-4). Amended effective July 6, 1993 (Supp. 93-3). Amended effective June 19, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 998, effective March 16, 1999 (Supp. 99-1).

**R4-7-102. Repealed**

**Historical Note**
Adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-02 renumbered as Section R4-7-102 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3).

**R4-7-103. Renumbered**

**Historical Note**
Former Section R4-7-03 renumbered as Section R4-7-103 effective September 27, 1985 (Supp. 85-5).

**R4-7-104. Meetings**
The Board shall hold its annual election of officers during its July meeting.

**Historical Note**
Former Article I, Rules 1, 2, and 3; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-04 renumbered as Section R4-7-104 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3).

## ARTICLE 2. COMMITTEES

**R4-7-201. Formation**
The Board may from time to time appoint such committees as it deems necessary or proper to assist it in carrying out its duties. Committees may be appointed for such periods of time as the Board designates.

**Historical Note**
Former Article II, Rule 1; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-10 renumbered as Section R4-7-201 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3).

**R4-7-202. Powers and duties**
Committees appointed by the Board shall make reports to the Board based on their findings or investigations and may make recommendations for further action by the Board.

**Historical Note**
Former Article II, Rule 2; Former Section R4-7-11 renumbered as Section R4-7-202 without change effective September 27, 1985 (Supp. 85-5).

**R4-7-203. Renumbered**

**Historical Note**
Former Article II, Rule 3; Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-12 renumbered as Section R4-7-203 effective September 27, 1985 (Supp. 85-5).

## ARTICLE 3. HEARINGS

**R4-7-301. Investigation of Complaints**

**A.** The Board may cause to be investigated any complaint alleging violation of A.R.S. § 32-900 et seq. or these rules.

**B.** During the investigation of a complaint, the affixing of the seal of the Board and the signature of any member of the Board shall be attestation of a subpoena compelling the production of documentary evidence pursuant to A.R.S. § 32-929.

**C.** If it appears to the Board that there is probable cause to believe that a licensee has violated A.R.S. § 32-900 et seq. or these rules, the Board shall set a time and place for public hearing pursuant to A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**
Former Article III, Rule 1; Former Section R4-7-15 repealed, new Section R4-7-15 adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-15 renumbered as Section R4-7-301 without change effective September 27, 1985 (Supp. 85-5). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3).

**R4-7-302. Service**

**A.** Service shall be deemed to have been made for and on behalf of the Board of any decision, order, subpoena, notice, or other process when the document or a copy thereof is delivered to the licensee or his attorney of record or is deposited as certified mail in the U.S. Mail, addressed to the licensee at the address shown on the records of the Board.

**B.** In addition to service upon the Board or any member of the Board of any pleading, a copy of such pleading shall also be served upon the Attorney General of the state of Arizona.

**Historical Note**
Former Article III, Rule 2; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-16 renumbered as Section R4-7-302 without change effective September 27, 1985 (Supp. 85-5). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3).

**R4-7-303. Conduct of Hearing**

**A.** All hearings shall be conducted before the Board or its hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 6.

1. Parties may stipulate to any facts that are not in dispute. Such stipulations may be made in writing or orally by reading the same into the record of the hearing and will be binding upon the parties unless the Board grants permission to withdraw from them. The Board may, where it considers such action proper, set aside any stipulation and proceed to ascertain the facts.
2. The Board may, of its own motion or at request of any party, call a conference of the parties at the opening of any hearing or at any subsequent time, for the purpose of

clarifying the procedural steps to be followed in the proceeding, or the legal or factual issues involved.

3. By order of the Board, proceedings involving a common question of law or fact may be consolidated for hearing of any or all the matters of issue.

**B.** The failure of any licensee to appear when noticed at any proceeding before the Board shall leave the Board free to act upon the evidence and information at hand without further notice to the licensee.

**Historical Note**
Former Article III, Rule 3; Former Section R4-7-17 repealed, new Section R4-7-17 adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-17 renumbered as Section R4-7-303 without change effective September 27, 1985 (Supp. 85-5). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3).

**R4-7-304. Repealed**

**Historical Note**
Former Article III, Rule 4; Former Section R4-7-18 renumbered as Section R4-7-304 without change effective September 27, 1985 (Supp. 85-5). Section repealed effective July 6, 1993 (Supp. 93-3).

**R4-7-305. Rehearing; Review of Decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in the case may file with the Board, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefore.

**B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A response may be filed by any other party within 10 days after service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** The Board may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the Board, its hearing officer, or the prevailing party, or any order or abuse of discretion, that deprives the moving party of a fair hearing;
2. Misconduct of the Board, its hearing officer, or the prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.

**E.** Not later than 10 days after a decision is rendered, the Board may on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the period for serving opposing affidavits for not more than 20 days for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**Historical Note**
Adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-7-19 renumbered as Section R4-7-305 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Amended effective June 23, 1997 (Supp. 97-2).

## ARTICLE 4. EXAMINATIONS

**R4-7-401. Repealed**

**Historical Note**
Former Article IV, Rule 1 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-20 renumbered as Section R4-7-401 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-402. Renumbered**

**Historical Note**
Former Article IV, Rule 1 (in part); Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-21 renumbered as Section R4-7-402 effective September 27, 1985 (Supp. 85-5).

**R4-7-403. Repealed**

**Historical Note**
Former Article IV, Rule 1 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-22 renumbered as Section R4-7-403 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-404. Investigation**

If the Board deems it necessary it may, prior to the date of examination, require any applicant or other person making affidavit in support of the application to appear and supply to the Board such further information or documents as the Board deems pertinent in establishing the qualifications of applicant.

**Historical Note**
Former Article IV, Rule 2; Former Section R4-7-23 renumbered as Section R4-7-404 without change effective September 27, 1985 (Supp. 85-5).

**R4-7-405. Refusal to Issue Licenses**

If the Board, after investigation of an applicant either before or after the applicant has taken the examination, determines that an applicant is not qualified to be issued a license, the Board shall notify applicant immediately of its decision to refuse to issue a license and the reasons therefore.

**Historical Note**

Former Article IV, Rule 3; Former Section R4-7-24 renumbered as Section R4-7-405 without change effective September 27, 1985 (Supp. 85-5). Amended effective December 9, 1994 (Supp. 94-4).

**R4-7-406. Repealed**

**Historical Note**

Former Article IV, Rule 4; Former Section R4-7-25 renumbered as Section R4-7-406 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**ARTICLE 5. LICENSES**

**R4-7-501. Display of licenses**

A licensee shall at all times display the license issued him by the Board in a conspicuous place in his office.

**Historical Note**

Former Article V, Rule 1; Former Section R4-7-30 renumbered as Section R4-7-501 without change effective September 27, 1985 (Supp. 85-5).

**R4-7-502. Procedures for Processing Initial License Applications**

**A.** An applicant may obtain a license application package at the Board Office on business days, or by requesting that the Board mail 1 to an address specified by the applicant. An applicant shall pay the Board a non-refundable $10 fee for each license application package.

**B.** A completed license application package they have shall be submitted to the Board office on business days. The Board shall deem the license application package received on the date that the Board stamps on the package as the package is delivered to the Board office.

**C.** To complete a license application package, an applicant shall provide the following information and documentation:

1. Two identical photographs, measuring 3 inches by 4 inches, showing the applicant's full front face as the applicant will appear at the time of the examination and a description of identifying characteristics, if any;
2. The applicant's full current name and any former names;
3. The applicant's current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office address or addresses for the past 5 years;
4. The type of license and certification for which application is made;
5. All fees required by A.R.S. §§ 32-921(D) and (E) and 32-922.0(E);
6. A record of education requirements described in A.R.S. § 32-921(B) including the applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I, II, III, and IV of the examination conducted by the National Board of Chiropractic Examiners;
7. Any record of being convicted of, pleading guilty to or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months. The applicant shall submit any record of being refused a license to practice chiropractic or any other health care profession in this or any other state, and any record of a formal sanction taken against the applicant's license in this or any other state;
8. A completed fingerprint card;
9. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions;
10. The name and professional designation of the owner or owners of the clinic or office at which the applicant will be employed;
11. The applicant's social security number;
12. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant;
13. A score of 60% or higher on the Arizona Jurisprudence Examination. The applicant may not sit for the Arizona Jurisprudence Examination until the application package is otherwise complete.

**D.** Within 25 business days of receiving a license application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify what information is missing. If the Board does not provide notice to the applicant, the license application package shall be deemed complete after the passage of 25 business days.

**E.** An applicant with an incomplete license application package shall supply the missing information within 60 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 60 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.

**F.** If an applicant fails to submit a complete license application package within the time permitted, the Board shall close the applicant's file. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.

**G.** After receiving all missing information as specified in subsection (E), the Board shall notify the applicant that the license application package is complete.

**H.** The Board shall render a licensing decision no later than 120 business days after receiving a completed license application package. The Board shall deem a completed license application package received on the postmarked date of the notice advising the applicant that the package is complete.

**I.** An applicant seeking initial licensure by reciprocity under A.R.S. § 32-922.01 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part IV of the examination conducted by the National Board of Chiropractic Examiners.

**J.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial licenses:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 120 business days.
3. Overall time-frame: 145 business days.

**Historical Note**

Former Article V, Rule 2; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-31 renumbered as Section R4-7-502 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4).

**R4-7-503. Renewal License: Issuance, Reinstatement**

**A.** At least 30 days before a renewal application and renewal fee are due, the Executive Director of the Board shall send by 1st class mail to a licensee at the licensee's address of record, a renewal application and notice.

**B.** The licensee renewal application shall be returned to the Board office on a business day. The date of receipt shall be the postmarked date or the date the licensee hand delivers the license renewal application.

**C.** To complete a license renewal application, a licensee shall provide the following information and documentation:
1. The licensee's full name;
2. The licensee's current home and office addresses, current home and all office phone numbers, and all current office fax numbers;
3. The name and professional designation of the owner or owners of the clinic or office at which the licensee is employed;
4. The licensee's social security number;
5. A record of any professional disciplinary investigation or sanction taken against the licensee by a licensing board since the licensee last applied for renewal of this license in this or any other state;
6. A record of any conviction or plea agreement for a misdemeanor or felony since the licensee last applied for renewal of this license;
7. The renewal fee required by A.R.S. § 32-923;
8. A list of required continuing education courses that have been completed;
9. The licensee's signature attesting to the truthfulness of the information provided by the licensee.

**D.** In accordance with A.R.S. § 32-923(C), the Board shall automatically suspend a license if the licensee does not submit a completed application for renewal before January 1 of each calendar year. The Board shall send written notice of the license suspension to the licensee on or before January 20.

**E.** The Board shall reinstate a suspended license if the licensee pays the annual license renewal fee, pays an additional fee of $100 as required by A.R.S. § 32-923(D), and submits a completed license renewal application between January 1, and March 31 of the calendar year for which the license renewal is made.

**F.** On or after April 1 of the calendar year for which a license renewal application was to be made, an individual who wishes to have a suspended license reinstated shall apply for reinstatement in accordance with A.R.S. § 32-923(D).

**G.** An application for reinstatement of license may be obtained at the Board office on business days or by requesting that the Board mail 1 to an address specified by the applicant.

**H.** A completed application for reinstatement of license shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of license received on the date that the Board stamps on the application as it is delivered to the Board office.

**I.** To complete an application for reinstatement of license, an applicant shall provide the following information and documentation:
1. The applicant's full current name, suspended license number, and certification number if a specialty certification was held by the licensee.
2. The applicant's current home and all office addresses, current home and all office phone numbers, and all current office fax numbers.
3. The name and professional designation of the owner or owners of the office or clinic at which the applicant will be employed.
4. The applicant's social security number.
5. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions.
6. A list of required continuing education courses completed with certification of course completion.
7. A record of any professional disciplinary investigation or sanction initiated since the applicant last applied to renew this license.
8. A record of any conviction or plea agreement for a misdemeanor or a felony since the date of the applicant's last application for licensure.
9. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.

**J.** The Board shall process a license reinstatement application in accordance with R4-7-502(D) through (J). The Board shall deem the application received on the date that the Board stamps on the application as the application is delivered to the Board Office.

**K.** The Board shall reinstate or renew a license if:
1. The applicant or licensee has complied with the requirements of these rules and A.R.S. § 32-900 et seq. (The Chiropractic Practice Act).
2. The applicant or licensee has not had any professional disciplinary sanction taken against the applicant's or licensee's license by a licensing board since the last application for licensure.
3. The applicant or licensee has not been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or a felony since the last application for licensure.

**L.** If the provisions of subsection (K) are satisfied, the Board shall issue a license renewal certificate on or before February 1, of each year. The license renewal certificate shall serve as notice that the renewal application is complete and approved.

**M.** If there is reason to believe that the provisions of subsection (K) have not been satisfied or that possible grounds for denying the renewal or reinstatement application exist, the Board shall notify the applicant of this possibility within 25 business days of the date that the application is received at the Board office.

**N.** An applicant who is so notified that renewal or reinstatement may be denied may provide a written response and shall submit any documentation as required by the Board within 60 calendar days from the date of notice. An applicant who is unable to supply the required documentation within 60 calendar days may submit a written request to the Board for an extension of time in which to provide the required documentation. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of the

required documentation, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.

**O.** If an applicant fails to submit required documentation within the time permitted, the Board shall issue a notice of intent to deny the renewal application.

**P.** The Board shall render a licensing decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the documentation is delivered to the Board's office.

**Q.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for renewal licenses:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 70 business days.
3. Overall time-frame: 95 business days.

**Historical Note**
Former Article V, Rule 3; Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-32 renumbered as Section R4-7-503 effective September 27, 1985 (Supp. 85-5). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4).

**R4-7-504. License: Denial**

If the Board denies a license, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time periods for appealing the denial.

**Historical Note**
Former Article V, Rule 4 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-33 renumbered as Section R4-7-504 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4).

**R4-7-505. Renumbered**

**Historical Note**
Former Article V, Rule 4 (in part); Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-34 renumbered as Section R4-7-505 effective September 27, 1985 (Supp. 85-5).

## ARTICLE 6. ACUPUNCTURE CERTIFICATION

**R4-7-601. Definition of acupuncture as applied to chiropractic**

**A.** Acupuncture as applied to chiropractic is a stimulation of a certain meridian point or points on or near the surface of the body for the purpose of controlling and regulating the flow and balance of energy of the body preparatory and complementary to an adjustment.

**B.** Acupuncture includes acupuncture by needle, electrical stimulation, ultrasound, acupressure, laser and auricular therapy.

**C.** Acupuncture does not include cupping, moxibustion or cosmetic therapy.

**Historical Note**
Repealed effective December 31, 1975 (Supp. 75-2). New Section R4-7-40 adopted effective January 25, 1984 (Supp. 84-1). Former Section R4-7-40 renumbered as Section R4-7-601 without change effective September 27, 1985 (Supp. 85-5).

**R4-7-602. Repealed**

**Historical Note**
Repealed effective December 31, 1975 (Supp. 75-2). New Section R4-7-41 adopted effective January 25, 1984 (Supp. 84-1). Former Section R4-7-41 renumbered as Section R4-7-602 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-603. Renumbered**

**Historical Note**
Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-42 renumbered as Section R4-7-603 effective September 27, 1985 (Supp. 85-5).

**R4-7-604. Renumbered**

**Historical Note**
Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-43 renumbered as Section R4-7-604 effective September 27, 1985 (Supp. 85-5).

**R4-7-605. Renumbered**

**Historical Note**
Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-44 renumbered as Section R4-7-605 effective September 27, 1985 (Supp. 85-5).

**R4-7-606. Renumbered**

**Historical Note**
Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-45 renumbered as Section R4-7-606 effective September 27, 1985 (Supp. 85-5).

## ARTICLE 7. STANDARDS OF EDUCATION

**R4-7-701. Application for Accreditation by Board from College not Otherwise Accredited**

A school or college of chiropractic which is not accredited by or does not have status with the Council on Chiropractic Education or which is not accredited by an accrediting agency recognized by the U.S. Department of Education or the Council on Postsecondary Accreditation may qualify its graduates for purposes of the examination for licensure by submitting an application to the Board that demonstrates that the college meets the educational standards established below.

**Historical Note**
Adopted as an emergency effective June 24, 1977 (Supp. 77-3). Former Section R4-7-50 adopted as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days. New Section R4-7-50 adopted effective December 29, 1977 (Supp. 77-6). Former Section R4-7-50 renumbered as Section R4-7-701 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3).

**R4-7-702. Standards of Education as Determined by the Board**

**A.** Pre-professional education:

1. The college of chiropractic shall require by January 1, 1977, all its students, for admittance purposes, proof of having acquired at least two years (or 60 acceptable semester hours) leading to a baccalaureate degree in the arts and sciences. This should include one year each of chemistry and biology with laboratories.
2. Those that have matriculated with the fall enrollment of 1980 shall furnish proof of having credit of a minimum of three courses totaling not less than nine semester hours in chemistry with laboratory, one course of which shall be in organic chemistry or foreign equivalency.

**B.** The objective of the chiropractic college shall be to prepare the chiropractic doctor for the practice of chiropractic. The college shall be familiar with the distinctive characteristics of the chiropractic profession.

**C.** The organization of the college:
1. The college shall be incorporated under the laws of the state of its residence.
2. The college shall be exempt from taxes due to its educational program and purposes.
3. Control shall be vested in a board composed of chiropractic doctors and lay persons receiving no financial benefits from the college.

**D.** The administration:
1. There shall be a chief administrative officer. The chief administrative officer shall appoint to assist him a staff of administrative officers conforming to the accepted standards for professional education. These shall include a dean of academic affairs, dean of student affairs, and a dean of business affairs.
2. There shall be a self-study/evaluation committee. This committee shall be composed of faculty, students, administration, and other appropriate persons who shall be responsible for a report reflecting the autonomy and integrity of the institution. The report shall provide a factual picture of the various aspects of the educational program to each standard. It should relate the activities of the college with its stated purpose. It should reflect the planning for the future.
3. The records of the college shall be up to date and open for inspection. These shall include the financial report, clinic records, and scholastic records, not to include individual student records without consent.
4. The college shall issue a catalog or bulletin that is available upon request. The catalog shall include a listing of the members of the faculty, trustees, all officers of the college with their respective credentials; e.g. degree, etc. The catalog shall list the courses that are given, information regarding entrance requirements, discipline, attendance, examinations, grades, procedures, and graduation. The fees for tuition, matriculation, laboratory, or any other special fees shall be listed. The catalog or bulletin, which should be published annually, shall include the college calendar. The college shall have an adequate student/teacher ratio, adequate library, adequate laboratories, and a public clinic, providing sufficient clinical expertise to adequately prepare the student for the practice of chiropractic.

**E.** Professional education:
1. The courses of education shall include the following subjects: human anatomy, dissection, physiology, pathology, orthopedics, principles of chiropractic and adjusting, neurology, chemistry including biochemistry, nutrition, hygiene and public health, chiropractic spinal analysis, x-ray, laboratory subjects, bacteriology, and diagnosis including physical, clinical and differential.
2. The length of the course: There shall be a resident course of four years of not less than nine months each year, or the equivalent of 36 months of continuous study, comprising not less than 4,000 60-minute class hours of resident study.

**F.** Guidelines for the colleges with graduates making application to sit for the examination:
A detailed self-study report shall be submitted 120 days before the date of examination to allow for questions and, if necessary, an on-site visitation by the Board and/or a consultant appointed by the Board.

**G.** Guidelines for the Board:
1. A college meeting the equivalency standards of education as determined by the Board shall be granted an "Equivalency Status" only for that period of time, not to exceed two years, during which it continues to meet the standards set forth by the Board. "Equivalency Status" may be withdrawn at any time that the Board determines that its standards are no longer being met.
2. The Board shall accept those graduate applicants from schools or colleges of chiropractic which have been determined by the Board to have achieved an "Equivalency Status". Graduate applicants from colleges not having met the Board's equivalency standards or from colleges whose "Equivalency Status" has been withdrawn by the Board at the time of the applicant's graduation shall not be considered qualified graduates of chiropractic schools or colleges having the equivalency of such standards required by the Board.

**Historical Note**

Adopted as an emergency effective June 24, 1977 (Supp. 77-3). Former Section R4-7-51 adopted as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days. New Section R4-7-51 adopted effective December 29, 1977 (Supp. 77-6). Former Section R4-7-51 renumbered as Section R4-7-702 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3).

## ARTICLE 8. CONTINUING EDUCATION

### R4-7-801. Continuing Education Requirements

**A.** To be eligible to renew a license, a licensee shall complete 12 credits of continuing education between January 1 and December 31 of each year. A credit of continuing education is earned for each 60 minutes of education.

**B.** A licensee shall obtain continuing education credit in the following manner:
1. By attending or participating in a course, seminar, or workshop on subjects listed in A.R.S. §§ 32-922(B) or 32-922.02 that are taught at or sponsored by an organization listed in A.R.S. § 32-921(B).
2. By teaching a post-graduate course as a faculty member of a Council on Chiropractic Education-accredited chiropractic college. Continuing education credits earned in this manner shall be calculated as 2 credits of continuing education for each hour of post-graduate course instruction for the 1st course presentation, and 1 credit for each hour of instruction thereafter. A maximum of 6 credits of continuing education credit may be earned in the manner annually.

**C.** The Board shall award continuing education credit only for the subjects listed in A.R.S. §§ 32-922(B) or 32-922.02.

**D.** The Board may grant an extension of 90 days to comply with the continuing education requirements. To qualify for an extension, a licensee shall:

1. Timely file a license renewal application and renewal fee; and
2. Submit a written request for an extension, including good cause why the continuing education requirements were not met.

**E.** The following reasons may constitute good cause for the Board to grant an extension of time to comply with the continuing education requirements:
1. The licensee graduated from an accredited chiropractic college, or a college that meets the requirements of A.A.C. R4-7-702, during the year that the continuing education requirements were to be met;
2. The licensee lived in a country where there was no accredited chiropractic college, or a college that meets the requirements of A.A.C. R4-7-702, for at least 7 months during the year that the continuing education requirements were to be met;
3. The licensee was in active military service for at least 7 months during the year that the continuing education requirements were to be met; or
4. The licensee was not able to complete the continuing education requirements because of a documented disability of the licensee or the licensee's spouse, child, or parent.

**F.** If the Board grants an extension of time in which to complete the continuing education requirements, the continuing education credits obtained during the 90-day extension shall be applied to meet only the requirements for which the extension was granted. A licensee shall not report continuing education credit earned during a 90-day extension for a subsequent renewal year.

**Historical Note**
Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-60 repealed, New Section R4-7-60 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-60 renumbered as Section R4-7-801 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2).

**R4-7-802. Documenting Compliance with Continuing Education Requirements**

**A.** A licensee shall retain documents to verify compliance with the continuing education requirements for at least 5 years from the date the continuing education credit is used to qualify the licensee for renewal.

**B.** With each license renewal application, a licensee shall attest by providing the licensee's signature, that the licensee has met the continuing education requirements, and will comply with subsection (A).

**C.** The Board may require a licensee to provide documentation to verify compliance with continuing education requirements, including that:
1. Each continuing education credit was for 60 minutes of education;
2. The requirements of subsections (A) and (B) were satisfied;
3. Continuing education credit was earned between the immediately preceding January 1 and the date that the license renewal application was filed or the date on which an extension of time expired; and
4. No continuing education credit earned between the immediately preceding January 1 and the date that the license renewal application was filed was earned under an extension of time to comply with the continuing education requirements of a previous year.

**Historical Note**
Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-61 repealed, new Section R4-7-61 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-61 renumbered as Section R4-7-802 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2).

**R4-7-803. Effect of Suspension on Continuing Education Requirements**

A licensee whose license is suspended under A.R.S. §§ 32-923, 32-924, or 32-931, shall complete 12 credits of continuing education for each calendar year or part of a calendar year that the license is suspended before the license may be reinstated or renewed.

**Historical Note**
Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-62 repealed, new Section R4-7-62 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-62 renumbered as Section R4-7-803 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2).

## ARTICLE 9. UNPROFESSIONAL CONDUCT

**R4-7-901. Advertising of a deceptive and fraudulent nature**

The Board shall cause a license to be investigated, suspended, or revoked for advertising that is likely to deceive or defraud the public, including but not limited to the following examples:
1. Advertising painless procedures.
2. Advertising complete health services.

**Historical Note**
Adopted effective May 8, 1978 (Supp. 78-3). Former Section R4-7-70 renumbered as Section R4-7-901 without change effective September 27, 1985 (Supp. 85-5).

**R4-7-902. Unprofessional or Dishonorable Conduct Activities**

Unprofessional or dishonorable conduct, as used in A.R.S. § 32-924(B)(5), means:
1. Referring a patient to a diagnostic or treatment facility or prescribing goods and services to be purchased from a facility in which the chiropractic physician has any pecuniary interest, without disclosing in writing to the patient and any 3rd party payor, the chiropractic physician's interest.
2. Knowingly making a false or misleading statement to the Board, its investigators or representatives, a patient, or a 3rd party payor.
3. Failing to create and maintain a patient record that includes the patient's health history, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, and notes for each patient visit. The notes for each patient visit shall include the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided services to the patient.
4. Failing to maintain a patient's record, including x-rays, for at least 5 years after the last treatment date, or failing to provide written notice to the Board, about how to access the patient records of a chiropractic practice that is closed, for at least 5 years after each patient's last treatment date. The patient records of minors shall be maintained for 5 years beyond the minor's 18th birthday.
5. Failing to release a copy of a patient's record, diagnostic quality radiographic copy x-rays, or both to another

licensed physician, the patient, or the authorized agent of the patient, within 10 business days of receiving a written request to do so, or failing to return original x-rays to a licensed physician within 10 business days of a written request to do so.

6. Representing that the licensee is certified by this Board in a specialty area in which the licensee is not certified, or has academic or professional credentials that the licensee does not have.
7. Practicing under, or billing for services under any name other than the name by which the chiropractic physician is licensed, including corporate, business, or other licensed health care providers' names, without first notifying the Board in writing.
8. Suggesting, or having sexual contact, as defined in A.R.S. § 13-1401, with an individual in the course of patient treatment, (other then with an individual with whom a current consensual personal relationship exists before a chiropractor/patient relationship was established).
9. Charging a fee for services not rendered.
10. Failing to allow properly authorized Board personnel to have, on demand by subpoena, access to any document, report, or record maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities.
11. Failing to supervise properly a chiropractic assistant employed by the chiropractic physician.
12. Failing to report in writing to the Board any information based upon personal knowledge that a chiropractic physician may be grossly incompetent, guilty of unprofessional or dishonorable conduct, or mentally or physically unable to provide chiropractic services safely. Any person who reports or provides information to the Board in good faith is not subjected to civil damages as a result of that action. If the informant requests that the informant's name not be disclosed, the Board shall not disclose the informant's name unless it is essential to the disciplinary proceedings conducted under this Section.
13. Violating any federal or state law or rule or regulation applicable to the practice of chiropractic.

**Historical Note**
Adopted effective September 9, 1997 (Supp. 97-3).

## ARTICLE 10. PRECEPTORSHIP TRAINING PROGRAM

### R4-7-1001. Eligibility; Application

**A.** Both extern and preceptor shall submit a written application to the Board. The Board shall process the application within the time-frames provided in R4-7-502 (J). The application shall be submitted on a form that contains the extern's photo; the extern's and preceptor's name, address, telephone number, and any other names of the extern and preceptor; the preceptor's license number, number of years in practice, and disciplinary history; a waiver of confidentiality and notarized signature from both the extern and preceptor; the beginning and ending date of the program; location, days, and hours of the proposed program; the name and contact number for the sponsoring college; the date of extern graduation; and identification of the proposed scope of the program and the eligibility of the applicants for approval.

**B.** Except as provided in subsection (D), the Board may approve participation by an extern who:
1. Concurrently participates in an undergraduate or postgraduate preceptorship program offered by an accredited chiropractic college and provides verifiable proof of enrollment;
2. Submits a written waiver of confidentiality that permits the Board access to any information, records, or documentation collected or used by the college to evaluate the extern's eligibility for or performance in the program;
3. Provides a Certificate of Attainment on Parts I and II of the examination by the National Board of Chiropractic Examiners;
4. Successfully completes and provides documentation of the coursework required by A.R.S. § 32-922.02 for practice of chiropractic specialties, if specialties are to be included in the training program; and
5. Submits the $75.00 filing fee.

**C.** The Board shall not approve participation for an extern who:
1. Has been the subject of disciplinary sanction or convicted of a felony or a misdemeanor involving moral turpitude.
2. Is currently under investigation for a licensing violation, felony or misdemeanor involving moral turpitude.
3. Fails to demonstrate good character and reputation.
4. Fails to demonstrate the physical and mental ability to practice chiropractic skillfully and safely.
5. Has practiced chiropractic without a license or through participation in an approved preceptor program.

**D.** The Board may approve participation for a preceptor who:
1. Concurrently participates as a preceptor at the chiropractic college in which the extern is enrolled throughout the program and provides verifiable proof of participation;
2. Submits a written waiver of confidentiality that permits the Board access to any information, records, or documentation collected or used by the college to evaluate the preceptor's eligibility for or performance in the program; and
3. Is licensed in Arizona for at least 5 years preceding the date the program is to begin and, if the program is to include practice of chiropractic specialties, is certified in those specialties for at least 3 years proceeding the date upon which the program is to begin.

**E.** The Board shall not approve participation for a preceptor who:
1. Has been the subject of disciplinary sanction or convicted of a felony or a misdemeanor involving moral turpitude.
2. Is currently under investigation for a licensing violation, felony or misdemeanor involving moral turpitude.
3. Fails to demonstrate good character and reputation.
4. Fails to demonstrate the physical and mental ability to practice chiropractic skillfully and safely.

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

### R4-7-1002. Practice Limitations

**A.** Under the supervision of the preceptor and commensurate with the extern's education, training, and experience, an extern may engage in the practice of health care, as defined in A.R.S. § 32-925, except that an extern shall not perform any procedure defined as a chiropractic specialty requiring certification unless the extern and the preceptor have met the eligibility requirements in R4-7-1001 for that specialty.

**B.** At all times when patients may be present, the extern shall wear a badge showing the extern's name and the title "Extern" in capital letters equal in size to the name.

**C.** Before an extern conducts an examination or renders care to a patient, the preceptor shall secure from the patient a written consent to the examination or care. The written consent shall specify that the patient understands that an extern is not a licensed doctor, and that the preceptor retains responsibility

for quality of care. The preceptor shall maintain the signed consent as a part of the patient's file.

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**R4-7-1003. Regulation and Termination of the Preceptorship Program**

**A.** The Board, on its own initiative or upon receipt of a complaint, may investigate conduct of an extern or preceptor occurring within the program for compliance with these rules and A.R.S. § 32-924. The Board may, pursuant to A.R.S. § 32-929, obtain patient records as part of the investigation.

**B.** If after investigation, the Board determines that the conduct of the extern or preceptor imperatively requires emergency action, the Board shall suspend approval of the program pending proceedings for termination or other action. The Board shall promptly notify the extern, the preceptor, and the college of the suspension, the reasons for the suspension, and the conditions under which the suspension may be lifted, if any.

**C.** If after a hearing, the Board determines that the conduct of the preceptor or the extern constituted a violation of these rules or A.R.S. § 32-924, the Board shall terminate the program and may sanction the preceptor or deny licensure to the extern if the extern has applied for a license.

**D.** If the Board receives written verification from a chiropractic college that the extern or preceptor is no longer concurrently participating in the associated chiropractic college program, the Board shall terminate approval of the extern's training program.

**E.** An extern may participate in a preceptorship program until the results of the next scheduled Part IV of the National Board of Chiropractic Examiners examination are released or for 6 months, whichever occurs 1st.

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**APPENDIX A**

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**APPENDIX B**

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**APPENDIX C**

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**APPENDIX D**

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**APPENDIX E**

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**APPENDIX F**

**Historical Note**
Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

## ARTICLE 11. CHIROPRACTIC ASSISTANTS

**R4-7-1101. Use of the Term "Chiropractic Assistant"**
Only a chiropractic assistant as defined in A.R.S. § 32-900 who assists a chiropractor by performing basic health care duties, shall use the term "chiropractic assistant" or "C.A."

**Historical Note**
Adopted effective December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 5 A.A.R. 998, effective March 16, 1999 (Supp. 99-1).

**R4-7-1102. Chiropractic Assistant Training**

**A.** A C.A. shall complete 24 clock hours of coursework, with a minimum of 4 hours in each of the following subjects: chiropractic principles, management of common diseases, history taking, recordkeeping, professional standards of conduct, and CPR. If a chiropractor supervising C.A. is certified in a specialty under A.R.S. § 32-922.02, the C.A. shall complete 12 hours of additional training in that specialty.

**B.** A C.A. shall take coursework from a Board-approved facility or chiropractor. The facility or chiropractor providing coursework shall submit documentation that describes each subject listed in subsection (A) to the Board for approval prior to offering the course.

**C.** A C.A. shall begin Board-approved coursework within 3 months of initial employment with a supervising chiropractor, and shall complete the coursework within 1 year of initial employment with the supervising chiropractor.

**D.** A C.A. shall register with the Board or its designee upon completing required coursework. A C.A. shall submit a separate registration form for each place of employment and supervisor. A C.A. shall submit documentation to the Board or its designee on a Board-approved form, signed by the supervising chiropractor, showing the date that the C.A. completed each required subject. The Board shall issue the C.A.'s registration upon approval of the registration form.

**E.** A chiropractor supervising a C.A. shall maintain at the C.A.'s place of employment a copy of the C.A.'s registration.

**Historical Note**
Adopted effective December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 5 A.A.R. 998, effective March 16, 1999 (Supp. 99-1).

**R4-7-1103. Scope of Practice**

**A.** A C.A. shall perform only tasks that are:
1. Consistent with a supervising chiropractor's licensure and certification; and
2. Delegated by the supervising chiropractor.

**B.** A C.A. shall not take an x-ray.

**C.** A supervising chiropractor shall be responsible for all acts or omissions of a supervised C.A.

**D.** A person who does not meet the coursework requirements of R4-7-1102 shall perform only clerical or administrative duties.

**Historical Note**
Adopted effective December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 5 A.A.R. 998, effective March 16, 1999 (Supp. 99-1).

Reserved

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 8. RESERVED**

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

## CHAPTER 9. REGISTRAR OF CONTRACTORS

(Authority: A.R.S. § 32-1101 et seq.)

### ARTICLE 1. GENERAL PROVISIONS

Section
R4-9-101. Definitions
R4-9-102. Commercial Contractor License Classifications and Scopes of Work
R4-9-103. Residential Contracting License Classifications and Scopes of Work
R4-9-104. Dual License Contracting Classifications and Scopes of Work
R4-9-105. Restricted License Classifications
R4-9-106. Examinations
R4-9-107. Repealed
R4-9-108. Workmanship Standards
R4-9-109. Name of licensee or applicant
R4-9-110. Change of legal entity and cancellation of license
R4-9-111. Repealed
R4-9-112. Bond Limits and Regulations
R4-9-113. Application Process
R4-9-114. Reserved
R4-9-115. Posting
R4-9-116. License renewal
R4-9-117. Prior record
R4-9-118. Reserved
R4-9-119. Reserved
R4-9-120. Rehearing or review of decision
R4-9-121. Schedule of Fees Through December 31, 1993
R4-9-122. Repealed
R4-9-123. Repealed
R4-9-124. Repealed
R4-9-125. Repealed
R4-9-126. Repealed
R4-9-127. Repealed
R4-9-128. Repealed
R4-9-129. Repealed
R4-9-130. Schedule of Fees
R4-9-131. Assessment of Civil Penalties

### ARTICLE 1. GENERAL PROVISIONS

**R4-9-101. Definitions**

**A.** Appurtenances means all structures and improvements subordinate to a residence within residential property lines, excluding the residential structure itself, such as driveways, fences, patios, swimming pools, landscaping, sport courts, and gazebos.

**B.** Licensee means a business entity (sole proprietor, partnership, or corporation) to which a license is issued and not the individuals comprising the ownership or management of the licensee, except for a sole proprietor. The license is held by the licensee and not the qualifying party.

**C.** Small commercial construction means construction, remodeling, or repair of commercial projects for which the price of materials and labor does not exceed $250,000 in any contract or project. Provided, however, that any new structures or additions to existing structures are less than 3 stories. Nonstructural remodeling and repairs of existing commercial buildings exceeding this height limitation are small commercial construction if the overall cost of the contract or project does not exceed $250,000.

**Historical Note**

Former Rule I. Former Section R4-9-01 repealed, new Section R4-9-01 adopted effective February 23, 1976 (Supp. 76-1). Amended effective November 21, 1979 (Supp. 79-6). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-01 amended effective July 9, 1987, and renumbered as Section R4-9-101 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1).

**R4-9-102. Commercial Contractor License Classifications and Scopes of Work**

**A.** Commercial contractor license classifications. License classifications for commercial contractors are as follows:

ENGINEERING CONTRACTING

| | |
|---|---|
| A | General Engineering |
| A-3 | Blasting |
| A-4 | Drilling |
| A-5 | Excavating, Grading and Oil Surfacing |
| A-7 | Piers and Foundations |
| A-9 | Swimming Pools |
| A-11 | Steel and Aluminum Erection |
| A-12 | Sewers, Drains and Pipe Laying |
| A-14 | Asphalt Paving |
| A-15 | Seal Coating |
| A-16 | Waterworks |
| A-17 | Electrical and Transmission Lines |
| A-19 | Swimming Pools, Including Solar |
| A-21 | Landscaping and Irrigation Systems |
| AE- | (As restricted by Registrar) |

GENERAL COMMERCIAL CONTRACTING

| | |
|---|---|
| B-1 | General Commercial Contractor |
| B-2 | General Small Commercial Contractor |
| BE- | (As restricted by Registrar) |

SPECIALTY COMMERCIAL CONTRACTING

| | |
|---|---|
| L-1 | Acoustical Systems |
| L-3 | Awnings, Canopies, Carports and Patio Covers |
| L-4 | Boilers, Steamfitting and Process Piping |
| L-5 | (As restricted by Registrar) |
| L-6 | Swimming Pool Service and Repair |
| L-7 | Carpentry |
| L-8 | Floor Covering |
| L-9 | Concrete |
| L-10 | Drywall |
| L-11 | Electrical |
| L-12 | Elevators |
| L-13 | Carpets |
| L-14 | Fencing |
| L-16 | Fire Protection Systems |
| L-24 | Ornamental Metals |
| L-26 | Landscaping |
| L-27 | Lightweight Partitions |
| L-29 | Machinery (As restricted by Registrar) |
| L-31 | Masonry |
| L-34 | Painting and Wall Covering |
| L-36 | Plastering |
| L-37 | Plumbing |
| L-38 | Signs |
| L-39 | Air Conditioning and Refrigeration |
| L-40 | Insulation |
| L-41 | Septic Tanks and Systems |
| L-42 | Roofing |
| L-44 | Irrigation Systems |

L-45 Sheet Metal
L-48 Ceramic, Plastic and Metal Tile
L-49 Commercial, Industrial Refrigeration
L-53 Water Well Drilling
L-54 Water Conditioning Equipment
L-56 Welding
L-57 Wrecking
L-58 Comfort Heating, Ventilating, Evaporative Cooling
L-60 Finish Carpentry
L-61 Carpentry, Remodeling and Repairs
L-62 Reinforcing Bar and Wire Mesh
L-63 Appliances
L-64 Wood Floor Laying and Finishing
L-65 Glazing
L-67 Low Voltage Communications Systems
L-74 Boilers, Steamfitting and Process Piping, Including Solar
L-77 Plumbing Including Solar
L-78 Solar Plumbing - Liquid Systems Only
L-79 Air Conditioning and Refrigeration Including Solar

**B.** Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

A- GENERAL ENGINEERING
Construction in connection with fixed works, including streets, roads, power and utilities plants, dams, hydroelectric plants, sewage and waste disposal plants, bridges, tunnels, and overpasses. Also included are the scopes of work allowed by all of the other engineering classifications, A-3 through A-21.

A-3 BLASTING
The use of explosives and explosive devices for excavation, demolition, geological exploration, mining, or any construction related blasting. Included is any drilling, boring, or earth moving required for the placement of explosive charges, the erection of temporary shelters, barricades and associated protective devices, equipment, and enclosures.

A-4 DRILLING
Drilling includes horizontal and vertical drilling or boring, constructing, deepening, repairing, or abandoning wells; exploring for water, gas, and oil; and constructing dry wells, and monitor wells. Also included is the erection of rigs, derricks and related substructures, and installation, service and repair of pumps and pumping equipment.

A-5 EXCAVATING, GRADING AND OIL SURFACING
Movement and alteration of earthen material by digging, horizontal boring, trenching, grading, or compacting the material for a cut, fill, grade, or trench. Included is the placement of shoring, the oiling of base materials, and incidental blasting and drilling. Excludes excavating for water, gas, and oil wells.

A-7 PIERS AND FOUNDATIONS
Installation of piers and foundations using concrete, rebar, and other materials common to the industry. Includes pile driving, excavation, forming and other techniques and equipment common to the industry.

A-9 SWIMMING POOLS
Construction, service, and repair of swimming pools and spas, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to 1st readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.
Also included is the installation of swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.

A-11 STEEL AND ALUMINUM ERECTION
Field fabrication, erection, repair, and alteration of architectural and structural steel and aluminum materials common to the industry, including field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.

A-12 SEWERS, DRAINS AND PIPE LAYING
Installation and repair of any project involving sewer access holes, the laying of pipe for storm drains, water and gas lines, irrigation, and sewers. Includes connecting sewer collector lines to building drains and the installation of septic tanks, leaching lines, dry wells, and all necessary connections, and related excavation and backfilling.

A-14 ASPHALT PAVING
Installation of asphalt paving, and all related fine grading on streets, highways, driveways, parking lots, tennis courts, running tracks, play areas, and gas station driveways and areas, using materials and accessories common to the industry. Includes the necessary excavation and grading only for height adjustment of existing sewer access holes, storm drains, water valves, sewer cleanouts, and drain gates.

A-15 SEAL COATING
Application of seal coating to asphalt paving surfaces. Includes repair of surface cracks and application of painted marking symbols.

A-16 WATERWORKS
All work necessary for the production and distribution of water including drilling well, setting casing and pump, related electrical work, related concrete work, excavation, piping for storage and distribution, storage tanks, related fencing, purification and chlorination equipment.

A-17 ELECTRICAL AND TRANSMISSION LINES
Installation, alteration, and repair of transmission lines on public right-of-ways, including erection of poles, guying systems, tower line erection, street lighting of all voltages, and all underground systems including ducts for signal, communication, and similar installations. Installing transformers, circuit breakers, capacitors, primary metering devices and other related equipment of all electrical construction is included.
All electrical systems of less than 600 volts on or inside a building are excluded.

A-19 SWIMMING POOLS, INCLUDING SOLAR
Construction, service, and repair of swimming pools and spas, with or without solar water heating devices, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices,

waste lines and other integral parts of a swimming pool, spa and attached solar water heating device.
Also included are swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.

A-21 LANDSCAPING AND IRRIGATION SYSTEMS
Treat, condition, prepare, and install topsoil. Plant all decorative vegetation. Excavate, trench, bore, backfill and grade as necessary for installation of landscaping and irrigation systems.
Landscaping includes installation of non-loadbearing slabs, walkways and areas using concrete, brick, stone, or gravel; wooden decks; decorative garden walls, fences and screens up to 6 feet in height; retaining walls up to 3 feet in height; and all other materials and equipment common to the industry.
Excluded are cast-in-place or tilt concrete; load bearing walls for structures; and perimeter fencing along property lines or boundaries.
Install, repair, and maintain irrigation systems to distribute water for the purpose of irrigation, dust and soil erosion control using equipment, materials, and fittings common to the industry. This includes electrical control panels and apparatus which are an integral part of the irrigation system.
Connections to potable water lines, installation of backflow prevention devices, installation of hose bibs and installation of service lines from source of supply are permitted only when they are an integral part of the irrigation system.
Installation of electric wiring and related fixtures of 110 volts or less for landscaping projects is included.
All electrical work is limited to exterior use and only that work necessary to complete a landscaping project.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

AE- (AS RESTRICTED BY THE REGISTRAR)

B-1 GENERAL COMMERCIAL CONTRACTOR
Construction, alteration, and repair in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management, or direct or indirect supervision of any work performed.
This scope includes most of the L scopes except as they relate to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas, and roofing (except shingles and shakes) which must be subcontracted to an appropriately licensed contractor.

B-2 GENERAL SMALL COMMERCIAL CONTRACTOR
Small commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.
This scope includes most of the L scopes except as they relate to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas, and roofing (except shingles and shakes) which must be subcontracted to an appropriately licensed contractor.

BE- (AS RESTRICTED BY THE REGISTRAR)

L-1 ACOUSTICAL SYSTEMS
Installation, application, alteration, and repair of all types of pre-manufactured acoustical ceiling and wall systems.

L-3 AWNINGS, CANOPIES, CARPORT AND PATIO COVERS
Installation and repair of window awnings, door hoods, free-standing or attached canopies, carport and patio covers constructed of metal, fabric, fiberglass, and plastic.
Installation or repair of screened and paneled enclosures, not intended for use as habitable spaces, using metal panels, plastic inserts and screen doors. A minimum of 60% of wall area of an enclosure shall be constructed of screening material.
Installation or repair of fascia panels, flashing and skirting.
Installation or repair of exterior detached metal storage units. The placing of concrete footings and concrete slabs is permitted only when intended for patio covers, screened-in porches, and metal storage units when included in the same contract.
Excluded is any structural member that weighs more than 6 pounds per lineal foot.
All electrical, plumbing, and air conditioning systems are excluded.

L-4 BOILERS, STEAMFITTING AND PROCESS PIPING
Installation, alteration, and repair of steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-5 (AS RESTRICTED BY THE REGISTRAR)

L-6 SWIMMING POOL SERVICE AND REPAIR
Service, replacement, and repair of swimming pools including all existing connections and equipment. Pool gas heaters and gas piping from meter to heater may be installed only if the existing line and gas supply are adequate.
Application of pool coatings to interior of pool in conjunction with minor repairs to pool tile, plaster, and decks.
Excluded are chlorine gas connections, connections to potable water, and electric connections beyond first readily accessible disconnect.

L-7 CARPENTRY
Includes all rough and finish general carpentry work and hardware, including accessories, on new and existing structures.

L-8 FLOOR COVERING

Installation, replacement and repair of floor covering materials and related accessories including preparation of the surface to be covered.
Included are linoleum, carpets, carpet backings and pads, and materials manufactured of asphalt, vinyl, vinyl asbestos, rubber, wood, ceramic, and clay.

L-9 CONCRETE
All work in connection with the processing, proportioning, batching, mixing, conveying, and placing of concrete composed of materials common to the concrete industry, including finishing, coloring, curing, repairing, testing, drilling, sawing, grinding, chipping, and grouting. Placing film barriers, sealing, and waterproofing are included.
Construction, centering, and assembling forms, molds, slipforms, and pans.
Trenching, excavating, backfilling, and grading in connection with concrete construction.
Installation of embedded items essential to or comprising an integral part of the concrete or concrete construction, including reinforcing elements and accessories.

L-10 DRYWALL
Installation, pointing, and repair of gypsum wall board, and accessories. Taping and texturing on structures both interior and exterior.
Installation of non-bearing lightweight steel wall partitions and ceiling grid systems as supporting members for gypsum drywall, and installation and repair of movable partitions for the application of gypsum drywall panels.

L-11 ELECTRICAL
Installation, alteration, and repair of any wiring, related electrical material and equipment used in the generating, transmitting, or utilization of electrical energy less than 600 volts, including all overhead electrical wiring on public right-of-ways for signs and street decorations, and all underground electrical distribution systems of less than 600 volts serving private properties.
Installation, alteration, and repair on other than public right-of-ways of all outside, overhead, and underground electrical construction and all wiring in or on any building of less than 600 volts.

L-12 ELEVATORS
Installation, service and repair of all elevators, dumbwaiters, escalators, moving walks and ramps, stage and orchestra lifts, including the fabrication, erection and installation of sheave beams, sheaves, motors, cable and wire rope, guides, cabs, counterweights, doors, including sidewalk elevator doors, automatic and manual controls, signal systems and other devices, apparatus, and related equipment.

L-13 CARPETS
Installation, replacement, and repair of carpeting materials and accessories, including preparation of the surface to be covered.

L-14 FENCING
Installation and repair of metal, wood, and cement block fencing, including highway guard rails, cattle guards, and low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts, when required to properly install fencing.
All types of retaining walls are excluded.

L-16 FIRE PROTECTION SYSTEMS
Installation, alteration, and repair of fire protection systems using water, steam, gas, or chemicals. Included is any required excavation, trenching, backfilling and grading, piping from structure, and connections to off-premise water supply adjacent to property involving a fire protection system.
Systems may include the following areas of work and related equipment: restaurant hood protection systems; fire pumps and drivers; pressure and storage tanks; all piping and valves; sprinkler heads and nozzles; and application of materials for the prevention of corrosion or freezing.
Also included are air compressors, air receivers, bottled inert gases, pressurized chemicals, manifolds, pneumatic, hydraulic, or electrical controls, low voltage signaling systems, control piping, and the flushing and testing of systems.

L-24 ORNAMENTAL METALS
Fabrication, alteration, repair, and installation of all types of non-structural bearing ornamental metal units, both interior and exterior, including metal folding gates, guard and hand rails, wrought iron fencing and gates, window shutters and grilles, room dividers and shields, and metal accessories common to the industry. Installation of ornamental or common columns for canopies, porches, and carports are also included.
Fire escapes and stairs are excluded.

L-26 LANDSCAPING
Treat, condition, prepare, and install topsoil. Plant all decorative vegetation. Excavate, trench, backfill, and grade as necessary for installation of landscaping.
Installation of wood decks, non-loadbearing slabs, walkways, and areas using concrete, brick, stone, or gravel; and all other materials and equipment common to the industry.
Excluded are concrete slabs exceeding 400 square feet, concrete walkways exceeding 200 square feet, and masonry work over 18 inches in height.
Installation of electric wiring and related fixtures of 110 volts or less for landscaping projects is included. All electrical work is limited to exterior use, and only that work necessary to complete landscaping projects.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-27 LIGHTWEIGHT PARTITIONS
Installation of lightweight (not to exceed 14 gauge) metal wall partitions, including suspended metal ceiling grid systems, as supporting members for the application of building materials such as: application and repair of gypsum plaster, cement, acoustical plaster, or a combination of materials and aggregates, that create a permanent coating; the application of such materials over any surface which offers either a mechanical or suction type bond, sprayed, dashed, or troweled to the surface; surface sandblasting preparatory to plastering or stucco; installation of plastering accessories and lath products manufactured to provide a key or suction type bond

for the support of various type plaster coatings; and installation and repair of gypsum wall board, pointing, accessories, taping, and texturing on structures both interior and exterior.

L-29 (AS RESTRICTED BY THE REGISTRAR)

L-31 MASONRY

Installation of brick, concrete block, adobe units, stone, marble, slate, or other units and products common to the masonry industry, including mortarless type masonry products.

Installation of grout, and caulking. Tuck pointing, sand blasting, mortar washing, parging, cleaning, and welding of reinforcing steel related to masonry construction.

L-34 PAINTING AND WALL COVERING

Application of materials common to the painting and decorating industry for protective or decorative purposes. Includes surface preparation, caulking, sanding, and cleaning preparatory to painting.

Installation of surface coverings such as vinyls, wall papers, and cloth fabrics; decorative texturing; taping and finishing of drywall in conjunction with surface painting only.

L-36 PLASTERING

Application and repair of gypsum plaster, cement, acoustical plaster, or a combination of such materials and aggregates that create a permanent surface coating.

Application of materials common to the plastering industry over any surface which offers either a mechanical or suction type bond, sprayed, dashed, or troweled to a surface. This scope includes surface sandblasting preparatory to plastering or stucco.

Installation of accessories and lath products manufactured to provide a key or suction type bond for the support of various type plaster coatings. Installation of lightweight metal wall partitions, including suspended lightweight metal ceiling grid systems when the contract includes plastering.

L-37 PLUMBING

Installation, alteration, and repair of all plumbing when performed solely within property lines and not on public easements or right-of-ways, except as hereinafter provided.

Installation, alteration, and repair of all piping, fixtures, and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semi-fluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinklers; water conditioning equipment; piping; and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, non-potable liquids, hot water heating, and hot water supply systems operating at pressures not exceeding 30 PSIG, or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces, excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements. Pipe installed across public property may not be increased in size, or make any other connection between the point of exit from private property to the point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

L-38 SIGNS

Fabricate, install, repair, and service indoor or outdoor signs, displays, and sign devices attached to, or painted on a structure for the purpose of display, advertising or direction, including painting for background and decorative purposes; sign supports and accessories; flagpoles; electrical wiring directly connecting signs, displays, and sign devices to the first adequate power outlet accessible and adjacent to the sign, display, or sign device.

L-39 AIR CONDITIONING AND REFRIGERATION

Installation, alteration, and repair of refrigeration and evaporative cooling systems.

Installation, alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam or hot water boilers and coils, or baseboard convectors, and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

Installation, alteration, and repair of ventilation systems includes duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to the equipment it serves. Testing and balancing of refrigerant, cooling, heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-40 INSULATION

Installation, alteration, and repair of insulation materials for the non-mechanical control of heat, sound, and moisture for use in the construction of structures and equipment.

Includes installation methods and devices such as supports, fastening systems, adhesives, mastics, plastics, and material used for the preparation of insulation work and common to the industry.

Application and installation of materials to protect or finish insulated surfaces.

L-41 SEPTIC TANKS & SYSTEMS

Installation, alteration, and repair of septic tanks, aerobic digesters and leaching fields, excavation for tanks, leaching systems and piping, pipe laying for septic systems, and connection to the structure the system serves. Also included is backfilling and compaction in connection with this work.

L-42 ROOFING

Installation and repair of materials common to the industry that form a watertight, weather resistant surface for roofs and decks.

Included is sheet metal when installed in conjunction with a roofing project, application of protective and reflective roof and deck coatings, application of dampproofing or waterproofing, and installation of roof insulation panels and other roof insulation systems above roof deck.

L-44 IRRIGATION SYSTEMS

Excavate, trench, bore, backfill, and grade as necessary for installation of irrigation systems.

Installation, repair, and maintenance of irrigation systems to distribute water for the purpose of irrigation, dust and soil erosion control, using equipment, materials and fittings common to the industry. This includes electrical control panels and apparatus which are an integral part of the irrigation system.

Installation of backflow prevention devices, hose bibs, service lines and connections to potable water lines from source of supply are permitted only when they are an integral part of the irrigation system.

Installation of electric wiring and related fixtures of 110 volts or less for irrigation projects is included. All electrical work is limited to exterior use and only that work necessary to complete an irrigation project.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-45 SHEET METAL

Fabrication, installation, and repair of architectural and general products made of sheet metal common to the trade.

Includes layout, cutting, fabrication, and installation of sheet metal products; assembly and installation of pre-manufactured sheet metal products; facsimile items such as plastic skylights and fiberglass ducts and fittings; and bracing and reinforcing materials.

L-48 CERAMIC, PLASTIC AND METAL TILE

Installation and repair of non-structural bearing clay, glass, mosaics, metal, plastic, marble, terrazzo, slate, and other cement types of tile common to the industry installed for sanitary and decorative purposes; and setting of accessories and decorative inserts of various materials applied to surfaces by conventional methods.

Placing setting beds, laying, cutting, setting, and grouting tile used for all interior and exterior structure surfaces.

Includes caulking and installing various types of expansion joints and divider strips within and abutting tile work. Installation of shower doors and tub enclosures are included when a part of the original contract.

L-49 COMMERCIAL, INDUSTRIAL REFRIGERATION

Installation, alteration, and repair of refrigeration equipment and systems used for processing, storage, and display of food products and other perishable commodities.

Includes commercial, industrial, and manufacturing processes requiring refrigeration excluding comfort air conditioning.

Systems may also include the following areas of work and related equipment: temperature, safety and capacity controls, thermal insulation, vibration isolation materials and devices; water treatment devices; construction and installation of walk-in refrigeration boxes, liquid fuel piping and tanks, water and gas piping from equipment to service connection; and testing and balancing of refrigeration equipment and systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-53 WATER WELL DRILLING

Drill new water wells or deepen existing water wells by use of standard practices including the use of cable tools, compressed air percussion, rotary, air rotary, or reverse circulation rotary methods. Includes installing casing, gravel pack, perforating and sanitary seals. Repair existing wells by sand pumping, jetting, acidizing, swabbing, clean out, re-perforating, swaging, installation of annealed lines, and the removal of debris.

Includes photographing interior of wells with appropriate equipment. Installation of jet and submersible pumps; electrical pump controls and wiring from pump equipment to first readily accessible disconnect; and water line to storage or pressure tank, not to exceed 50 linear feet. Use of a test pump to develop a new well, or repair an existing well, when provided in contract, is limited to 5 horsepower.

Installation of concrete pump bases not to exceed 50 square feet.

Installation of protective fencing when included in original contract.

L-54 WATER CONDITIONING EQUIPMENT

Installation, repair, and maintenance of water conditioning equipment, piping, fittings, and valves necessary to connect a water conditioner unit to existing piping.

Installation and repair of indirect waste pipe carrying brine, backwash, and rinse water to the point of disposal only.

All trenching, back filling, and grading necessary for the installation of piping for a water conditioning unit only.

Installation and repair of electrical control panels (plug-in type) and apparatus of less than 25 volts or 100 watts or both (in other than hazardous locations or in raceways) and required grounding devices.

Installation of exchange tanks and necessary piping.

Installation of concrete supports for water conditioning units only.

L-56 WELDING

The performance of welding techniques by the use of processes common to the industry, including general on site job layout, cutting, and assembly.

L-57 WRECKING

Demolition, dismantling, and removal of structures not intended for reuse, the erection of temporary ramps, barricades, and pedestrian walkways when required for a wrecking project.

The use of explosives is excluded.

L-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING

Installation, alteration, and repair of warm air heating systems, gas fired furnaces and space heaters,

ventilation and evaporative cooling units, or any combination of these.

Systems may include the following areas of work and related equipment; duct work, air filtering devices, pneumatic or electrical controls, control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment it serves. Testing and balancing of air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-60 FINISH CARPENTRY

Installation, alteration, repair and finishing of all millwork including cabinets, counter tops, case sash, door trim, wood flooring, and other materials common to the industry.

L-61 CARPENTRY, REMODELING AND REPAIRS

All rough and finish general carpentry work on new and existing structures, including installation of related hardware and accessories, without dollar limitation.

All general remodeling, additions, replacements, and repairs to existing structures, and pre-manufactured items on existing structures, except electrical, plumbing, and air conditioning system work which shall be sublet to properly licensed contractors.

A single contract for remodeling, repair, or a combination of both, shall not exceed $50,000.

L-62 REINFORCING BAR AND WIRE MESH

Installation of reinforcing bar and wire mesh in preparation for placement of concrete materials, including post tensioning.

L-63 APPLIANCES

Installation and repair of appliances that become a fixed part of a structure, after necessary gas, electrical, or plumbing lines have been provided by properly licensed contractors.

Installation of gas lines from meter to unit only where required due to improper existing pipe size.

Connection of a mobile structure to the existing gas, plumbing, and electrical service facilities. Inspection and servicing of gas fired furnaces.

L-64 WOOD FLOOR LAYING AND FINISHING

Installation, replacement, and repair of wood floors using materials and methods common to the industry including preparation of subflooring.

Finishing and refinishing wood flooring by sanding and applying special surface treatment.

L-65 GLAZING

Assembly, installation, and replacement of glass products.

Installation of steel and aluminum glass holding members, glass products, and related hardware.

Installation of standard methods of weatherproofing, caulking, glazing, sealants, and adhesives.

L-67 LOW VOLTAGE COMMUNICATION SYSTEMS

Installation, service, repair, and maintenance of systems and devices of low voltage, including public address; intercommunication systems; telephone switchboards; call systems; master and program clocks (low voltage wiring and needed equipment only); electrical teaching devices; low voltage signaling; master television antennas; closed circuit television, and alarm systems.

Installation, service, repair, and maintenance of both high and low level electronic or electrical control devices that are associated with systems of low voltage.

Erection of towers on buildings for television antennas.

L-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

Installation, alteration, and repair of steam and hot water systems and boilers including solar. Also included are chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

L-77 PLUMBING INCLUDING SOLAR

Installation, alteration, and repair of all plumbing including solar, when performed solely within property lines and not on public easements or right-of-ways except as hereinafter provided.

Installation, alteration, and repair of all piping, fixtures and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semi-fluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinkler systems; water conditioning equipment; piping and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, non-potable liquids, hot water heating and hot water supply systems operating at pressures not exceeding 30 PSIG or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements. Pipe installed across public property may not be increased in size or make any other connection between the point of exit from private property to point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

L-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

Installation, alteration, and repair of solar water heating systems operating at temperatures not exceeding 220° F, including thermosyphon, direct (open loop), and indirect (closed loop), but excludes air as a transfer medium.

Includes installation of collectors, storage and expansion tanks, heat exchangers, piping valves, pumps, sensors and low voltage controls which connect to existing plumbing and electrical stub-outs at the water tank location.

Installation of solar water heating systems for swimming pools which tie into and operate from the conventional pool systems, but excludes all non-solar plumbing, electrical and mechanical systems and components.

Installation of back-up and auxiliary heating systems only when such systems are included in the original contract and when such systems are an integral part of the solar collector or storage equipment.

L-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR

Installation, alteration, and repair of refrigeration and evaporative cooling systems, including solar.

Installation, alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam, or hot water boilers and coils, or baseboard convectors and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

Installation, alteration, and repair of ventilation systems.

Installation of these systems include duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

**Historical Note**

Former Rule 2. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, Subsection (B) of this Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective September 13, 1978 (Supp. 78-5). Amended by adding A-20 effective July 10, 1980; adding A-21 effective July 11, 1980; adding C-77 and C-78 effective July 28, 1980; adding C-74 and C-79 effective August 15, 1980; adding C-75 and C-80 effective August 19, 1980 (Supp. 80-4). Amended by adding A-19 effective September 5, 1980 (Supp. 80-5). Repealed effective April 18, 1984 (Supp. 84-2). New Section R4-9-02 adopted effective July 9, 1987, and renumbered as Section R4-9-102 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1).

**R4-9-103. Residential Contracting License Classifications and Scopes of Work**

**A.** Residential contracting license classifications. License classifications for residential contractors are as follows:

GENERAL RESIDENITAL CONTRACTING

B- General Residential Contractor

B-3 General Remodeling and Repair Contractor

B-4 General Residential Engineering Contractor

- B-4R Corrosion Control
- B-4R Sport Court Accessories
- B-4R Soil Stabilization
- B-5R General Swimming Pool Contractor
- B-5R Swimming Pool Covers
- B-5R Fiberglassing of Swimming Pools
- B-5R Reservoir Linings and Covers
- B-5R Factory Fabricated Pools and Accessories
- B-6 General Swimming Pool Contractor, Including Solar

B-10 Pre-Manufactured Spas and Hot Tubs

SPECIALTY RESIDENTIAL CONTRACTING

C-1 Acoustical Systems

C-2 Excavating, Grading and Oil Surfacing

C-3 Awnings and Canopies

C-4 Boilers, Including Solar

- C-4R Boilers

C-5 (As Restricted By The Registrar)

C-6 Swimming Pool Service and Repair

C-7 Carpentry

- C-7R Doors, Gates, Windows and Accessories
- C-7R Removable Formwork and Shoring
- C-7R Nailing and Stapling

C-8 Floor Covering

- C-8R Wood Flooring
- C-8R Carpet
- C-8R Composition Flooring
- C-8R Non-Conventional Floor Covering
- C-8R Ceramic and Clay Floor Covering

C-9 Concrete

- C-9R Gunite and Shotcrete
- C-9R Lightweight Concrete
- C-9R Fence Footings
- C-9R Pre-Cast Concrete
- C-9R Sawing, Coring, Epoxy Panels and Bonding
- C-9R Terrazzo

C-10 Drywall

C-11 Electrical

C-12 Low Voltage Communication Systems

C-13 Asphalt Paving

- C-13R Asphalt Coating and Parking Appurtenances

C-14 Fencing

- C-14R Fencing Other Than Masonry

C-15 Blasting

C-16 Fire Protection

- C-16R $CO_2$ Dry and Wet Chemical Systems

C-17 Structural Steel and Aluminum

- C-17R Steel Floor, Sub Floor and Form Systems
- C-17R Welding
- C-17R Ornamental Metals
- C-17R Tanks

C-17R Recreational Equipment
C-17R Rebar and Wire Mesh
C-18 Elevators
C-21 Landscaping and Irrigation Systems
C-21R Landscaping
C-21R Irrigation Systems
C-22 House Moving
C-22R Wrecking
C-29 (As Restricted By The Registrar)
C-30 Finish Carpentry
C-30R Kitchen and Bathroom Components
C-30R Doors, Windows, Gates, Tub and Shower Enclosures
C-30R Cultured Marble
C-30R Weatherstripping
C-31 Masonry
C-31R Flagstone
C-31R Stone Masonry
C-34 Painting and Wall Covering
C-34R Surface Preparation and Waterproofing
C-34R Wallpaper
C-36 Plastering
C-36R Swimming Pool Plastering
C-36R Lathing
C-37 Plumbing, Including Solar
C-37R Plumbing
C-37R Built-In Central Vacuum Systems
C-37R Kitchen and Bathroom Fixture Refinishing
C-37R Swimming Pool Plumbing and Equipment
C-37R Gas Piping
C-37R Sewers, Drains and Pipe Laying
C-37R Water Conditioning Equipment
C-37R Solar Plumbing Liquid Systems Only
C-38 Signs
C-39 Air Conditioning and Refrigeration, Including Solar
C-39R Air Conditioning and Refrigeration
C-39R Gas Refrigeration
C-39R Temperature Control Systems
C-39R Warm Air Heating, Evaporative Cooling and Ventilating
C-39R Evaporative Cooling and Ventilators
C-39R Pre-Coolers
C-40 Insulation
C-40R Foam Insulation
C-41 Sewage Treatment Systems
C-41R Precast Waste Treatment Systems
C-42 Roofing
C-42R Foam and Foam Panel Roofing
C-42R Liquid Applied Roofing
C-42R Roofing Shingles and Shakes
C-45 Sheet Metal
C-45R Premanufactured Fireplaces
C-48 Ceramic, Plastic and Metal Tile
C-48R Swimming Pool Tile
C-53 Drilling
C-61 Limited Remodeling and Repair Contractor
C-62 Minor Home Improvements
C-63 Appliances
C-65 Glazing
C-65R Skylights
C-65R Storm Windows and Doors
C-65R Mirrors
C-65R Window Treatment
C-68 Mobile Home Remodeling and Repair

**B.** RESIDENTIAL CONTRACTING SCOPES. The "R" designation means that the licensee's scope of work is restricted to the description stated in the license title. The scope of work which may be done under the residential contracting license classifications is as follows:

B- GENERAL RESIDENTIAL CONTRACTOR
Construction of all or any part of a residential structure or appurtenance, except for electrical, plumbing, air conditioning systems, boilers, swimming pools, spas, and roofing (except shingles and shakes) which must be subcontracted to an appropriately licensed contractor. Also included are the scopes of work in B-3 and most of the C scopes except as restricted above.

B-3 GENERAL REMODELING AND REPAIR CONTRACTOR
Remodeling or repair of an existing residential structure or appurtenance except for electrical, plumbing, mechanical, boilers, swimming pools or spas which must be subcontracted to an appropriately licensed contractor. The scope of work allowed under the C-7 carpentry classification is included within this scope.

B-4 GENERAL RESIDENTIAL ENGINEERING CONTRACTOR
Construction and repair of appurtenances to residential structures. This scope includes all B-4R subclassifications.
B-4R Corrosion Control
B-4R Sport Court Accessories
B-4R Soil Stabilization

B-5 GENERAL SWIMMING POOL CONTRACTOR
Construction and repair of swimming pools and spas. Installation of fencing around the swimming pool or spa and installation of utilities from the point of service to the pool equipment. Construction of other structures or appurtenances is excluded. This scope includes all B-5R subclassifications.
B-5R Swimming Pool Covers
B-5R Fiberglassing of Swimming Pools
B-5R Reservoir Linings & Covers
B-5R Factory Fabricated Pools & Accessories

B-6 GENERAL SWIMMING POOL CONTRACTOR, INCLUDING SOLAR
The scope of work allowed in this classification is the same as B-5 (including all B-5R subclassifications) with the inclusion of solar heating devices.

B-10 PRE-MANUFACTURED SPAS AND HOT TUBS
Construction and repair of spas and hot tubs. Installation of fencing around the spa or hot tub and installation of utilities from the point of service to the spa equipment are included.

C-1 ACOUSTICAL SYSTEMS
Installation and repair of acoustical wall and ceiling

systems, excluding electrical.

C-2 EXCAVATING, GRADING AND OIL SURFACING
Installation, alteration, and repair of earthen material by digging, trenching, grading, or compacting the material for a cut, fill, grade, or trench. Oil surfacing may be applied over base materials.

C-3 AWNINGS AND CANOPIES
Installation and repair of metal, fabric, fiberglass, and plastic window awnings, door hoods, free-standing or attached canopies, carport and patio covers.
Installation or repair of screened and paneled enclosures, not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of wall area of an enclosure shall be constructed of screening material.
Installation or repair of fascia panels, flashing, and skirting.
Installation or repair of exterior detached metal storage units. The placing of concrete footings and concrete slabs are permitted only when intended for patio covers, screened-in porches, and metal storage units when included in the same contract.
Excluded is any structural member which itself weighs more than 6 pounds per lineal foot.
All electrical, plumbing, and air conditioning systems are excluded.

C-4 BOILERS, INCLUDING SOLAR
Installation and repair of steam and hot water boilers.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes the C-4R subclassification.
C-4R Boilers

C-5 LIMITED SPECIALTY (AS RESTRICTED BY THE REGISTRAR)

C-6 SWIMMING POOL SERVICE AND REPAIR
Service and minor repair of residential pools and accessories, excluding plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the 1st disconnect.

C-7 CARPENTRY
Installation and repair of rough and finish general carpentry work on new and existing structures including accessories and related hardware common to the industry. This scope includes all C-7R subclassifications.
C-7R Doors, Gates, Windows and Accessories
C-7R Removable Formwork and Shoring
C-7R Nailing and Stapling

C-8 FLOOR COVERING
Installation and repair of floor covering materials and accessories. This scope includes all C-8R subclassifications.
C-8R Wood Flooring
C-8R Carpet
C-8R Composition Flooring
C-8R Non-conventional Floor Covering
C-8R Ceramic and Clay Floor Covering

C-9 CONCRETE
Installation and repair of concrete, concrete products, and accessories common to the industry. This scope includes all C-9R subclassifications.
C-9R Gunite and Shotcrete
C-9R Lightweight Concrete
C-9R Fence Footings
C-9R Pre-Cast Concrete
C-9R Sawing, Coring, Epoxy Panels and Bonding
C-9R Terrazzo

C-10 DRYWALL
Installation, repair, taping, and texturing of gypsum wallboard, including lightweight non-bearing wall partitions and ceiling grid support systems for drywall.

C-11 ELECTRICAL
Installation and repair of electrical systems.

C-12 LOW VOLTAGE COMMUNICATION SYSTEMS
Installation and repair of low voltage alarm, intercom, telephone, call, clock and television systems, including towers and antennas.

C-13 ASPHALT PAVING
Installation and repair of paved areas using materials and methods common to the industry, including asphalt curbs, concrete bumper curbs, headers, and striping. This scope includes the C-13R subclassification.
C-13R Asphalt Coating and Parking Appurtenances

C-14 FENCING
Installation and repair of fencing and low voltage electrical fence protective devices of less than 25 volts, 100 watts, or both. Concrete masonry units cannot exceed 6 feet in height excluding footings, nor can they be used for retaining wall purposes. This scope includes the C-14R subclassification.
C-14R Fencing Other than Masonry

C-15 BLASTING
Use of explosives for movement of earthen materials or for demolition.

C-16 FIRE PROTECTION SYSTEMS
Installation and repair of approved types of fire prevention and fire protection systems including all mechanical apparatus, devices, piping, low voltage signaling systems, and equipment common to the industry. Installation of all other electrical devices, apparatus, and wiring must be subcontracted to a properly licensed contractor. This scope includes the C-16R subclassification.
C-16R $CO_2$, Dry and Wet Chemical Systems

C-17 STRUCTURAL STEEL AND ALUMINUM
Installation and repair of architectural and structural shapes and members common to the industry, including reinforcing steel which may be used as structural members for buildings, equipment, and structures. This scope includes all C-17R subclassifications.
C-17R Steel Floor, Sub Floor and Form Systems
C-17R Welding
C-17R Ornamental Metals

C-17R Tanks
C-17R Recreational Equipment
C-17R Rebar, Post Tensioning and Wire Mesh

C-18 ELEVATORS
Installation and repair of elevator systems.

C-21 LANDSCAPING AND IRRIGATION SYSTEMS
Preparation and alteration of land for horticulture and arboriculture. Installation of irrigation systems and controls. Carpentry is limited to decorative fences and screens, planter boxes, and plant tubs common to the industry. Excluded are retaining walls over 3 feet, decorative walls or fences over 6 feet, perimeter walls, fences, and load bearing slabs and walkways.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes all C-21R subclassifications.
C-21R Landscaping
C-21R Irrigation Systems

C-22 HOUSE MOVING
Disconnection of utilities is permitted, but connection of utilities and construction of foundations are not. This scope includes the C-22R subclassification.
C-22R Wrecking

C-29 MACHINERY (AS RESTRICTED BY THE REGISTRAR)

C-30 FINISH CARPENTRY
Installation, repair, and finishing of cabinets, countertops, case sash, door trim, wood flooring, and other millwork. This scope includes all C-30R subclassifications.
C-30R Kitchen and Bathroom Components
C-30R Doors, Windows, Gates, Tub and Shower Enclosures
C-30R Cultured Marble
C-30R Weatherstripping

C-31 MASONRY
Installation of, with or without mortar, stone, structural glass, brick, block, baked clay, or other products common to the industry. This scope includes all C-31R subclassifications.
C-31R Flagstone
C-31R Stone Masonry

C-34 PAINTING AND WALL COVERING
Surface preparation and application of materials common to the painting and decorating industry for protective or decorative purposes or both. Wall coverings, except ceramic tile, are included. This scope includes all C-34R subclassifications.
C-34R Surface Preparation and Waterproofing
C-34R Wallpaper

C-36 PLASTERING
Installation and repair of plaster materials common to the industry. Installation of lath products, including wall partitions and ceiling grids, to provide a key or suction type bond for the various types of plaster coatings. This scope includes all C-36R subclassifications.
C-36R Swimming Pool Plastering
C-36R Lathing

C-37 PLUMBING, INCLUDING SOLAR
Installation and repair of water and gas piping systems, fire protection systems, and sewage treatment systems. Included are all fixtures, vents, and devices common to the industry, as well as solar applications. This scope includes all C-37R subclassifications.
C-37R Plumbing
C-37R Built-in Central Vacuum Systems
C-37R Kitchen and Bathroom Fixture Refinishing
C-37R Swimming Pool Plumbing and Equipment
C-37R Gas Piping
C-37R Sewers, Drains and Pipe Laying
C-37R Water Conditioning Equipment
C-37R Solar Plumbing Liquid Systems Only

C-38 SIGNS
Installation and repair of signs, excluding any electrical wiring beyond the 1st adequate power outlet accessible and adjacent to the sign.

C-39 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR
Installation and repair of comfort air conditioning systems, including refrigeration, evaporative cooling, ventilating, and heating with or without solar equipment. Installation and repair of machinery, units, accessories, refrigerator rooms, and insulated refrigerator spaces, and controls in refrigerators.
If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes all C-39R subclassifications.
C-39R Air Conditioning and Refrigeration
C-39R Gas Refrigeration
C-39R Temperature Control Systems
C-39R Warm Air Heating, Evaporative Cooling and Ventilating
C-39R Evaporative Cooling and Ventilators
C-39R Pre-Coolers

C-40 INSULATION
Installation of insulating materials common to the industry for the purpose of temperature or sound control, excluding any exterior roofing materials such as foam and reflective coating. This scope includes the C-40R subclassification.
C-40R Foam Insulation

C-41 SEWAGE TREATMENT SYSTEMS
Installation and repair of sewage treatment systems, septic tanks, cesspools, and leach fields, in compliance with the requirements of the responsible Health Department. This scope includes the C-41R subclassification.
C-41R Precast Waste Treatment Systems

C-42 ROOFING
Installation and repair of materials common to the industry that form a water tight, weather resistant surface for roofs and decks, including all accessories, flashing, valleys, gravel stops, and roof insulation panels above the roof deck. This scope includes all C-42R subclassifications.
C-42R Foam and Foam Panel Roofing

C-42R Liquid Applied Roofing
C-42R Roofing Shingles and Shakes

C-45 SHEET METAL
Installation and repair of sheet metal, aluminum, plastic, and fiberglass products common to the industry. This scope includes the C-45R subclassification.
C-45R Premanufactured Fireplaces

C-48 CERAMIC, PLASTIC AND METAL TILE
Installation and repair of ceramic and facsimile tile products common to the industry. This scope includes the C-48R subclassification.
C-48R Swimming Pool Tile

C-53 DRILLING
Installation and repair of wells, including test boring, exploratory drilling and all materials and devices common to the industry.

C-61 LIMITED REMODELING AND REPAIR CONTRACTOR
Remodeling or repairs to existing structures or appurtenances, excluding swimming pools or spas, not to exceed $25,000 per project per dwelling. Work on electrical, plumbing, air conditioning systems, or boilers that require a building permit must be subcontracted to an appropriately licensed contractor. The scope of work allowed under the C-7 carpentry classification is included.

C-62 MINOR HOME IMPROVEMENTS
Remodeling, repairs, and improvements to existing structures or appurtenances not to exceed $2,500 for labor and materials per project per dwelling or appurtenance. The minor home improvement contractor shall not perform structural work to any existing structures or appurtenances, including load bearing masonry or concrete work (with the exception of on-grade flat work), and load bearing carpentry work (with the exception of patio or porch covers). All electrical, plumbing, air conditioning, heating, boiler, and roofing work shall be performed by an appropriately licensed contractor.

C-63 APPLIANCES
Installation and repair of appliances. Included is the connection of a mobile home to existing gas, plumbing, and electrical services.

C-65 GLAZING
Installation and repair of glass, glass products, plastics, frames, holding members, and all materials common to the industry. This scope includes all C-65R subclassifications.
C-65R Skylights
C-65R Storm Windows and Doors
C-65R Mirrors
C-65R Window Treatment

C-68 MOBILE HOME REMODELING AND REPAIR
Repair or remodeling of mobile homes. Site work is excluded, as well as remodeling which will increase floor area.

**Historical Note**

Former Rule 3. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, Subsection (B) of former Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective March 11, 1976 (Supp. 76-2). Correction, Historical Note for Supp. 76-1 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1975 (Supp. 76-4). Amended effective November 23, 1976 (Supp. 76-5). Amended effective October 14, 1977 (Supp. 77-5). C-4 and C-37 amended effective December 9, 1977 (Supp. 77-6). Correction, Historical Note for Supp. 76-4 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1976 (Supp. 78-1). Amended effective September 13, 1978 (Supp. 78-5). Amended effective April 2, 1979 (Supp. 79-2). Amended effective November 21, 1979 (Supp. 79-6). Amended effective July 10, 1980 (Supp. 80-4). Amended effective July 11, 1980 (Supp. 80-4). Amended effective July 28, 1980 (Supp. 80-4). Amending effective August 15, 1980 (Supp. 80-4). Amended effective August 19, 1980 (Supp. 80-4). Amended effective September 5, 1980 (Supp. 80-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-03 renumbered without change as Section R4-9-103 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Amended effective January 20, 1998 (Supp. 98-1).

**R4-9-104. Dual Contracting License Classifications and Scopes of Work**

**A.** Dual license contracting classifications. License classifications for dual contractors are as follows:

GENERAL DUAL ENGINEERING CONTRACTING
KA- Dual Engineering
KA-5 Dual Swimming Pool Contractor
KA-6 Dual Swimming Pool Contractor Including Solar
KE- (As restricted by Registrar)

GENERAL DUAL LICENSE CONTRACTING
KB-1 Dual Building Contractor
KB-2 Dual Residence and Small Commercial
KO- (As restricted by Registrar)

SPECIALTY DUAL LICENSE CONTRACTING
K-1 Acoustical Systems
K-2 Excavating, Grading and Oil Surfacing
K-3 Awnings, Canopies, Carport and Patio Covers
K-4 Boilers, Steamfitting and Process Piping
K-5 (As restricted by Registrar)
K-6 Swimming Pool Service and Repair
K-7 Carpentry
K-8 Floor Covering
K-9 Concrete
K-10 Drywall
K-11 Electrical
K-12 Elevators
K-13 Carpet
K-14 Fencing
K-15 Blasting
K-16 Fire Protection Systems
K-17 Steel and Aluminum Erection
K-21 Landscaping and Irrigation Systems
K-24 Ornamental Metal
K-26 Landscaping
K-29 Machinery (As restricted by Registrar)
K-31 Masonry
K-34 Painting

K-36 Plastering
K-37 Plumbing
K-38 Signs
K-39 Air Conditioning, Refrigeration and Heating
K-40 Insulation
K-41 Septic Tanks and Systems
K-42 Roofing
K-44 Irrigation Systems
K-45 Sheet Metal
K-48 Ceramic, Plastic and Metal Tile
K-53 Water Well Drilling
K-54 Water Conditioning Equipment
K-56 Welding
K-57 Wrecking
K-58 Comfort Heating, Ventilating, Evaporative Cooling
K-60 Finish Carpentry
K-61 Carpentry, Remodeling and Repairs
K-62 Reinforcing Bar and Wire Mesh
K-63 Appliances
K-64 Wood Floor Laying and Finishing
K-65 Glazing
K-66 Seal Coating
K-67 Low Voltage Communication Systems
K-69 Asphalt Paving
K-74 Boilers, Steamfitting and Process Piping, including Solar
K-77 Plumbing including Solar
K-78 Solar Plumbing Liquid Systems Only
K-79 Air Conditioning and Refrigeration including Solar
K-80 Sewers, Drains and Pipe Laying

**B.** Dual license contracting scopes. The scope of work which may be done under the dual license contracting classifications allow a contractor to combine commercial and residential contracting licenses in 1 license. These classifications are as follows:

KA- DUAL ENGINEERING
This classification allows the scope of work permitted by the commercial A- General Engineering and the B-4 General Residential Engineering licenses.

KA-5 DUAL SWIMMING POOL CONTRACTOR
This classification allows the scope of work permitted by the commercial A-9 Swimming Pools and the residential B-5 General Swimming Pool licenses.

KA-6 DUAL SWIMMING POOL CONTRACTOR INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial A-19 Swimming Pools, Including Solar and the residential B-6 General Swimming Pools, Including Solar licenses.

KE- (AS RESTRICTED BY REGISTRAR)

KB-1 DUAL BUILDING CONTRACTOR
This classification allows the scope of work permitted by the B-1 General Commercial Contractor and the B- General Residential Contractor licenses.

KB-2 DUAL RESIDENCE AND SMALL COMMERCIAL
This classification allows the scope of work permitted by the B-2 General Small Commercial and the B- General Residential Contractor licenses.

KO- (AS RESTRICTED BY REGISTRAR)

K-1 ACOUSTICAL SYSTEMS
This classification allows the scope of work permitted by the commercial L-1 Acoustical Systems and the residential C-1 Acoustical Systems licenses.

K-2 EXCAVATING, GRADING AND OIL SURFACING
This classification allows the scope of work permitted by the commercial A-5 Excavating, Grading, and Oil Surfacing and the residential C-2 Excavating, Grading, and Oil Surfacing licenses.

K-3 AWNINGS, CANOPIES, CARPORT AND PATIO COVERS
This classification allows the scope of work permitted by the commercial L-3 Awnings, Canopies and Carports and Patio Covers and the residential C-3 Awnings and Canopies licenses.

K-4 BOILERS, STEAMFITTING AND PROCESS PIPING
This classification allows the scope of work permitted by the commercial L-4 Boilers, Steamfitting and Process Piping and the residential C-4R Boilers licenses.

K-5 (AS RESTRICTED BY REGISTRAR)

K-6 SWIMMING POOL SERVICE AND REPAIR
This classification allows the scope of work permitted by the commercial L-6 Swimming Pool Service and Repair and the residential C-6 Swimming Pool Service and Repair licenses.

K-7 CARPENTRY
This classification allows the scope of work permitted by the commercial L-7 Carpentry and the residential C-7 Carpentry licenses.

K-8 FLOOR COVERING
This classification allows the scope of work permitted by the commercial L-8 Floor Covering and the residential C-8 Floor Covering licenses.

K-9 CONCRETE
This classification allows the scope of work permitted by the commercial L-9 Concrete and the residential C-9 Concrete licenses.

K-10 DRYWALL
This classification allows the scope of work permitted by the commercial L-10 Drywall and the residential C-10 Drywall licenses.

K-11 ELECTRICAL
This classification allows the scope of work permitted by the commercial L-11 Electrical and residential C-11 Electrical licenses.

K-12 ELEVATORS
This classification allows the scope of work permitted by the commercial L-12 Elevators and the residential C-18 Elevators licenses.

K-13 CARPET
This classification allows the scope of work permitted by the commercial L-13 Carpets and the residential C-8R Carpet licenses.

K-14 FENCING
This classification allows the scope of work permitted by the commercial L-14 Fencing and the residential C-14 Fencing licenses.

K-15 BLASTING
This classification allows the scope of work permitted by the commercial A-3 Blasting and the residential C-15 Blasting licenses.

K-16 FIRE PROTECTION SYSTEMS
This classification allows the scope of work permitted by the commercial L-16 Fire Protection Systems and the residential C-16 Fire Protection licenses.

K-17 STEEL AND ALUMINUM ERECTION
This classification allows the scope of work permitted by the commercial A-11 Steel and Aluminum Erection and the residential C-17 Structural Steel and Aluminum licenses.

K-21 LANDSCAPING AND IRRIGATION SYSTEMS
This classification allows the scope of work permitted by the commercial A-21 Landscaping and Irrigation Systems and the residential C-21 Landscaping and Irrigation Systems licenses.

K-24 ORNAMENTAL METALS
This classification allows the scope of work permitted by the commercial L-24 Ornamental Metals and the residential C-17R Ornamental Metals licenses.

K-26 LANDSCAPING
This classification allows the scope of work permitted by the commercial L-26 Landscaping and the residential C-21R Landscaping licenses.

K-29 MACHINERY (AS RESTRICTED BY THE REGISTRAR)

K-31 MASONRY
This classification allows the scope of work permitted by the commercial L-31 Masonry and the residential C-31 Masonry licenses.

K-34 PAINTING
This classification allows the scope of work permitted by the commercial L-34 Painting and Wallcovering and the residential C-34 Painting and Wallcovering licenses.

K-36 PLASTERING
This classification allows the scope of work permitted by the commercial L-36 Plastering and the residential C-36 Plastering licenses.

K-37 PLUMBING
This classification allows the scope of work permitted by the commercial L-37 Plumbing and the residential C-37R Plumbing licenses.

K-38 SIGNS
This classification allows the scope of work permitted by the commercial L-38 Signs and the residential C-38 Signs licenses.

K-39 AIR CONDITIONING AND REFRIGERATION
This classification allows the scope of work permitted by the commercial L-39 Air Conditioning and Refrigeration and the residential C-39R Air Conditioning and Refrigeration licenses.

K-40 INSULATION
This classification allows the scope of work permitted by the commercial L-40 Insulation and the residential C-40 Insulation licenses.

K-41 SEPTIC TANKS AND SYSTEMS
This classification allows the scope of work permitted by the commercial L-41 Septic Tanks and Systems and the residential C-41 Sewage Treatment and Systems licenses.

K-42 ROOFING
This classification allows the scope of work permitted by the commercial L-42 Roofing and the residential C-42 Roofing licenses.

K-44 IRRIGATION SYSTEMS
This classification allows the scope of work permitted by the commercial L-44 Irrigation Systems and the residential C-21R Irrigation Systems licenses.

K-45 SHEET METAL
This classification allows the scope of work permitted by the commercial L-45 Sheet Metal and the residential C-45 Sheet Metal licenses.

K-48 CERAMIC, PLASTIC AND METAL TILE
This classification allows the scope of work permitted by the commercial L-48 Ceramic, Plastic and Metal Tile and the residential C-48 Ceramic, Plastic and Metal Tile licenses.

K-53 WATER WELL DRILLING
This classification allows the scope of work permitted by the commercial L-53 Water Well Drilling and the residential C-53 Drilling licenses.

K-54 WATER CONDITIONING EQUIPMENT
This classification allows the scope of work permitted by the commercial L-54 Water Conditioning Equipment and the residential C-37R Water Conditioning Equipment licenses.

K-56 WELDING
This classification allows the scope of work permitted by the commercial L-56 Welding and the residential C-17R Welding licenses.

K-57 WRECKING
This classification allows the scope of work permitted by the commercial L-57 Wrecking and the residential C-22R Wrecking licenses.

K-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING
This classification allows the scope of work permitted by the commercial L-58 Comfort Heating, Ventilating, Evaporative Cooling and the residential C-39R Warm Air Heating, Evaporative Cooling, and Ventilating licenses.

K-60 FINISH CARPENTRY
This classification allows the scope of work permitted by the commercial L-60 Finish Carpentry and the residential C-30 Finish Carpentry licenses.

K-61 CARPENTRY, REMODELING AND REPAIRS
This classification allows the scope of work permitted by the commercial L-61 Carpentry, Remodeling and Repairs and the residential C-61 Limited Remodeling and Repair Contractor licenses.

K-62 REINFORCING BAR AND WIRE MESH
This classification allows the scope of work permitted by the commercial L-62 Steel Reinforcing Bar and Wire Mesh and the residential C-17R Rebar and Wire Mesh licenses.

K-63 APPLIANCES

This classification allows the scope of work permitted by the commercial L-63 Appliances and the residential C-63 Appliances licenses.

K-64 WOOD FLOOR LAYING AND FINISHING
This classification allows the scope of work permitted by the commercial L-64 Wood Floor Laying and Finishing and the residential C-8R Wood Flooring licenses.

K-65 GLAZING
This classification allows the scope of work permitted by the commercial L-65 Glazing and the residential C-65 Glazing licenses.

K-66 SEAL COATING
This classification allows the scope of work permitted by the commercial A-15 Seal Coating and the residential C-13R Asphalt Coating and Parking Appurtenances licenses.

K-67 LOW VOLTAGE COMMUNICATION SYSTEMS
This classification allows the scope of work permitted by the commercial L-67 Low Voltage Communications Systems and the residential C-12 Low Voltage Communication Systems licenses.

K-69 ASPHALT PAVING
This classification allows the scope of work permitted by the commercial A-14 Asphalt Paving and the residential C-13 Asphalt Paving licenses.

K-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial L-74 Boilers, Steamfitting and Process Piping, Including Solar and the residential C-4 Boilers Including Solar licenses.

K-77 PLUMBING INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial L-77 Plumbing Including Solar and the residential C-37 Plumbing Including Solar licenses.

K-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY
This classification allows the scope of work permitted by the commercial L-78 Solar Plumbing Liquid Systems Only and the residential C-37R Solar Plumbing Liquid Systems Only licenses.

K-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial L-79 Air Conditioning and Refrigeration Including Solar and the residential C-39 Air Conditioning and Refrigeration Including Solar licenses.

K-80 SEWERS, DRAINS AND PIPE LAYING
This classification allows the scope of work permitted by the commercial A-12 Sewers, Drains, and Pipe Laying and the residential C-37R Sewers, Drains and Pipe Laying licenses.

**Historical Note**
Former Section R4-9-04 repealed, new Section R4-9-04 adopted effective February 23, 1976 (Supp. 76-1). Amended effective April 18, 1984 (Supp. 84-2). Amended Subsection (A) effective July 9, 1987 (Supp. 87-3). Former Section R4-9-04 renumbered as Section R4-9-104 (Supp. 87-3). Former Section R4-9-104 renumbered to R4-9-105 and amended; new Section R4-9-104 adopted effective January 20, 1998 (Supp. 98-1).

**R4-9-105. Restricted License Classifications**

**A.** A restricted license is a specialty or general license that confines the scope of allowable contracting work to a specialized area of construction which the Registrar of Contractors grants on a case-by-case basis. The restricted licenses classifications are AE, KE, KO, BE, C-5, K-5, L-5, K-29 or L-29. The Registrar assigns a restricted license classification based upon the nature and complexity of the work, the degree of unusual expertise involved and the applicability of existing classifications to the specialized area of construction.

**B.** When applying for a restricted license classification an applicant, if requested, shall submit to the Registrar the following:
1. A detailed statement of the type and scope of contracting work that the applicant proposes to perform.
2. Any brochures, catalogs, photographs, diagrams, or other material, which the applicant has, that will further clarify the scope of the work that the applicant proposes to perform.

**C.** The Registrar shall determine the classification of the restricted license and notify the applicant of the classification. The applicant must then apply for the restricted license according to the Registrar of Contractor's application process in accordance with A.R.S. § 32-1122.

**D.** A contractor issued a restricted license shall confine the contractor's activities to the field and scope of operations as described in the license classification.

**Historical Note**
Former Section R4-9-05 repealed, new Section R4-9-05 adopted effective February 23, 1976 (Supp. 76-1). Amended effective July 9, 1987 (Supp. 87-3). Former Section R4-9-05 renumbered without change as Section R4-9-105 (Supp 87-3). Former Section R4-9-105 renumbered to R4-9-106 and amended; new Section R4-9-105 renumbered from R4-9-104 and amended effective January 20, 1998 (Supp. 98-1).

**R4-9-106. Examinations**

Examinations are given weekly or more often as prescribed by the Registrar. Unless otherwise exempt the applicant's qualifying party must take and pass the appropriate examination with a passing grade of at least 70% for each examination taken.

**Historical Note**
New Section R4-9-106 renumbered from R4-9-105 and amended effective January 20, 1998 (Supp. 98-1).

**R4-9-107. Repealed**

**Historical Note**
Former Rule 7. Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective April 18, 1984 (Supp. 84-2). Former Section R4-9-07 renumbered without change as Section R4-9-107 (Supp 87-3). Repealed effective October 22, 1992 (Supp. 92-4).

**R4-9-108. Workmanship Standards**

**A.** All work shall be performed in a professional and workmanlike manner.

**B.** All work shall be performed in accordance with any applicable building codes and professional industry standards.

**C.** All work performed in any county, city, or town which has adopted building codes or where any adopted building codes

do not contain specific provisions applicable to that aspect of construction work shall be performed in accordance with professional industry standards and shall comply with the minimum standards set forth in subsections (C)(1) through (4).

1. In all new construction or remodeling, the minimum standards shall be in accordance with the *Minimum Property Standards for Housing, Directive No. 4910.01*, U.S. Department of Housing and Urban Development, 1994 (M.P.S.), as they pertain to construction and construction design but not to matters of site design and development of such residential construction.
2. In all new construction or remodeling, the minimum standards shall be in accordance with the minimum building requirements as set forth in volumes 1, 2, and 3 of the *1997 Uniform Building Code*, International Conference of Building Officials, 1997 (U.B.C.).
3. In all general engineering work, the minimum standards shall be in accordance with the minimum building requirements as set forth in the U.B.C. and to the *Principles of Construction of Hot Mix Asphalt Pavements*, Manual Series No. 22, Asphalt Institute, January 1983 and to *Asphalt in Pavement Maintenance*, Manual Series No. 16, The Asphalt Institute, March 1983 as they pertain to construction and to matters of design and site development.
4. Plumbing, electrical, and mechanical refrigeration work shall be governed as follows:
   a. Plumbing: The minimum standards in the plumbing field shall be in accordance with the *Uniform Plumbing Code*, International Association of Plumbing and Mechanical Officials, 1997 (U.P.C.).
   b. Electrical: The minimum standards in the electrical field shall be in accordance with the *1996 National Electrical Code*, National Fire Protection Association (NFPA 70-1996), 1995 (N.E.C.).
   c. Mechanical Refrigeration: The minimum standards in the mechanical refrigeration field shall be in accordance with the *1997 Uniform Mechanical Code*, International Conference of Building Officials, 1997 (U.M.C.).
5. The codes and industry manuals, referred to in subsections (C)(1) through (4) are incorporated by reference and on file with the Office of the Secretary of State and the Registrar of Contractors. This incorporation by reference contains no future editions or amendments.

**Historical Note**

Former Rule 8. Former Section R4-9-08 repealed, new Section R4-9-08 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 18, 1979 (Supp. 79-5). Amended Subsection (C) effective April 23, 1981 (Supp. 81-2). Amended Subsection (C) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-08 renumbered without change as Section R4-9-108 (Supp. 87-3). Amended effective April 20, 1993 (Supp. 93-2). Amended effective January 20, 1998 (Supp. 98-1).

**R4-9-109. Name of licensee or applicant**

**A.** A licensee must do business under the name in which his license is issued and that name must appear on the bond.

**B.** If a corporation is doing business in the name of a division or using a trade name, both names must be clearly shown on the application.

**C.** When applying for a license or a name change, a corporation, if requested, must submit written evidence that it is in good standing with or that the new name has been filed with the Arizona Corporation Commission.

**D.** A licensee may secure a name change so long as there is no change in the legal entity by submitting a written request for a name change together with the required fee per license and a rider for the bond or cash deposit reflecting the name change.

**E.** The Registrar may not accept an application, issue a license, or change the name of an existing license if the proposed name is identical with, or in the opinion of the Registrar, so similar it may cause confusion with the name on a pending application or existing license.

**F.** No application will be accepted or license issued which contains the name of a building trade or craft for which the contractor is not duly qualified.

**Historical Note**

Former Rule 9. Former Section R4-9-09 repealed, new Section R4-9-09 adopted effective February 23, 1976 (Supp. 76-1). Amended effective September 27, 1976 (Supp. 76-4). Amended Subsections (B), (C), and (D) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-09 renumbered without change as Section R4-9-109 (Supp. 87-3).

**R4-9-110. Change of legal entity and cancellation of license**

**A.** Any change in the legal entity of a licensee to include any change in the ownership of a sole proprietorship or change of a partner in a partnership or creation of a new corporate entity requires a new application and license.

**B.** A license may be cancelled upon the written request of the owner of a sole proprietorship, a partner of a partnership, or in the case of a corporation, any person with written evidence of his authority to request such cancellation.

**C.** The Registrar may at his discretion refuse to accept voluntary cancellation of a contractor's license when in his opinion good cause may exist for a hearing for disciplinary purposes.

**Historical Note**

Former Rule 10. Former Section R4-9-10 repealed, new Section R4-9-10 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-10 renumbered without change as Section R4-9-110 (Supp. 87-3).

**R4-9-111. Repealed**

**Historical Note**

Former Rule 11. Former Section R4-9-11 repealed effective February 23, 1976 (Supp. 76-1). Adopted effective July 26, 1976 (Supp. 76-4). Amended effective April 18, 1979 (Supp. 84-2). Correction: Previous Historical Note should read: "Amended effective April 18, 1984"; Former Section R4-9-11 renumbered without change as Section R4-9-111 (Supp. 87-3). Repealed effective January 20, 1998 (Supp. 98-1).

**R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and Deposits**

**A.** Bond limits. In accordance with the provisions of A.R.S. § 32-1152, contractor's license bonds are established in the following amounts based upon the gross volume of work contemplated by the licensee within the State of Arizona for the ensuing fiscal year:

| | *License Category* | *Contemplated Gross Volume (Per License Category)* | *Bond Amount* |
|---|---|---|---|
| 1. | General Commercial Contracting and Engineering Contracting | $150,000 or less | $5,000 |
| | | In excess of $150,000 but not more than $500,000 | $10,000 |
| | | In excess of $500,000 but not more than $1,000,000 | $15,000 |
| | | In excess of $1,000,000 but not more than $5,000,000 | $40,000 |
| | | In excess of $5,000,000 but not more than $10,000,000 | $65,000 |
| | | More than $10,000,000 | $90,000 |
| 2. | Specialty Commercial Contracting | $150,000 or less | $2,500 |
| | | In excess of $150,000 but not more than $500,000 | $5,000 |
| | | In excess of $500,000 but not more than $1,000,000 | $10,000 |
| | | In excess of $1,000,000 but not more than $5,000,000 | $20,000 |
| | | In excess of $5,000,000 but not more than $10,000,000 | $32,500 |
| | | More than $10,000,000 | $45,000 |
| 3. | General Residential Contracting | $150,000 or less | $5,000 |
| | | In excess of $150,000 but not more than $750,000 | $9,000 |
| | | More than $750,000 | $15,000 |
| 4. | Specialty Residential Contracting | $100,000 or less | $1,000 |
| | | In excess of $100,000 but not more than $375,000 | $4,250 |
| | | More than $375,000 | $7,500 |

5. General Dual License Contracting. The amount of a General Dual Licensed Contracting bond shall be determined under subsection (A)(3) based on the contractor's estimated volume of residential contracting, and subsection (A)(1) based on the contractor's estimated volume of commercial contracting. The contractor shall assure that the bond issuer specify on the bond the amount applicable to residential contracting and the bond amount applicable to commercial contracting.
6. Specialty Dual License Contracting. A specialty Dual Licensed Contractors bond shall be determined under subsection (A)(4) based on the contractor's estimated volume of specialty residential contracting, and subsection (A)(2) based on the contractor's estimated volume of specialty commercial contracting. The contractor shall assure that the bond issuer specify on the bond the amount applicable to specialty residential contracting and the bond amount applicable to specialty commercial contracting.

**B.** New applications. On all new applications for any category of license listed above, the applicant shall estimate anticipated gross volume of work within the State of Arizona for the remainder of the present fiscal year and shall be governed by the bond requirements of this Section as they apply to the applicant's particular category of license. The filing of a bond or deposit in a specified amount shall be deemed to be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount.

**C.** Renewal. All estimates made for renewal of licenses shall be made on a form acceptable to the Registrar of Contractors. The contractor's filing or continuation of a bond or deposit in a specified amount shall be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount. The Registrar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. A gross underestimate knowingly made by a licensee shall be construed as a material misrepresentation and could subject the licensee to suspension or revocation of license.

**D.** Increases and decreases of bond amounts. The amount of the contractor's license bond may be increased at any time during the fiscal year. However, a surety bond or cash deposit in lieu of bond cannot be decreased except at the time of renewal for the ensuing fiscal year.

**E.** Effective date of bonds and deposits. Surety bonds or cash deposits shall not become operative until filed with the Registrar's office. If a surety bond is filed before the effective date of the bond, the bond becomes operative on the effective date.

**Historical Note**

Former Rule 12. Former Section R4-9-12 repealed, new Section R4-9-12 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 17, 1978 (Supp. 78-5). Amended Subsection (C) effective August 15, 1980 (Supp. 80-4). Amended Subsections (A), (B), and (C) effective July 9, 1987; former Section R4-9-12 renumbered as Section R4-9-112 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1).

**R4-9-113. Application Process**

**A.** In accordance with the provisions of A.R.S. § 32-1122 an applicant for licensure shall submit a verified application on form prescribed by the Registrar of Contractors.

**B.** The Registrar shall review an application for administrative completeness and mail a written notice within 40 days from the date of receipt.
1. If no deficiencies are found in the application, the Registrar shall mail a written notice of completeness to the applicant.
2. If deficiencies are found in the application, the Registrar shall mail a written request for additional information specifically delineating the deficiencies to the applicant. The 40-day time-frame for the Registrar to finish the review for completeness is suspended from the date the notice of deficiencies is mailed until the applicant provides the Registrar with all requested information.

**C.** The applicant shall submit all of the deficient information required, or request an extension of time, within 30 days of the date of mailing of the notice of deficiencies.
1. If the applicant requests an extension of time, that request shall be submitted in writing and be signed by a principal on the application. The request shall specify the reason for the request and why the applicant believes that the

applicant will be able to submit the information within 60 days of the date of mailing the notice of deficiencies.

2. The Registrar shall grant the request for an extension if the Registrar determines that there is a reasonable likelihood that the applicant will be able to submit all information by the end of the extension.
3. The Registrar shall mail its decision to grant or deny an extension to the applicant within 15 days of receipt of the request. If an extension is granted, it shall not exceed 60 days from the date of the mailing of the notice of deficiencies. If an extension is denied, the notice shall contain an explanation of the reason for denial.
4. If the applicant does not provide the Registrar with the required information within 30 days from the date of the notice of deficiencies, or 60 days from the date of the notice of deficiencies if the Agency granted the applicant an extension of time, the Agency shall return the application.

**D.** The Agency shall complete a substantive review of the applicant's qualifications and grant, deny, or mail a written notice of deficiencies within 20 days after expiration of the administrative completeness review.

1. If the Registrar finds deficiencies during the substantive review of the application, the Registrar shall mail a written request for additional information to the applicant. The applicant shall have 15 days from the date of mailing of the notice of deficiencies to provide the missing information.
2. The 20 day time-frame for a substantive review shall be suspended from the date of mailing the request for additional information until the applicant provides the Registrar with all requested information.
3. Within 15 days of the date of mailing of the notice of deficiencies, the applicant may mail a request for an extension of time not to exceed 30 days from the date of the mailing of the notice of deficiencies. The applicant's request must be in writing and signed by a principal on the application.
4. If the applicant does not provide the Registrar with the required information within 15 days of the date of mailing the notice of deficiencies, or request an extension of time, the Registrar shall deny the application.
5. The Registrar shall mail written notice to the applicant of the Registrar's decision to grant or deny an extension. If an extension is granted, it shall not exceed 30 days from the date of mailing the notice of deficiencies. If an extension is denied, such notice shall contain an explanation of the reason for denial.
6. If the applicant does not qualify for licensure the Registrar shall deny the application and mail a written notice of the Registrar action to the applicant pursuant to A.R.S § 41-1076.

**E.** For purposes of A.R.S. § 41-1072 et seq., the Registrar establishes the following time-frames for issuance of a contractors license.

1. Administrative completeness review time-frame: 40 days
2. Substantive review time-frame: 20 days
3. Overall agency time-frame: 60 days (These time-frames do not include extensions granted to the applicant to respond pursuant to subsections (C)(2) and (D)(5).

**F.** For the purpose of this Section, 1st class mail sent to the address on the application shall serve as legal notice.

**G.** In computing any period of time prescribed or allowed by this Section, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

**H.** Not withstanding any provisions of this Section the applicant may apply to the Registrar in writing to withdraw a license application and fees any time before issuance or denial.

**Historical Note**

Adopted effective January 20, 1998 (Supp. 98-1).

**R4-9-114. Reserved**

**R4-9-115. Posting**

**A.** Except as hereinafter provided, no license shall be issued until the expiration of said posting period.

**B.** Applicants who have previously undergone the 20-day posting period may apply to the Registrar in writing for a waiver of part of the posting period.

**C.** If, prior to the issuance of the license, information brought to the attention of the Registrar concerning the qualifications of the applicant is such that in the Registrar's discretion it might be proper to deny the license, the Registrar may forthwith notify the applicant that his license is denied and that he may request a hearing if he so desires to be conducted in accordance with the provisions of Title 41, Chapter 6 of the Arizona Revised Statutes.

**Historical Note**

Former Rule 15. Former Section R4-9-15 repealed, new Section R4-9-15 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-15 renumbered without change as Section R4-9-115 (Supp. 87-3).

**R4-9-116. License renewal**

It is the sole duty and responsibility of the licensee to timely renew his license on fully and accurately completed forms as prescribed by the Registrar. Incompleted and inaccurately completed renewal forms shall be rejected. Neither the need for additional time to accurately complete renewal forms as prescribed by the Registrar nor failure to receive renewal forms in the mail will be a justifiable excuse for the late renewal of a license without payment of a late fee.

**Historical Note**

Former Rule 16. Former Section R4-9-16 repealed, new Section R4-9-16 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective October 26, 1978 (Supp. 78-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-16 renumbered without change as Section R4-9-116 (Supp. 87-3).

**R4-9-117. Prior record**

In any disciplinary proceeding conducted by the Registrar, the licensee's entire license file including the record of prior citations and decisions may be considered by the Registrar in making his decision and order in the case before him, provided these records are introduced into evidence.

**Historical Note**

Former Rule 17. Former Section R4-9-17 repealed, new Section R4-9-17 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-17 renumbered without change as Section R4-9-117 (Supp. 87-3).

**R4-9-118. Reserved**

**R4-9-119. Reserved**

**R4-9-120. Rehearing or review of decision**

**A.** Except as provided in Subsection (G), any party in a contested case before the Registrar of Contractors who is aggrieved by a decision rendered in such case may file with the Registrar of

Contractors not later than twenty (20) days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this Subsection a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Registrar of Contractors. A response may be filed within ten (10) days after service of such motion or amended motion by any other party. The Registrar of Contractors may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Registrar of Contractors or its hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Registrar of Contractors may affirm or modify the decision or grant a rehearing to all or any of the parties and all or part of the issues for any of the reasons set forth in Subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than twenty (20) days after a decision is rendered, the Registrar of Contractors may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Registrar of Contractors may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten (10) days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding twenty (20) days by the Registrar of Contractors for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Registrar of Contractors makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Registrar of Contractors' final decisions.

**H.** For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Registrar of Contractors, such statutory provisions shall govern.

**Historical Note**

Former Rule 20. Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-20 adopted effective June 18, 1982 (Supp. 82-3). Former Section R4-9-20 renumbered without change as Section R4-9-120 (Supp. 87-3).

**R4-9-121. Schedule of Fees Through December 31, 1993**

Until December 31, 1993, the following annual license application fees, annual license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. §§ 32-1123.01 and 32-1126:

1. RESIDENTIAL CONTRACTORS:
   a. General Residential Contractor:
      Fee for license application $300.00
   b. General Residential Contractor:
      Fee for license renewal $160.00
   c. Specialty Residential Contractor:
      Fee for license application $200.00
   d. Specialty Residential Contractor:
      Fee for license renewal $135.00
2. COMMERCIAL CONTRACTORS:
   a. General Commercial Contractor (includes General Engineering Contractor):
      Fee for license application $600.00
   b. General Commercial Contractor (includes General Engineering Contractor):
      Fee for license renewal $320.00
   c. Specialty Commercial Contractor:
      Fee for license application $400.00
   d. Specialty Commercial Contractor:
      Fee for license renewal $270.00
3. FEES FOR OTHER SERVICES:
   a. Application to change qualifying party $100.00
   b. Application to change name of licensee $30.00
   c. Initial examination fee $60.50
   d. Retake examination fee $27.50

**Historical Note**

Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-21 adopted effective April 18, 1984 (Supp. 84-2). Amended effective July 9, 1987; former Section R4-9-21 renumbered as Section R4-9-121 (Supp. 87-3). Amended effective February 4, 1993 (Supp. 93-1).

**R4-9-122. Repealed**

**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-123. Repealed**

**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-124. Repealed**

**Historical Note**

Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-125. Repealed**

**Historical Note**
Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-126. Repealed**

**Historical Note**
Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-127. Repealed**

**Historical Note**
Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-128. Repealed**

**Historical Note**
Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-129. Repealed**

**Historical Note**
Adopted effective November 4, 1992 (Supp. 92-4).
Repealed effective December 17, 1993 (Supp. 93-4).

**R4-9-130. Schedule of Fees**
An applicant shall submit a separate application for each classification of license. The following biennial license application fees, biennial license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. § 32-1123.01 and § 32-1126:

| *Classification of License* | *Fee for Each License Application* | *Fee for Each License Renewal* | *Fee for Each License Application After May 1, 2000* | *Fee for Each License Renewal After May 1, 2000* |
|---|---|---|---|---|
| 1. COMMERCIAL CONTRACTING | | | | |
| a. General Commercial Contracting (Includes all A and B classifications) | $760 | $320 | $820 | $440 |
| b. Specialty Commercial Contracting (Includes all L classifications) | $540 | $270 | $590 | $380 |
| 2. RESIDENTIAL CONTRACTING | | | | |
| a. General Residential Contracting (Includes all B classifications) | $380 | $160 | $400 | $220 |
| b. Specialty Residential Contracting (Includes all C classifications) | $270 | $140 | $300 | $190 |
| 3. GENERAL DUAL LICENSED CONTRACTING | | | | |
| a. General Dual Licensed Contracting (Includes all KA, KB, KE, and KO classifications) | $910 | $480 | $1,000 | $670 |
| b. General Dual Licensed Contracting if the applicant holds valid equivalent licenses for General Commercial and licenses General Residential Contracting | $360 | $480 | $500 | $670 |
| c. Class KA Dual Engineering if the applicant holds a valid license in the A-General Commercial Engineering classification | $630 | $480 | $780 | $670 |
| d. Class KA Dual license if the applicant Engineering holds a valid license in the B-4 General Residential Engineering Contractor classification | $770 | $480 | $900 | $670 |
| e. Class KB-1 Dual Building Contractor if the applicant holds a valid license in the B-1 General Commercial Contractor classification | $630 | $480 | $780 | $670 |
| f. Class KB-1 Dual Building Contractor if the applicant holds a valid license in the B-General Residential Contractor classification | $770 | $480 | $900 | $670 |
| 4. SPECIALTY DUAL LICENSE CONTRACTING | | | | |
| a. Class K | $650 | $400 | $730 | $570 |
| b. Class K if the applicant holds both a valid commercial and residential license in the equivalent classifications | $300 | $400 | $430 | $570 |
| c. Class K if the applicant holds a valid commercial license in the equivalent classification | $490 | $400 | $620 | $570 |
| d. Class K if the applicant holds a valid residential license in the equivalent classification | $570 | $400 | $670 | $570 |
| 5. FEES FOR OTHER SERVICES | | | | |
| a. Application to change qualifying party | $100 | | | |
| b. Application to change name of licensee | $30 | | | |

**Historical Note**
Adopted effective February 4, 1993 (Supp. 93-1).
Amended effective January 20, 1998 (Supp. 98-1).

**R4-9-131. Assessment of Civil Penalties**
In assessing a civil penalty as provided for under A.R.S. § 32-1166(A), the Registrar shall give due consideration to whether the

person cited or any individual acting on that person's behalf has committed one or more of the following acts in determining the gravity of the cited violation:

1. Falsely represented to be a licensed contractor.
2. Failed to perform any work for which money was received.
3. Executed or used any false or misleading documents for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
4. Made false or misleading statements for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
5. Failed or neglected to apply funds which were received for the purpose of obtaining or paying for services, labor, materials, or equipment.
6. Performed work that was or had the potential to become hazardous to the health, safety, or general welfare of the public.
7. Performed work that deliberately was in violation of building codes, safety laws, labor laws, workers' compensation laws, or unemployement insurance laws.
8. Performed work that failed to meet minimum acceptable trade or industry standards or practices or was not performed in a good and workmanlike manner.
9. Has committed any other act which would otherwise be cause for disciplinary action if the person cited had been properly licensed pursuant to A.R.S. Title 32, Chapter 10.
10. Has committed two or more prior violations.
11. Performed work that has caused loss or damage to the structure, its appurtenances, or property being worked upon or has caused loss or injury to any person.

**Historical Note**

Adopted effective May 26, 1994 (Supp. 94-2).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

## CHAPTER 10. STATE BOARD OF COSMETOLOGY

(Authority: A.R.S. § 32-501 et seq.)

### ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of Sections R4-10-01 thru R4-10-19, repealed; Section R4-10-27 renumbered to R4-10-105; and Sections R4-10-101 thru R2-10-112 adopted effective April 9, 1996 (Supp. 96-2).*

Section

R4-10-101. Definitions
R4-10-102. Fees
R4-10-103. Payment of Fees
R4-10-104. Application for License by Examination
R4-10-105 Application for License by Reciprocity
R4-10-106. Licensing Time-frames
R4-10-107. License Renewal
R4-10-108. Licensing Examinations
R4-10-109. Instructor Examinations
R4-10-110. Reactivating an Inactive License
R4-10-111. Display of Licenses and Signs
R4-10-112. Infection Control and Safety Standards
R4-10-113. Establishment Management
R4-10-114. Disciplinary Action
R4-10-115. Rehearing or Review of Decision
Table 1. Time-frames (in days)

### ARTICLE 2. SCHOOLS

*Article 2, consisting of Sections R4-10-28 thru R4-10-32, repealed; Section R4-10-33 renumbered to R4-10-112; Section R4-10-34 repealed; and Sections R4-10-201 thru R4-10-R4-10-209 adopted effective April 9, 1996 (Supp. 96-2).*

Section

R4-10-201. Application for a School License; Renewal
R4-10-202. School Closure
R4-10-203. General School Requirements
R4-10-204. School Records
R4-10-205. Aesthetic School Requirements
R4-10-206. Cosmetology School Requirements
R4-10-207. Nail Technology School Requirements
R4-10-208. Combined School Requirements
R4-10-209. Demonstrators, Exclusions

### ARTICLE 3. STUDENTS

*Article 3, consisting of Sections R4-10-301 thru R4-10-306, adopted effective April 9, 1996 (Supp. 96-2).*

Section

R4-10-301. Instruction, Licensed Individuals
R4-10-302. Instructor Curriculum Required Hours
R4-10-303. Aesthetic Curriculum Required Hours
R4-10-304. Cosmetology Curriculum Required Hours
R4-10-305. Nail Technology Curriculum Required Hours
R4-10-306. Curriculum Hours

### ARTICLE 4. SALONS

*Article 4, consisting of Sections R4-10-401 thru R4-10-404, adopted effective April 9, 1996 (Supp. 96-2).*

Section

R4-10-401. Application for a Salon License
R4-10-402. Changes Affecting a Salon License
R4-10-403. Salon Requirements and Minimum Equipment
R4-10-404. Mobile Services
R4-10-405. Shampoo Assistants

### ARTICLE 1. GENERAL PROVISIONS

***Editor's Note: The Board of Cosmetology repealed or renumbered Sections with the old Administrative Code numbering scheme and adopted new Sections under the current numbering scheme (Supp. 96-2). The old and new Sections cannot be shown in numerical order because of the two Articles; therefore the old numbers are not shown here. Please refer to this Chapter as published in Revised Format 6-92 for historical note information on the old numbered Sections.***

**R4-10-101. Definitions**

In this Chapter unless otherwise specified:

1. "Accredited" means approved by the:
   a. New England Association of Schools and Colleges,
   b. Middle states Association of Colleges and Secondary Schools,
   c. North Central Association of Colleges and Schools,
   d. Northwest Association of Schools and Colleges,
   e. Southern Association of Colleges and Schools, or
   f. Western Association of Schools and Colleges.
2. "Administrative completeness review" means the Board's process for determining that an individual has:
   a. Provided all of the information and documents required by Board statute or rule for an application; and
   b. If applicable, taken an examination given by the Board.
3. "Applicant" means an individual or any of the following seeking licensure by the Board:
   a. If a corporation, any 2 officers of the corporation;
   b. If a partnership, any 2 of the partners; or
   c. If a limited liability company, the designated manager, or if no manager is designated, any 2 members of the limited liability company.
4. "Application packet" means the forms and documents the Board requires an applicant to submit or have submitted on the applicant's behalf.
5. "Certification of hours" means a document that states the total number of hours completed at a school, including:
   a. A written statement of the hours, record of license history, or credits a student received, signed by the administrator of the agency authorized to issue cosmetology, nail technician, or aesthetics licenses in the jurisdiction in which the applicant received a license or received certified or accredited vocational or academic training, affixed with the agency's official seal;
   b. A notarized transfer application that reflects the hours or credits a student received, signed by the administrator of the school where the applicant received certified or accredited training, when a student transfers from 1 Arizona cosmetology, nail technology, or aesthetics school to another pursuant to A.R.S. § 32-560.
6. "Clinic floor" means the area where students perform client services for the public for a fee.
7. "Course" means an organized subject matter in which instruction is offered within a given period of time and

for which credit toward graduation or certification is given.

8. "Credit" means 1 earned academic unit of study based on completing a high school's required number of class sessions per calendar week in a course or an earned academic unit of study based on attending a 1-hour class session per calendar week at a community college, an accredited college or university, or a school.
9. "Days" means calendar days.
10. "Delinquent" means a license renewal that is not completed and filed with the Board or postmarked on or before the license renewal date required by A.R.S § 32-501 through 32-564 or this Chapter.
11. "Double bracing" means using a stable base of support and 2 points of contact for the hand while performing a procedure.
12. "Establishment" means a business that operates as a school or a salon in a structure that has a physical street address and functions as a salon or school at least an average of 20 hours a week for the majority of the year.
13. "Family member" means:
    a. The applicant's spouse;
    b. The natural or adopted children, father, mother, grandparents, brothers, sisters, aunts, uncles, first cousins, and second cousins of the applicant; or
    c. The natural or adopted children, father, mother, grandparents, brothers, sisters, aunts, uncles, first cousins, and second cousins of the applicant's spouse.
14. "Graduation" or "graduated from a school" means the completion of the criteria established by a cosmetology, an aesthetics, or a nail technology school for the course in which the applicant was enrolled, including the completion of the curriculum hours specified in R4-10-302, R4-10-303, R4-10-304, or R4-10-305.
15. "High school equivalency" means:
    a. A high school diploma from a school recognized by the basic education authority or the Department of Education in the jurisdiction in which the school is located,
    b. A total score of 45 points on a high school equivalency general educational development test or its equivalent as required by the Department of Education,
    c. An associate degree or 15 academic credits from a junior college recognized by the basic education authority in the jurisdiction in which the college is located, or
    d. Any degree from a college or university recognized by the basic education authority in the jurisdiction in which the college or university is located.
16. "Hour" means 1 clock hour.
17. "Instructor training" means the courses required by R4-10-302.
18. "Manager" means an individual licensed by the Board who is responsible for ensuring a salon's compliance with A.R.S. §§ 32-501 through 32-575 and this Chapter.
19. "Model" means a person on whom an applicant performs demonstrations for the practical section of a licensing examination.
20. "Owner" means an individual or entity that has controlling legal or equitable interest and authority in an establishment.
21. "Personal knowledge" means actual observation of an individual, other than a family member, who is currently practicing aesthetics, cosmetology, or nail technology in any state or country.
22. "Practice" means engaging in the occupation of aesthetics, cosmetology, or nail technology.
23. "Primary category of practice performed in the salon", as stated in A.R.S. § 32-574(A)(2), means:
    a. The practice, either aesthetics, cosmetology, or nail technology, for which the majority of the salon's employees or independent contractors hold licenses; or
    b. The practice for which the salon owner holds a license.
24. "Reciprocity" means the procedure for granting an Arizona license to an applicant who is licensed in another state of the United States or a foreign country.
25. "Substantive review" means the Board's process for determining that an applicant for licensure meets the requirements of A.R.S. §§ 32-501 through 32-575 and this Chapter.
26. "10th grade equivalency" means 10 high school credits, including 2 in English, from any school recognized by the basic education authority or the Department of Education in the jurisdiction in which the credits were obtained, or proof that the prospective student is 23 years old. Satisfactory proof of the prospective student's age is shown by a government-issued driver's license or identification card, a birth certificate, or a passport.
27. "Transfer application", as used in A.R.S. § 32-560, means an application that documents the transfer of a student from 1 Arizona cosmetology, nail technology, or aesthetics school to another and contains the student's name, address, identification number, phone number, and number of hours of instruction received.

**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-102. Fees**

| | | |
|---|---|---|
| **A.** | Aesthetician fees are as follows: | |
| 1. | Examination | $33.00 |
| 2. | Re-examination | 33.00 |
| 3. | License | 24.00 |
| 4. | License by reciprocity | 60.00 |
| 5. | Processing a license by reciprocity | 12.00 |
| 6. | License renewal | 15.00 |
| 7. | Delinquent license renewal penalty | 30.00 |
| 8. | Request for inactive status license | 20.00 |
| 9. | Duplicate license | 12.00 |
| **B.** | Cosmetologist fees are as follows: | |
| 1. | Examination | $37.00 |
| 2. | Re-examination | 37.00 |
| 3. | License | 27.00 |
| 4. | License by reciprocity | 80.00 |
| 5. | Processing a license by reciprocity | 12.00 |
| 6. | License renewal | 18.00 |
| 7. | Delinquent license renewal penalty | 37.00 |
| 8. | Request for inactive status license | 20.00 |
| 9. | Duplicate license | 12.00 |
| **C.** | Nail Technician fees are as follows: | |
| 1. | Examination | $30.00 |
| 2. | Re-examination | 30.00 |
| 3. | License | 22.00 |
| 4. | License by reciprocity | 60.00 |
| 5. | Processing a license by reciprocity | 12.00 |
| 6. | License renewal | 12.00 |

| | | |
|---|---|---|
| 7. | Delinquent license renewal penalty | 22.00 |
| 8. | Request for inactive status license | 20.00 |
| 9. | Duplicate license | 12.00 |

**D.** Instructor fees are as follows:

| | | |
|---|---|---|
| 1. | Examination | $50.00 |
| 2. | Re-examination | 50.00 |
| 3. | License | 30.00 |
| 4. | License by reciprocity | 90.00 |
| 5. | Processing a license by reciprocity | 12.00 |
| 6. | License renewal | 24.00 |
| 7. | Delinquent license renewal penalty | 48.00 |
| 8. | Duplicate license | 12.00 |

**E.** Aesthetics salon fees are as follows:

| | | |
|---|---|---|
| 1. | License | $80.00 |
| 2. | License renewal | 30.00 |
| 3. | Delinquent license renewal penalty | 50.00 |
| 4. | Transfer of ownership or location change | 80.00 |
| 5. | Name change | 15.00 |
| 6. | Duplicate license | 12.00 |

**F.** Cosmetology salon fees are as follows:

| | | |
|---|---|---|
| 1. | License | $90.00 |
| 2. | License renewal | 30.00 |
| 3. | Delinquent license renewal penalty | 50.00 |
| 4. | Transfer of ownership or location change | 90.00 |
| 5. | Name change | 15.00 |
| 6. | Duplicate license | 12.00 |

**G.** Nail technology salon fees are as follows:

| | | |
|---|---|---|
| 1. | License | $70.00 |
| 2. | License renewal | 30.00 |
| 3. | Delinquent license renewal penalty | 50.00 |
| 4. | Transfer of ownership or location change | 70.00 |
| 5. | Name change | 15.00 |
| 6. | Duplicate license | 12.00 |

**H.** School fees are as follows:

| | | |
|---|---|---|
| 1. | License | $450.00 |
| 2. | License renewal | 400.00 |
| 3. | Delinquent license renewal penalty | 500.00 |
| 4. | Transfer of ownership | 450.00 |
| 5. | Change of trade name | 15.00 |
| 6. | Duplicate license | 12.00 |

**I.** The fee for a certification is $15.00.

**J.** The fee for copying public documents is 25¢ a page. The fee for providing a list of licensees' names and addresses is 25¢ for each license.

**K.** The for providing an insufficient funds check is $10.00.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-103. Payment of Fees**

**A.** A fee shall not be considered paid until the amount tendered is received by the Board. The Board shall not provide services, administer examinations, or issue certifications or licenses until it has received the required fee.

**B.** Personal checks shall be accepted by the Board only for license renewals. If a check for a license renewal is returned because of insufficient funds, the renewal application is incomplete and any license renewal which has been issued is void effective upon the date that the Board mails written notice to the licensee that the license is void.

**C.** A person who has paid the Board by an insufficient funds check shall not be entitled to further services, examinations, certifications, or licenses until the fee for which the check was tendered, applicable delinquent penalty fees, and the $10.00 penalty for an insufficient funds check, provided by R4-10-102(K), have been paid.

**D.** Fees are nonrefundable.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-104. Application for License by Examination**

**A.** An applicant for an aesthetics, a cosmetology, a nail technician, or an instructor license by examination shall submit to the Board the applicable fee required in R4-10-102 and an application provided by the Board, signed by the applicant, and notarized that contains:
1. The applicant's name, address, telephone number, social security number, and birth date;
2. The name and address of each school attended by the applicant;
3. The name of each aesthetics, cosmetology, or nail technician course completed by the applicant, and school name and address where completed;
4. If applicable, the starting date and date of graduation from a school, type of degree received, and the name and address of the school where received;
5. If previously licensed by the Board, type of license, license number, license expiration date, and the name used on the license;
6. If previously licensed in a state other than Arizona or a foreign country, the name of the state or foreign country and type of license;
7. A statement of whether the applicant has ever had an aesthetician, a cosmetologist, a nail technician, or an instructor license suspended or revoked in any state or foreign country; and
8. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant.

**B.** In addition to submitting the fee and documents in subsection (A), an applicant for an aesthetics license shall:
1. Comply with A.R.S. § 32-510(A)(2) by submitting a copy of 1 of the following:
   a. Documentation of 23 years of age as demonstrated by a government-issued driver's license, identification card, birth certificate, or passport;
   b. A high school transcript demonstrating a 10th grade equivalency;
   c. A high school diploma;
   d. A high school equivalency diploma;
   e. Documentation of an associate degree or an official transcript from an accredited college that only offers courses to be completed in 2 years that shows completion of 15 credits; or
   f. A bachelor's degree from an accredited college or university.
2. Comply with A.R.S. § 32-510(A)(3) by submitting a copy of 1 of the following:
   a. If the applicant graduated from an aesthetician course presented by a school licensed by the Board, a written statement signed by the administrator of the school that documents proof of graduation and completion of 600 hours in the course;
   b. If the applicant attended more than 1 school in Arizona, a copy of a transfer application or certification of hours from each school attended, including the starting and ending dates, the total number of hours completed at the school, and the signature of the administrator of the school; or
   c. If the applicant graduated from or completed hours at a school licensed by a state other than Arizona or a foreign country, a graduation certificate and documentation of:
      i. Completing the theory of aesthetic as required in R4-10-303(A)(1), and

ii. Meeting the requirements in R4-10-303(A)(2) and R4-10-303(A)(3).

**C.** In addition to submitting the fee and documents in subsection (A), an applicant for a cosmetology license shall:
1. Comply with A.R.S. § 32-511(A)(2) by submitting a copy of 1 of the documents in subsection (B)(1).
2. Comply with A.R.S. § 32-511(A)(3) by submitting a copy of 1 of the following:
   a. If the applicant graduated from a cosmetology course presented by a school licensed by the Board, a written statement signed by the administrator of the school that documents proof of graduation and completion of 1600 hours in the course;
   b. If the applicant attended more than 1 school in Arizona, a copy of a transfer application or certification of hours from each school attended, including the initial and ending dates, the total number of hours completed at the school, and the signature of the administrator of the school; or
   c. If the applicant graduated from or completed hours at a school licensed by a state other than Arizona or a foreign country, a graduation certificate and documentation of:
      i. Completing the theory of cosmetology as required in R4-10-304(A)(1), and
      ii. Meeting the requirements in R4-10-304(A)(2) and R4-10-304(A)(3).

**D.** In addition to submitting the fee and documents in subsection (A), an applicant for a nail technician license shall:
1. Comply with A.R.S. § 32-512(A)(2) by submitting a copy of 1 of the documents in subsection (B)(1).
2. Comply with A.R.S. § 32-512(A)(3) by submitting a copy of 1 of the following:
   a. If the applicant graduated from a nail technician's course presented by a school licensed by the Board, a written statement signed by the administrator of the school who documents proof of graduation and completion of 300 hours in the course; or
   b. For each school attended by the applicant, a copy of a transfer application or certification of hours from each school attended, including the starting and ending dates, the total number of hours completed at the school, and the signature of the administrator of the school;

**E.** In addition to submitting the fee and documents in subsection (A), an applicant for an instructor license by examination shall:
1. Comply with A.R.S. § 32-531(A)(2) by submitting a written copy of 1 of the following:
   a. A high school diploma;
   b. A high school equivalency diploma;
   c. Documentation of an associate degree or an official transcript from an accredited college that only offers courses to be completed in 2 years that shows completion of 15 credits; or
   d. Documentation of completion of 15 credits from an accredited college or university.
2. Submit a copy of 1 of the following:
   a. If the applicant graduated from a school licensed by the Board, documentation of graduation that includes in its course of study:
      i. If applying for a cosmetology instructor license, completion of a minimum of 650 hours of instructor training;
      ii. If applying for a nail technician instructor license, completion of a minimum of 350 hours of instructor training; or
      iii. If applying for an aesthetics instructor license, completion of a minimum of 500 hours of instructor training;
   b. If the applicant graduated from or completed hours at a school licensed by a state other than Arizona or a foreign country, a graduation certificate and documentation of meeting the requirements in R4-10-302, except for R4-10-302(A)(6); or
   c. If the applicant attended more than 1 school in Arizona, a copy of a transfer application or certification of hours from each school attended, including the initial and ending dates, total number of hours completed, and signature of the administrator of the school.
3. Comply with A.R.S. § 32-531(A)(3) by submitting documentation of practical experience in the profession applied for on a notarized form, supplied by the Board, that is completed and signed by an owner or manager of a licensed salon or an individual or supplier of cosmetology products with personal knowledge of the applicant's practice for 1 year that includes the:
   a. Name of the applicant;
   b. Occupation in which applicant gained the experience;
   c. Initial and final dates of applicant's experience in the occupation;
   d. Name and address where applicant gained the experience in the occupation;
   e. If licensed by the Board, license number; and
   f. Name, address, and telephone number of the individual completing the information.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-104 renumbered to R4-10-108; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-105. Application for License by Reciprocity**
An applicant for an aesthetics, cosmetology, nail technician, or instructor license by reciprocity shall submit the applicable fee required in R4-10-102 and all of the following to the Board:
1. An application provided by the Board, signed by the applicant, and notarized that contains:
   a. The applicant's name, address, telephone number, social security number, and birth date;
   b. If previously licensed by the Board, the type of license, license number, license expiration date, and the name used on the license;
   c. A statement of whether the applicant has ever had an aesthetics, a cosmetology, a nail technician, or an instructor license suspended or revoked in any state or foreign country; and
   d. A statement under oath by the applicant verifying the truthfulness of the information provided by the applicant;
2. A certification of licensure that shows the initial and final dates of licensure; and
3. To demonstrate compliance with the practice requirements in A.R.S. § 32-513 (A)(2) or A.R.S. § 32-532(3), a notarized form, supplied by the Board, that is completed by an owner or manager of a licensed salon, a licensee with personal knowledge of the applicant's practice for at least 1 of the 5 years immediately preceding the date of

the application, or a supplier of aesthetics, cosmetology, or nail technology products to the applicant that contains:
a. The name of the applicant;
b. The type of practice engaged in by the applicant;
c. The initial and final dates of applicant's practice;
d. The name, address, and telephone number of the salon where the applicant is or was practicing;
e. If completed by a licensee with personal knowledge, the initial and final dates of the practice;
f. If completed by an individual who is a supplier, the initial and final dates the aesthetics, cosmetology, or nail technology products were provided;
g. If completed by an owner or manager of a salon, the name, current address, and current telephone number of the owner and license number of the salon where the applicant is or was practicing or the name, current address, and current telephone number of the manager of the salon where the applicant is or was practicing and the manager's license number; and
h. A statement under oath, signed by the owner or manager, licensed individual, or supplier, verifying the truthfulness of the information.

**Historical Note**
Section R4-10-105 renumbered from former Section R4-10-27 and amended effective April 9, 1996 (Supp. 96-2). Former Section R4-10-105 renumbered to R4-10-109; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-106. Licensing Time-frames**

**A.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.

**B.** The administrative completeness time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.
1. The administrative completeness review time-frame begins:
   a. For approval to take an examination, approval or denial of school or salon license, or approval or denial of a license by reciprocity, when the Board receives an application packet; or
   b. For approval or denial of a license by examination, when the applicant takes an examination.
2. If an application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

**C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of notice of administrative completeness.
1. As part of the substantive review for a school license, the Board shall conduct an inspection that may require more than 1 visit to the school.
2. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
3. If an applicant meets the requirements of A.R.S. § 32-501 through § 32-575 and this Chapter, the Board shall send written notice of approval to the applicant. If an applicant is applying for approval to take an examination, the notice shall include the date, time, and place the applicant is scheduled to take an examination.
4. If an applicant does not meet the requirements of A.R.S. § 32-501 through § 32-575 and this Chapter, the Board shall send a written notice of denial to the applicant including a basis for the denial and an explanation of the applicant's right to appeal as prescribed in A.R.S. § 41-1076.

**D.** The Board shall consider an application withdrawn if within 180 days from the application submission date the applicant fails to:
1. Supply the missing information under subsection (B)(2) or (C)(2); or
2. Take an examination.

**E.** An applicant who does not wish an application withdrawn may request a denial in writing within 180 days from the application submission date.

**F.** An individual shall not practice as an aesthetician, cosmetologist, instructor, or nail technician until the individual receives and posts the license at the individual's place of employment.

**G.** If a time-frame's last day falls on a Saturday, Sunday, or a legal holiday, the Board shall consider the next business day the time-frame's last day.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-107. License Renewal**

**A.** An aesthetician, cosmetologist, nail technician, or instructor licensee shall submit an application packet for renewal to the Board no later than the licensee's birthday.
1. If the applicant mails the application packet, the application packet shall be postmarked on or before the applicant's birthday.
2. If the applicant's birthday falls on Saturday, Sunday or legal holiday, an applicant may file the application packet on the next business day following the applicant's birthday.
3. An application packet consists of:
   a. An application on a form provided by the Board that contains:
      i. The applicant's name, address, and social security number;
      ii. A statement of whether the applicant has changed the applicant's name since the previous initial or renewal application;
      iii. The fee required in R4-10-102; and
      iv. The signature of the applicant; and

b. A copy of a legal document showing the applicant's name change, such as a marriage license or divorce decree.

**B.** An establishment licensee shall submit an application for renewal and fee required in R4-10-102 to the Board no later than June 30 of every year.
1. If the applicant mails the application, the application shall be postmarked on or before June 30.
2. If June 30th falls on Saturday, Sunday or a legal holiday, an applicant may file the application on the next business day following June 30.
3. An application consists of a form provided by the Board that contains:
   a. The establishment's name, manager's license number, and type of license;
   b. If the establishment is a salon that is no longer in business, the date of closure; and
   c. The date and notarized signature of the owner.
4. If the establishment is a school, the licensee shall submit the information and documents required in R4-10-201 in addition to the application form.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-107 renumbered to R4-10-110; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-108. Licensing Examinations**

**A.** An examination application shall not be accepted until the applicant has graduated from a cosmetology, nail technology, or aesthetics school, or meets the requirements of A.R.S. §§ 32-510(A)(3)(c) or 32-511(A)(3)(c).

**B.** All examinations shall be held in the Board's examination center at the Board's office unless another location is designated by the Board in its written notice to the applicant.

**C.** The Board shall notify applicants in writing at least 10 days before the examination of the time and place assigned for the examination.

**D.** Applicants shall verify their identification upon entering the examination center with a passport, driver's license, bank identification card, military identification, or government-issued identification card. Identification shall contain a photograph of the applicant.

**E.** Examinations shall consist of both written and practical sections and shall include live demonstrations of aesthetics, cosmetology, or nail technology, whichever is applicable to the examination being taken. Demonstrations of wet sets and comb-outs may be performed on a mannequin.

**F.** Applicants shall comply with all infection control and safety standards required by R4-10-109 during the examination.

**G.** Applicants who cannot appear for an examination shall notify the Board at least 48 hours before the scheduled examination in order to reschedule without paying another examination fee. Applicants who arrive to an examination after the examination has begun shall not be examined. Applicants who arrive after the examination has begun, and applicants who fail to appear for the scheduled examination without notifying the Board at least 48 hours before the examination, may reschedule only after paying another examination fee.

**H**. Applicants shall supply equipment, supplies, tools, or implements, and a model. Applicants who choose to perform wet sets and comb-outs on a mannequin shall supply the mannequin.

**I**. Current or former students or student instructors in aesthetics, cosmetology, or nail technology schools shall not be used as models in the live demonstration of aesthetics, cosmetology, or nail technology examinations.

**J.** Examination materials shall not be made available to applicants for inspection or copying before, during, or after an examination.

**K**. Notebooks, notes, tape recorders, and dictionaries shall not be allowed in either the written or practical sections of the examination for aestheticians, cosmetologists, or nail technicians. The examination administrator may exclude other items from the written or practical sections of the examination that may impede the fair administration or security of the examination. An applicant who copies or asks information from another applicant shall be dismissed from the examination and shall forfeit the examination fee.

**L.** If an applicant has passed the examination but does not apply for an original license within 1 year after the date of the examination, the examination scores shall be voided.

**M.** A written request to review a failed examination shall be made within 30 calendar days of the postmarked date of the examination scores. A written review by a representative of the Board shall be mailed to the applicant within 10 calendar days after the request for review has been received by the Board.

**N.** The Board may accept a score on a written or practical examination from another jurisdiction if the examination was the same national examination administered in Arizona and the score is at least the same as the passing score that was required by the Board at the time the applicant took the examination in that jurisdiction. The applicant shall provide the Board with documentation to verify the previous passing score and that this score was received within 1 year of the date that the Board received the applicant's application.

**O.** The Board shall conduct all examinations in English and applicants shall submit answers in English.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-108 renumbered to R4-10-111; new Section R4-10-108 renumbered from Section R4-10-104 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-109. Instructor Examinations**

**A.** In addition to the requirements set forth in R4-10-104, examinations for instructor licenses in aesthetics, cosmetology, or nail technology shall contain both written and practical sections.

**B.** The written aesthetician examination may include questions relating to the Arizona Cosmetology statutes (A.R.S. § 32-501 et seq.), Arizona Cosmetology rules as they relate to aesthetics (R4-10-101 et seq.) and questions from the following subjects:
1. Skin treatments;
2. Facial machines;
3. Cosmetics;
4. Product applications to skin;
5. Depilatories;
6. Artificial eyelashes;
7. Lash and brow tinting;
8. Salon management;
9. Professional ethics;
10. Consultation and analysis;
11. Theory, principles, and methods of teaching;
12. Dermatology;
13. Massage;
14. Infection control;
15. Bacteriology;
16. First aid;
17. Hygiene;

18. Chemistry;
19. Histology;
20. Anatomy;
21. Physiology;
22. Aromatherapy;
23. Chromatology;
24. Light therapy and electricity, as these subjects are related to salon services and the practice of aesthetics.

**C.** The practical aesthetician examination may consist of a presentation of a theory class and a demonstration before at least 1 representative of the Board. Subjects shall be assigned at the time applicants are notified of their eligibility to take the examination.

1. The theory class presentation may include any of the following subjects:
   a. Skin treatments;
   b. Cosmetics;
   c. Product applications to skin;
   d. Depilatories;
   e. Artificial eyelashes;
   f. Lash and brow tinting;
   g. Salon management;
   h. Professional ethics;
   i. Facial machines;
   j. Consultation and analysis;
   k. Dermatology;
   l. Massage;
   m. Infection control;
   n. Bacteriology;
   o. First aid;
   p. Hygiene;
   q. Chemistry;
   r. Histology;
   s. Anatomy;
   t. Physiology;
   u. Aromatherapy;
   v. Chromatology; and
   w. Light therapy and electricity, as these subjects relate to salon services and the practice of aesthetics.
2. The demonstration may include any of the following subjects:
   a. Massage;
   b. Skin treatments;
   c. Facial machines;
   d. Product applications to skin;
   e. Depilatories;
   f. Artificial eyelash application;
   g. Lash and brow tinting;
   h. Consultation and analysis; and
   i. High frequency application.

**D.** The written cosmetologist examination may include questions relating to the Arizona Cosmetology statutes (A.R.S. § 32-501 et seq.), Arizona Cosmetology rules relating to cosmetology (R4-10-101 et seq.) and questions from the following subjects:

1. Chemical hair restructuring;
2. Hair coloring,
3. Nail technology;
4. Aesthetics and makeup;
5. Scalp and hair treatments;
6. Salon management;
7. Professional ethics;
8. Shampooing and rinsing;
9. Hair shaping;
10. Hairstyling;
11. Depilatories;
12. Consultation and analysis;
13. Theory, principles, and methods of teaching;
14. Massage;
15. Infection control;
16. Bacteriology;
17. First aid;
18. Hygiene;
19. Chemistry;
20. Dermatology;
21. Trichology;
22. Onychology;
23. Histology;
24. Anatomy;
25. Physiology; and
26. Electricity as these subjects are related to salon services and the practice of cosmetology.

**E.** The practical cosmetologist examination may consist of a presentation of a theory class and a demonstration before least 1 representative of the Board. Subjects shall be assigned at the time applicants are notified of their eligibility to take the examination.

1. The theory class presentation may include any of the following subjects:
   a. Chemical hair restructuring,
   b. Hair coloring,
   c. Nail technology,
   d. Aesthetics and makeup,
   e. Scalp and hair treatments,
   f. Salon management,
   g. Professional ethics,
   h. Shampooing and rinsing,
   i. Hair shaping,
   j. Hairstyling,
   k. Depilatories,
   l. Consultation and analysis,
   m. Massage,
   n. Infection control,
   o. Trichology,
   p. Bacteriology,
   q. First aid,
   r. Hygiene,
   s. Chemistry,
   t. Dermatology,
   u. Onychology,
   v. Histology,
   w. Anatomy,
   x. Physiology, and
   y. Electricity; and
   z. Salon management as they relate to salon services and the practice of cosmetology.
2. The demonstration may include any of the following subjects:
   a. Chemical hair restructuring,
   b. Hair coloring,
   c. Nail technology,
   d. Aesthetics and makeup,
   e. Scalp and hair treatments,
   f. Shampooing and rinsing,
   g. Hair shaping,
   h. Hairstyling,
   i. Depilatories,
   j. Massage, and
   k. High frequency application.

**F.** The written nail technician examination may include questions relating to the Arizona Cosmetology statutes (A.R.S. § 32-501 et seq.), Arizona Cosmetology rules relating to nail technology (R4-10-101 et seq.) and questions from the following subjects:

1. Manicuring;
2. Pedicuring;
3. Salon management;
4. Professional ethics;
5. Artificial nail application;
6. Nail wraps;
7. Theory, principles, and methods of teaching massage;
8. Infection control;
9. Bacteriology;
10. First aid;
11. Hygiene;
12. Chemistry;
13. Dermatology;
14. Onychology;
15. Histology;
16. Anatomy; and
17. Physiology as these subjects are related to salon services and the practice of nail technology.

**G.** The practical nail technician examination may consist of a presentation of a theory class and a demonstration before at least 1 representative of the Board. Subjects shall be assigned at the time applicants are notified of their eligibility to take the examination.

1. The theory class presentation may include any of the following subjects:
   a. Manicuring,
   b. Pedicuring,
   c. Salon management,
   d. Professional ethics,
   e. Consultation and analysis,
   f. Artificial nail applications, and
   g. Nail wraps,
   h. Massage,
   i. Infection control,
   j. Bacteriology,
   k. First aid,
   l. Hygiene,
   m. Chemistry,
   n. Dermatology,
   o. Onychology,
   p. Histology,
   q. Anatomy, and
   r. Physiology as these subjects relate to salon services and the practice of nail technology.
2. The demonstration may include any of the following subjects:
   a. Manicuring,
   b. Pedicuring,
   c. Artificial nail applications, and

**H**. Each theory class presentation and each demonstration shall last approximately 30 minutes.

**I**. At the start of each instructor examination, the applicant shall identify, to the examination administrator, textbooks, visual aids, and other materials and submit to the examination administrator 3 copies of the lesson plan and clinic sheet to be used for the practical section of the examination. Lesson plans and clinic sheets shall include 10 questions correlating to the subjects assigned.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-109 renumbered to R4-10-112; new Section R4-10-109 renumbered from Section R4-10-105 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-110. Reactivating an Inactive License**

**A.** A cosmetology, nail technology, aesthetician, or instructor license that has been inactive for more than 1 year, but less than 2 years, may be reactivated by the licensee paying the delinquent renewal penalty and completing 1 of the following requirements.

1. Attending an Infection Control class and a Law Review class, offered by the Board, to be paid for by the licensee;
2. Passing the written and practical portions of the state license examination; or
3. Submitting documentation to the Board that the licensee has satisfied the educational requirements stated in subsection (D) below.

**B.** A license that has been inactive for more than 2 years, but less than 10 years, may be reactivated by the licensee paying the delinquent renewal penalty and completing 1 of the following requirements.

1. Passing the written and practical portions of the state license examination, or
2. Submitting documentation to the Board that the licensee has satisfied the educational requirements stated in subsection (D) below.

**C.** If a license has been inactive for more than 10 years, the licensee shall complete all original licensing requirements.

**D.** To satisfy the educational requirements in A.R.S. § 32-518(D)(2) to reactivate a license, the licensee shall pay the delinquent renewal penalty and submit documentation to the Board that the licensee received the number of hours of training stated in subsections (D)(1), (2), or (3), while the license was inactive, in a school licensed to provide such training.

1. Aestheticians shall receive 120 hours of training.
2. Cosmetologists shall receive 250 hours of training.
3. Nail Technicians shall receive 80 hours of training.

**E.** To satisfy the educational requirements in A.R.S. § 32-518(D)(2) to reactivate an instructor's license, the licensee shall pay the delinquent renewal penalty and submit documentation to the Board that the instructor has completed 1 of the following requirements.

1. Received 200 hours of instructor's training, including methods of teaching, while the instructor's license was inactive, in a licensed aesthetics, cosmetology, or nail technology school; or
2. Passed the written and practical portions of the state license examination;

**F.** The 1st 120 hours of aesthetics instructor training may be applied to reactivate an aesthetician license.

**G.** The 1st 250 hours of cosmetology instructor training may be applied to reactivate a cosmetology license.

**H**. The 1st 80 hours of nail technology instructor training may be applied to reactivate a nail technician license.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-110 renumbered to Section R4-10-113; new Section R4-10-110 renumbered from Section R4-10-107 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-111. Display of Licenses and Signs**

**A.** The name on an establishment's exterior sign, advertising, or publication shall be the same as the name on the establishment license issued by the Board. The establishment's exterior sign shall contain lettering at least 2 1/2 inches in height and identify the establishment as a school or a salon.

**B.** Schools shall prominently post a class schedule that lists the names of instructors and classes. The establishment and

instructor licenses shall be displayed near the establishment entrance where visible to the public.

**C.** A licensee who is performing mobile services shall prominently display a duplicate of the establishment license from the salon where the licensee was dispatched and the licensee's license in the area where mobile services are being provided. The licensee's original license shall be prominently displayed in the salon from where the licensee was dispatched.

**D.** A copy of R4-10-109 shall be prominently posted in both the establishment and the mobile service area.

**E.** Salons shall prominently post a notice of salon services that are not regulated by the Board and are performed by people who are not licensed by the Board.

**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-111 renumbered to Section R4-10-114; new Section R4-10-111 renumbered from R4-10-108 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-112. Infection Control and Safety Standards**

**A.** Establishments, including all areas of employment, passageways, storerooms, and service rooms, shall be well lighted and ventilated. These areas and dispensary fixtures shall be kept in an orderly, clean, and sanitary condition. There shall be a direct entrance into the licensed establishment. The entrance shall not be through living quarters. If connected to a residence, all doors and passageways between living quarters and the licensed establishment shall be closed. A licensed establishment shall not be used for living purposes or other residential use.

**B.** All supplies, equipment, tools, or implements used in performing aesthetics, cosmetology, or nail technology services that contact a person's skin or hair, except wax used for other than depilatory purposes, shall be either discarded, or cleaned and disinfected as provided in subsections (D), (E), and (F), after each contact. The disinfectant used shall be an Environmental Protection Agency registered, hospital grade, bactericidal, virucidal, and fungicidal that is mixed and used according to the manufacturer's directions. A chlorine bleach disinfectant shall be permitted to clean and disinfect counters and linens.

**C.** All supplies, equipment, tools, and implements shall be kept clean, disinfected, free from defects, and in good repair. Cutting equipment shall be kept sharp.

**D.** Each establishment shall have the following set up at all times during business hours:

1. A covered, wet disinfectant container made of glass, stainless steel, or the type of container recommended by the manufacturer of the product it contains. The disinfectant shall be the type specified in R4-10-109(B). The solution shall be mixed and used according to manufacturer's instructions for dilution and immersion time. The container shall be large enough to completely immerse all combs, brushes, and other tools or implements used by licensees and shall contain the appropriate amount of solution for the number of items to be disinfected. The disinfectant shall be changed whenever necessary as determined by manufacturer's instructions or when visibly cloudy or contaminated, whichever 1st occurs. A separate covered container with wet disinfectant shall be maintained for each nail technician and aesthetician during nail technology and aesthetic procedures, large enough to completely immerse the contact areas of all nail technology and aesthetic tools or implements. The disinfectant shall be changed between clients.
2. Covered containers that are disinfected and dry to store disinfected tools and implements.
3. Written emergency procedures and a first-aid kit readily accessible to all people working in the establishment. The first-aid kit shall contain small bandages, gauze, and antiseptic.
4. Hot and cold running water for work and sanitary purposes. Drinking water shall also be supplied for clients and employees that complies with state and local health department requirements.
5. Garbage containers, which shall be emptied, cleaned, and disinfected daily. These containers shall not leak.
6. Soiled linen containers that are ventilated. Clean towels, robes, or gowns shall be provided for each client and shall be laundered after every use. Laundered towels, robes, or gowns shall be stored in cabinets with tight-fitting doors, kept closed to protect linens from dust and dirt. All linens shall be disinfected during the wash cycle using detergent and bleach.
7. Ventilation and air filtration system capable of 4 to 10 air changes per hour. Ventilation shall be designed to provide free flow of air to each room, in proportion to the size, use, and capacity of the room, to prevent the build-up of emissions and particulates, to keep odors and diffusions from chemicals and solutions at a safe level, and to provide sufficient air circulation and oxygen. Ventilation may be by natural or mechanical means.

**E.** Plastic, rubber, natural bristles, nail files, clipper attachments, aesthetic sponges, wood, and pedicure bins shall be thoroughly cleaned, disinfected, and dried between each client, as follows:

1. Pre-clean with soap and water to remove hair, filings, or other debris;
2. Rinse thoroughly and pat dry with a clean towel;
3. Disinfect according to R4-10-109(D)(1);
4. Rinse and dry thoroughly; and
5. Keep clean according to R4-10-109(D)(2).

**F.** All tools or implements shall be disinfected by complete immersion after each use. Tools or implements shall be removed from the disinfectant using tongs, baskets, or any manner that does not contaminate the disinfectant solution, and placed on a clean dry towel for air drying. Tools or implements that contact skin, but cannot be immersed into disinfectant because they are electrical, shall be wiped or sprayed with a type of disinfectant listed in R4-10-109(A) after each use.

**G.** Separate containers shall be used for soiled linens and for garbage. All clean linens shall be kept in a clean, closed cabinet or container. Only clean linens or new disposable linens shall be used on each client. Clients shall be protected from direct contact with shampoo bowls or items used to protect clients' clothing by the use of clean towels or protective neck strips.

**H.** Counters and work areas shall be disinfected after each client. Hair and nail clippings shall be discarded immediately after each client.

**I.** Each establishment shall have at least 1 rest room for employees' and clients' use. All rest rooms shall be kept clean and sanitary at all times and shall have a wash basin, hot and cold running water, and an adequate supply of toilet paper, liquid soap, and disposable towels. Rest rooms shall not be used for storing materials other than rest room supplies, unless they are placed in a locked cabinet.

**J.** Students, licensees, and employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water, or use a wet disinfectant approved for use on the skin, before providing services to each client, after smoking, drinking, or using the rest room. Services shall not be performed by a licensee who has a contagious disease of a nature

that may be transmitted by performing the service unless the licensee takes medically approved measures to prevent transmission of the disease. Services shall not be performed to an individual who has a contagious disease of a nature that may be transmitted by the performing of the services.

1. In the event of a wound, licensees and employees shall stop service and, before returning to service, clean the wound with an antiseptic solution, cover the wound with a sterile bandage, and, if the licensee's or employee's wound is in an area that could be covered by a glove or finger cover, wear a clean, fluid-proof protective glove or finger cover, or wear gloves on both hands if the wound is on the client.
2. Licensees and employees shall wear, clean, fluid-proof protective gloves while performing any service if any bodily discharge is present from the licensee, employee, or client or if any discharge is likely to occur from the client because of services being performed.
3. Blood-stained tissue, cotton, or other blood-contaminated material shall be placed in a sealed plastic bag and that plastic bag shall be placed into another plastic bag, which is labeled with a red or orange biohazard warning and discarded.
4. All equipment, tools, and implements that have come in contact with blood or body fluids shall be disinfected before continued service by complete immersion in an Environmental Protection Agency registered, hospital grade, and tuberculocidal disinfectant that is mixed and used according to the manufacturer's directions.

**K.** All products that are used on more than 1 client shall be stored in a labeled, clean, closed container and dispensed using a disinfected spatula or in another manner that does not contaminate the remaining contents of the product. Once dispensed, a product may not be returned to the original container or used on another client.

**L.** All trays, floors, walls, chairs, headrests, footrests, tools, and other implements shall have a cleanable surface and shall be free from dust, dirt, and other foreign material. Headrests and footrests shall be covered with a clean towel or new disposable towel for each client. Shampoo bowls shall be kept clean and disinfected and drains shall be kept free running.

**M.** Product containers, including water, shall be labeled to identify contents. All chemicals shall be labeled and stored in compliance with state and local laws and manufacturer's instructions to ensure identification and protection against fires, fumes, contamination, or corrosion of containers. Corroded containers shall be immediately discarded.

**N.** Services shall be performed safely to protect the licensee and clients. Double bracing shall be used around the eyes, ears, lips, fingers, and toes. Clips or other implements shall not be placed in mouths or pockets.

**O.** Birds and animals, except for fish aquariums and seeing-eye or hearing-ear dogs, shall be prohibited in establishments.

**P.** Powder puffs, styptic pencils, lump alum, and the reuse of end papers and depilatory wax are prohibited. Dermaplane procedures, blades, knives, lancets, and any tool that invades the skin shall not be used in a salon or school. Nippers may be used only to remove loose cuticles. Only chemical peels containing a maximum of 2% phenol and 37 to 40% neutralized glycolic acid may be used.

**Q.** All establishments shall comply with federal and state occupational safety and health requirements.

**R.** A client's personal cosmetology implements or tools are subject to these rules.

**S.** All clients' hair and scalp shall be examined before hair services are provided to determine if any conditions are present that warrant shampooing before providing services, or whether to proceed with services.

**T.** Leather storage pouches shall not be used to store disinfected tools or implements.

**U.** Nail technology licensees and clients shall wash their hands with soap and warm water or wipe with disinfectant, or waterless hand cleanser approved for use on skin, prior to service. Prior to a pedicure, the client's feet shall be cleansed with soap and warm water or wiped with a disinfectant approved for use on skin.

**V.** Prior to aesthetics services, licensees shall wash their hands with soap and warm water or wipe with a disinfectant or waterless hand cleanser approved for use on skin.

**W.** Instructors in a school shall wash their hands with soap and warm water or wipe with a disinfectant approved for use on skin prior to checking student services on clients.

**X.** Sharp cosmetology tools and implements shall be sealed in a rigid, puncture-proof container and disposed of in a manner to keep licensees and clients safe.

**Historical Note**
Section R4-10-112 renumbered from former Section R4-10-33 and amended effective April 9, 1996 (Supp. 96-2). Former Section R4-10-112 renumbered to Section R4-10-115; new Section R4-10-112 renumbered from Section R4-10-109 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

### R4-10-113. Establishment Management

**A.** The manager of each establishment shall ensure that:

1. Licenses, notices, and the Board's most recent inspection sheet are prominently displayed;
2. The establishment and all licensees in a salon, school, or a mobile service area have current licenses;
3. Infection control and safety standards are maintained.

**B.** The salon and school owner and salon and school manager or director shall be responsible for all violations enumerated in subsection (A), occurring within the salon, school, or mobile service areas.

**C.** If a salon owner rents or leases space within the salon to a person who obtains a separate salon license, that 2nd licensee and their salon manager and the owner shall each be responsible for all violations of requirements enumerated in subsection (A) occurring within the 2nd licensee's licensed portion of the salon, and are each responsible for the common areas.

**Historical Note**
New Section R4-10-113 renumbered from Section R4-10-110 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

### R4-10-114. Disciplinary Action

**A.** Licensees shall permit an inspector or Board representative to inspect the premises of any salon or school, or other location identified by a complaint or the Board, alleging the location is operating a salon or school.

**B.** Board action is required to dismiss a complaint.

**Historical Note**
New Section R4-10-114 renumbered from Section R4-10-111 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

### R4-10-115. Rehearing or Review of Decisions

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than 15 calendar days after service of the decision, a written motion for rehearing or review of the decision specifying particular grounds

therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party's last known residence or place of business.

**B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 calendar days after service of such motion or amended motion by any party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board or its hearing officer or prevailing party;
3 Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. A decision which is not justified by the evidence or is contrary to law.

**D.** Not later than 10 calendar days after the Board's receipt of a motion for rehearing or review, the Board may affirm or modify the decision or grant a rehearing or review to any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.

**E.** Not later than 15 calendar days after a decision is rendered, the Board may on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case the order granting such a rehearing or review shall specify the grounds therefor.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 calendar days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 calendar days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of the decision is necessary for the immediate preservation of the public peace, health, or safety and that a rehearing or review of the decision is impractical, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for rehearing or review. An application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**Historical Note**

New Section R4-10-115 renumbered from Section R4-10-112 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**Table 1. Time-frames (in days)**

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Time-frame | Substantive Review Time-frame |
|---|---|---|---|---|
| Approval to Take an Examination | A.R.S. §§ 32-514, 32-515, 32-533 | 90 | 60 | 30 |
| License by Examination | A.R.S. §§ 32-510, 32-511, 32-512, 32-531 | 60 | 30 | 30 |
| License by Reciprocity | A.R.S. §§ 32-513, 32-532 | 60 | 30 | 30 |
| School License | A.R.S. § 32-551 | 90 | 30 | 60 |
| License Renewal | A.R.S. §§ 32-517, 32-535, 544, 32-564 | 75 | 45 | 30 |
| Salon License | A.R.S. §§ 32-541, 32-542 | 90 | 30 | 60 |
| License Reactivation | A.R.S. § 32-518 | 30 | 15 | 15 |

**Historical Note**
New Table adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

## ARTICLE 2. SCHOOLS

***Editor's Note: The Board of Cosmetology repealed or renumbered Sections with the old Administrative Code numbering scheme and adopted new Sections under the current numbering scheme (Supp. 96-2). The old and new Sections cannot be shown in numerical order because of the two Articles; therefore the old numbers are not shown here. Please refer to this Chapter as published in Revised Format 6-92 for historical note information on the old numbered Sections.***

### R4-10-201. Application for a School License; Renewal

**A.** An applicant for a school license shall submit the documents required in A.R.S. § 32-551 and:
1. Submit an application on a form provided by the Board, signed by the applicant, and notarized that contains:
   a. The applicant's name, address, social security number, and telephone number;
   b. If a partnership, each partner's name and address and an identification of whether a limited or general partner;
   c. If a corporation, the state of incorporation and the name, title, and address of each officer of the corporation;
   d. The name under which the school will be operated;
   e. The name and address of the Board licensed instructor who is in charge of the school;
   f. If an existing school, the date the applicant will be assuming ownership;
   g. If a new school, the date of scheduled opening of the school;
2. If a corporation, submit the articles of incorporation;
3. Submit an 8 1/2" by 11" floor plan of the school;
4. Submit an uncompleted contract form required by A.R.S. § 32-558;
5. Submit a schedule that includes the hours of each day and each day of a calendar week during which the school will be open for instruction;
6. Submit a proposed schedule of classes to be taught at the school;
7. Submit a school catalog containing the information required by A.R.S. § 32-559;
8. Demonstrate compliance with A.R.S. § 32-551 through § 32-575 and these rules through a school inspection conducted by the Board; and
9. Submit the fee required in R4-10-102.

**B.** In addition to the requirements in R4-10-107, a licensee shall submit the following when renewing a license:
1. An updated floor plan not exceeding 8 1/2" by 11" for all structural improvements;
2. The most recent school catalog showing:
   a. Any modifications, additions, or deletions;
   b. An index reflecting where the information required by A.R.S. § 32-559 is located in the catalog; and
   c. The names of each accrediting or approving organization.
3. A subject description of each new course and its schedule;
4. A new operating schedule if changes occur;
5. The name and address of any new statutory agent;
6. If the school changes its name, a request for approval of the name and the fee required in R4-10-102; and
7. The name and license number of the current manager of the school.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

### R4-10-202. School Closure

**A.** For purposes of A.R.S. § 32-563, the Board may consider a school to be closed if it fails for 5 consecutive school days to provide instruction in accordance with its schedule of operations on file with the Board.

1. All enrolled students and employees shall be notified by the school in writing of a pending closure at least 5 calendar days before closure of the school, unless the time of such closure could not have been anticipated. A copy of the notice shall be sent to the Board at the time it is delivered to the students and employees. The students' and employees' personal belongings, including equipment, tools, and implements shall be released to each student or employee immediately upon request.
2. Student records as specified by A.R.S. § 32-563 shall be sent to the Board within 10 calendar days after the school closure, including:
   a. Copies of hour sheets documenting all student hours and the current time cards or time records received by the student after the last monthly report before the school closure as specified by R4-10-204;
   b. A copy of the file of each student who was enrolled the last school day prior to closure as specified by R4-10-204. If a teachout was arranged with another school which agreed to complete the training, the student's file shall be transferred to that school; and
   c. A written statement signed by each enrolled student verifying the school's compliance with subsection (A)(1) as it applies to students.

**B.** Failure to comply with subsection (A) may be grounds for refusal to issue a school license to an owner, manager, director, or instructor of the school at the time of the school closure.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-203. General School Requirements**

**A.** Aesthetic, cosmetology, and nail technology schools shall comply with R4-10-109 and have the following minimum facilities, equipment, supplies, and materials:
1. 1 area of instruction for every 20 students;
2. A licensed instructor as manager or director;
3. A desk, table, and chair, or other instructional fixtures and facilities for each student during theory instruction;
4. Filing cabinets to hold all school and student records;
5. An instruction board in each room used for instruction;
6. At least 2 cubic feet of individual locked area with a different locking device for each enrolled student and each instructor to store personal objects and training kits;
7. A sink area for each 50 students in attendance for the preparation, mixing, and dispensing of supplies and chemicals, and for the disinfection of small tools or implements;
8. At least 1 rest room meeting the requirements of R4-10-109;
9. Separate receptacles for garbage and soiled linens; and
10. 1 container for wet disinfectant when performing aesthetics and nail technology as specified by R4-10-109.

**B.** The school shall furnish the appropriate amount of equipment, tools, implements, materials, and supplies needed to perform assignments and for instructional purposes, except that the school may require each student to furnish small tools or implements. All equipment, tools, and materials shall be salon quality and maintained in good repair at all times.

**C.** The school shall have a library for student use which contains at least the following materials relating to the course or courses offered by the school:
1. Standard dictionary;
2. Medical dictionary;
3. Anatomy chart on bones, muscles, nerves, hands, arms, nails, veins, arteries, circulatory system, hair, and skin;
4. 3 current periodicals on the art and science of cosmetology;
5. Current cosmetology instruction manuals or textbooks;
6. Current Arizona Cosmetology laws and rules governing the practice of aesthetics, cosmetology, and nail technology; and
7. A cosmetology dictionary.

**D.** Each school shall maintain a complete file on all current curriculum requirements.

**E.** Schools may award reduced tuition, scholarships, and grants to students. Schools shall not pay salaries to enrolled students other than student instructors.

**F.** Licensed schools may offer postgraduate or advanced continuing education cosmetology courses without a licensed instructor present; however, credit hours toward graduation or licensure shall not be granted.

**G.** Individuals licensed pursuant to A.R.S. § 32-501 et seq. may re-enroll in a licensed school for a refresher course. Credit hours for training received during regular school hours shall be submitted to the Board.

**H.** Schools shall establish a periodic grading schedule and keep student transcripts current.

**I.** Schools shall schedule a minimum of 4 hours of theory classes each week for each full-time student and a minimum of 2 hours of theory classes each week for each part-time student.

**J.** Safety and infection control measures relating to each subject shall be taught in conjunction with that subject.

**K.** Schools shall not solicit students for enrollment on the site of other schools.

**L.** While in school, instructors shall wear a tag indicating their name and courses they teach.

**M.** Schools shall ensure compliance with the following:
1. Students shall attend school no more than 56 hours in any 1 week.
2. Students shall operate only safe equipment in good repair.
3. Students of aesthetics, cosmetology, and nail technology shall perform services within the course in which they are enrolled, upon the public or fellow students, only in the presence of a licensed instructor and, except for shampooing, only after completing the basic training specified in R4-10-303, R4-10-304, and R4-10-305 prescribing their curriculum.
4. Students shall not be prevented or discouraged from making a complaint to the Board.
5. Students may receive a maximum of 16 hours credit for field trips if the trip has been approved by the Board. 1 licensed instructor shall accompany no more than 20 students.
6. Students shall not be dismissed from a scheduled theory instruction or written or practical examination to perform clinical services to the public; and
7. While in school, each student shall wear a tag indicating their name and the course in which they are enrolled.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-204. School Records**

**A.** Student records shall be kept at the school where the student is enrolled and are subject to inspection by the Board at all times.

**B.** When a student transfers from 1 school to another, the school from which the student is transferring shall keep a copy of the student's transcript and shall forward 1 copy to the student and another copy to the Board.

**C.** Each school shall keep:

1. A record of the time devoted by each student to the enrolled course of study;
2. Records which show the basis for certification of the student hours. Schools shall certify only those hours of training received by the student in that school; and
3. An individual student file for each student enrolled containing:
   a. Contract and enrollment agreement;
   b. Financial aid transcript;
   c. Proof of 10th grade equivalency for a student enrolled in an aesthetics, cosmetology, or nail technology course, and proof of high school equivalency for a student enrolled as an instructor as specified by R4-10-101;
   d. Identification numbers;
   e. Proof of 1 year of licensed work experience for a student instructor in aesthetics, cosmetology, or nail technology;
   f. A signed statement indicating receipt of contracted supplies, materials, instruction manual, or textbook, and Arizona Cosmetology laws and rules;
4. Current academic transcripts and attendance and hour records or time cards for Board inspection.

**D.** A monthly report submitted to the Board shall be postmarked no later than the 10th day of each month. The monthly report shall include:
1. The name, student identification number, enrollment date, address, telephone number, and birth date of each student enrolled in the school since the prior monthly report;
2. The enrollment category of each student, as nail technology, cosmetology, aesthetics, or student instructor;
3. The type of education documentation received by the school to prove that each student is qualified to enroll in cosmetology school;
4. The name, license number, and work schedule of the instructor in charge of the school, and name of the custodian of records;
5. The name, license number, and dates of employment of each instructor employed by the school;
6. The signature of the instructor who prepares and certifies the report as being true and correct;
7. The name of student instructors and current aesthetician, cosmetologist, or nail technician license number from any state or country;
8. For each demonstration given, the name of the demonstrator, the name of the observing instructor, the name of the process or product demonstrated, the number of students in attendance, and the name of the course in which the demonstration was given;
9. Documentation at the time of the 1st reporting period after enrollment certifying a student's credit hours from a prior enrollment in any school, or crossover hours as specified by R4-10-306;
10. Total hours received by each student during the month of the report. This total shall not be amended without satisfactory proof of error;
11. Signature of each student verifying approval of the certified hours;
12. Certification of those students who have met the graduation requirements of the school, including the day, month, and year of graduation; and
13. The notation "transferred", "withdrawn", or "leave of absence" for students who discontinue training, and the day, month, and year training was discontinued. Documentation to certify the hours earned by the student prior to discontinuing shall be provided to the student.

**E.** A person who has registered for the Board examination and has completed the required hours for graduation, but stays in school until the date of the examination, shall be credited for the additional hours earned after graduation.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-205. Aesthetic School Requirements**

**A.** Schools which provide aesthetics 600-hour training for students, 500-hour training for instructors, or both, shall provide the following minimum facilities, equipment, supplies, and materials in addition to that required by R4-10-203 and R4-10-204:
1. A work station for each student in attendance to perform aesthetics services to the public, each having;
   a. A facial chair or table;
   b. A table top which is 32" by 16" or larger;
   c. A mirror that is at least 4" by 4" when performing services on a client;
   d. A dry, disinfected, covered container to store disinfected tools and implements as specified by R4-10-109; and
   e. A receptacle for contaminated tools or implements.
2. 1 steamer, vaporizer, or pulverizer machine for every 12 students in attendance;
3. 1 galvanic current machine;
4. 1 suction or vacuum machine with a comedone extractor and a sebum extractor for every 12 students in attendance;
5. 1 high frequency Tesla or violet ray unit and a facial electrode for every 12 students in attendance;
6. 1 magnifying lamp for every 12 students in attendance;
7. 1 therapeutic lamp for every 12 students in attendance;
8. Cleansing cream;
9. Massage cream;
10. Astringent, toner, and mist;
11. Mask or pack;
12. Chemical and physical depilatories;
13. Artificial eyelashes; and
14. Cosmetics

**B.** Each student shall have a student training kit for each aesthetics student enrolled containing the following:
1. 1 standard textbook for professional aestheticians and Arizona cosmetology laws and rules;
2. 1 set of 4 facial brushes without defects;
3. 1 professional tweezer;
4. 1 disinfected, covered container to store disinfected tools and implements as specified by R4-10-109; and
5. A container for contaminated tools or implements.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-206. Cosmetology School Requirements**

**A.** Schools which provide cosmetology 1600-hour training for students, 650-hour training for instructors, or both, shall provide the following minimum facilities, equipment, supplies, and materials in addition to that specified by R4-10-203 and R4-10-204:
1. A work station for each student in attendance performing cosmetology services to the public for a fee, each having:
   a. A mirror that is at least 18" by 30" when performing services on a client;
   b. A table top or counter;
   c. A client chair;

d. A disinfected, covered receptacle to store disinfected tools and implements, as specified by R4-10-109; and
e. A container for contaminated tools or implements;
2. 1 shampoo basin for each 10 students in attendance during practical instruction;
3. 1 hand-held hair dryer for each student in attendance during practical instruction;
4. 1 hooded dryer for each 7 students in attendance during practical instruction;
5. 1 high frequency Tesla or violet ray unit, including a facial and scalp electrode, for each 20 students in attendance during practical instruction;
6. 1 electric clipper for each 5 students in attendance during practical instruction;
7. Chemical and physical depilatories;
8. Chemical hair straighteners including:
a. Thioglycolate, and
b. Sodium hydroxide.
9. 1 nail technology table with a 32" x 16" or larger top for each 10 students in attendance during practical instruction;
10. A facial work station for each aesthetic student in attendance during practical instruction;
11. An receptacle large enough to completely immerse both feet, for each 20 cosmetology students in attendance during practical instruction;
12. 1 ultraviolet light in each school;
13. 1 electric or battery-operated nail drill for filing and buffing; and
14. Nail products for acrylics, gels, tips, wraps, and polishing.

**B.** Each enrolled student shall have a nonreturnable student training kit containing:
1. 1 instruction manual or textbook of cosmetology, and Arizona Cosmetology laws and rules;
2. 1 mannequin with sufficient hair on which to practice cosmetology;
3. Combs and brushes without defects;
4. 1 electric curling iron with a Marcel-type handle;
5. 1 razor;
6. 1 cutting shear; and
7. 1 disinfected, covered container to store disinfected tools and implements as specified by R4-10-109.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-207. Nail Technology School Requirements**

**A.** Schools which provide nail technology 300-hour training for students, 350-hour training for instructors, or both, shall provide the following minimum facilities, equipment, supplies and materials, in addition to that required by R4-10-203 and R4-10-204:
1. A work station to perform of nail technology services for the public for each student enrolled, containing:
a. A nail technology table with a top 32" x 16" or larger;
b. A client chair;
c. A nail technology chair or stool;
d. A disinfected, covered container to store disinfected tools and implements as specified by R4-10-109;
e. A receptacle with wet disinfectant as specified by R4-10-109;
f. A container for disinfected tools or implements;
g. A garbage receptacle; and
h. A light;
2. 1 electric or battery-operated nail drill for filing and buffing;
3. 1 container large enough to completely immerse both feet, for every 5 students in attendance during practical training;
4. Nail products for acrylics, gels, tips, wraps, and polishing; and
5. 1 ultraviolet light.

**B.** Each enrolled nail technology student shall have a training kit containing:
1. 1 simulated hand or finger for practice training;
2. Disinfected tools, including pusher, nipper, file or emery boards, tweezer, nail brush, finger bowl, buffers, artificial nail products kit, wrap kit, 2 dappen dishes, polish kit, nail forms, and 1 brush product applicator to enable the student to perform nail technology;
3. 1 covered container to store disinfected tools and implements as specified by R4-10-109;
4. A container for contaminated tools or implements; and
5. 1 instruction manual or textbook of nail technology, and Arizona Cosmetology laws and rules.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-208. Combined School Requirements**

**A.** The following hours are required to graduate:
1. Aesthetics course - 600 hours,
2. Aesthetic instructor course - 500 hours,
3. Cosmetology course- 1600 hours,
4. Cosmetology instructor course - 650 hours,
5. Nail technology course- 300 hours, and
6. Nail technology instructor course - 350 hours.

**B.** Schools that provide training in all of the above courses shall have the minimum records, facilities, equipment, supplies, and materials required by:
1. R4-10-203,
2. R4-10-204,
3. R4-10-205(A)(1) through (14) except (1) is 1 work station for each 2 aesthetics students enrolled,
4. R4-10-206, and
5. R4-10-207(A)(1) through (5) except (1) is 1 work station for each 2 nail technology students enrolled.

**C.** Schools that provide the curriculum specified in subsections (A)(3), (4), (5), and (6) shall have the minimum records, facilities, equipment, supplies, and materials required by:
1. R4-10-203,
2. R4-10-204,
3. R4-10-206, and
4. R4-10-207(A)(1) through (5) except (1) is 1 work station for each 2 nail technology students enrolled.

**D.** Schools that provide the curriculum as specified in subsections (A)(1), (2), (3), and (4) shall have the minimum records, facilities, equipment, supplies, and materials required by:
1. R4-10-203,
2. R4-10-204,
3. R4-10-205(A)(1) through (14) except (1) is 1 work station for each 2 aesthetic students enrolled, and
4. R4-10-206.

**E.** Schools that provide the curriculum as specified in subsections (A)(1), (2), (5) and (6) shall have the minimum records, facilities, equipment, supplies, and material required by:
1. R4-10-203,
2. R4-10-204,
3. R4-10-205, and
4. R4-10-207.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-209. Demonstrators; Exclusions**

**A.** A person who does not hold an instructor license shall not teach in a school but may demonstrate to enrolled students any process, product, or appliance when an instructor is present and observing the demonstration.

**B.** When demonstrating on a model, the demonstrations shall be confined to an explanation of the products, procedures, and appliances being promoted.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

## ARTICLE 3. STUDENTS

**R4-10-301. Instruction; Licensed Individuals**

No hours toward licensing shall be granted for instruction unless it is part of the approved course training, provided by or in the presence of a licensed instructor in a licensed school, except that up to 16 hours of field trips may be granted toward licensing if the field trips for which those hours were granted were part of the approved course training, provided by or in the presence of a licensed instructor.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-302. Instructor Curriculum Required Hours**

**A.** The following number of hours shall be completed by each student in an instructor course of aesthetics, cosmetology, or nail technology:

| Subject | Aesthetics | Cosmetology | Nail Technology |
|---|---|---|---|
| 1. Orientation | 16 | 16 | 16 |
| 2. Theory, principles, or methods of teaching | 200 | 250 | 125 |
| 3. Practical demonstrations | 100 | 150 | 80 |
| 4. Conducting theory classes | 40 | 60 | 30 |
| 5. Clinic floor work | 100 | 130 | 65 |
| 6. Arizona cosmetology laws and rules | 10 | 10 | 5 |
| 7. Record preparation | 10 | 10 | 5 |
| 8. Evaluation and unassigned | 24 | 24 | 24 |

**B.** No more than 20% of the total training hours shall be spent checking clinical floor work.

**C.** A maximum of 10% of the hours required for any subject in a course may be spent on another subject in that course. The actual hours spent on each subject in a course shall not be less than 90% of the number of hours required in subsection (A). This does not apply to evaluation and unassigned.

**D.** Curriculum hours for theory, principles, or methods of teaching may be satisfied by credits obtained from an accredited college or university.

**E.** All instruction given by a student instructor shall be under the direct supervision and observation of a licensed instructor.

**F.** Student instructors shall be counted as students for purposes of determining the maximum allowed ratio of 20 students for each teacher in the school.

**G.** No student instructor shall instruct students or check student services performed on the public until the student instructor has received at least 120 hours of basic instructor training.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-303. Aesthetic Curriculum Required Hours**

**A.** The following number of hours shall be completed by each student in an aesthetics course:
1. Theory of aesthetics, Arizona aesthetician laws and rules, 75 hours;
2. Practical aesthetics and practical theory involving all skin types:
   a. Consultation and analysis, 25 hours;
   b. Preparation and cleansing, 25 hours;
   c. Massage, 75 hours;
   d. Manual facial, 75 hours;
   e. Electrical facial, 100 hours;
   f. Packs and masks, 30 hours;
   g. Light therapy, 10 hours;
   h. Cosmetics application, 75 hours;
   i. Physical and chemical depilatories, 30 hours;
   j. Artificial eyelash application, 20 hours;
   k. Creative preference, 25 hours; and
   l. Disinfection procedures, 35 hours.
3. The total received shall be at least 600 hours.

**B.** No aesthetics school shall receive remuneration for students performing clinical services to the public until the student has received 120 hours of basic training.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-304. Cosmetology Curriculum Required Hours**

**A.** The following number of hours shall be completed by each student in a cosmetology course:
1. Theory of cosmetology, Arizona cosmetology laws and rules, 200 hours;
2. Practical cosmetology and practical theory, involving all hair and skin types:
   a. Monitor duties, salesmanship, ethics, and salon management, 35 hours;
   b. Chemical hair restructuring, including permanent waving and chemical hair relaxing, specifically thioglycolate and sodium hydroxide, 230 hours;
   c. Hair coloring, including tinting and bleaching, 230 hours;
   d. Haircutting, 230 hours;
   e. Hairstyling, pressing, thermal curling, and waving, 230 hours;
   f. Facials and makeup, including massage and physical and chemical depilatories, 100 hours;
   g. Massage, 100 hours;
   h. Manicuring, pedicuring, sculpture nails, extensions, wraps, overlays, and related services, 75 hours;
   i. Shampooing, conditioning, re-conditioning, rinse application, and chemical removal, 50 hours;
   j. Scalp treatment and brushing, 20 hours;
   k. Electricity and light therapy as related to the practice of cosmetology, 10 hours;
   l. Creative preference, 40 hours; and
   m. Disinfection procedures, 50 hours.
3. The total number of hours received shall be at least 1600.

**B.** No cosmetology school shall receive remuneration for students performing any clinical services, except shampooing, to the public until the student has received at least 300 hours of cosmetology training.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-305. Nail Technology Curriculum Required Hours**

**A.** The following number of hours shall be completed by each student in a nail technology course:
1. Theory of manicuring, Arizona nail technology laws, and rules, 50,
2. Practical manicuring and practical theory:
   a. Extensions, wraps, and overlays, 50 hours;
   b. Nail sculpturing, 80 hours;
   c. Manicuring, 35 hours;
   d. Pedicuring, 30 hours;
   e. Massage on hands, arms, legs, and feet, 10 hours;
   f. Monitor duties, 10 hours;
   g. Creative preference, 10 hours; and
   h. Disinfection procedures, 25 hours.
3. The total hours received shall be at least 300.

**B.** No nail technology school shall receive remuneration for students performing clinical services to the public until the student has received at least 80 hours of nail technology training.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

**R4-10-306. Curriculum Hours**

**A.** Hours of training received in an aesthetic, cosmetology, or nail technology course shall not apply toward receiving an instructor's license.

**B.** Hours of training received in an instructor course shall not apply toward receiving an aesthetician, cosmetologist, or nail technician license but shall apply toward reactivation of an aesthetics, cosmetology, or nail technology license if the instructor hours are received after inactive status occurs.

**C.** The following hours shall be applied toward licensing:
1. 25% of the hours of training received in a nail technology course toward a cosmetologist license;
2. 30% of the hours of training received in an aesthetics course toward a cosmetologist license;
3. 7% of the hours of training received in a cosmetology course toward a nail technician license;
4. 15% of the hours of training received in a cosmetology course toward an aesthetician license;
5. 50% of the hours of training received in a barber course toward a cosmetologist license;
6. 100% of the hours of training received by a licensed cosmetologist in a nail technology instructor course toward an aesthetics instructor license; however, the remaining required hours shall be received in an aesthetics or cosmetology school;
7. 100% of the hours of training received by a licensed cosmetologist in a nail technology instructor course toward a cosmetology instructor license; however, the remaining required hours shall be received in a cosmetology school;
8. 100% of the hours of training received by a licensed cosmetologist in an aesthetics instructor course toward a cosmetology instructor license; however, the remaining required hours shall be received in a cosmetology school; and
9. 100% of the barber instructor hours of training received in a barber instructor course toward a cosmetology instructor license; however, the remaining required hours shall be received in a cosmetology school. 1 year of licensed barber experience is the same as 1 year of licensed cosmetology experience for the purpose of qualifying for the cosmetology instructor examination as specified by A.R.S. § 32-531.
10. Hours transferred to another course shall only be used once.

**D.** At the completion of a course, the cumulative hours for students for that course shall, at a minimum, conform with R4-10-301, R4-10-302, R4-10-303, R4-10-304, R4-10-305, and R4-10-306 as applicable.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2).

## ARTICLE 4. SALONS

**R4-10-401. Application for a Salon License**

An applicant for a salon license shall submit:
1. An application on a form provided by the Board, signed by the applicant, and notarized that contains:
   a. The applicant's name, address, social security number, and telephone number;
   b. If applicant is a partnership, each partner's name, address, and an identification of whether a limited or general partner;
   c. If a corporation, the state of incorporation and the name, title, and address of each officer of the corporation and statutory agent;
   d. The name of the salon;
   e. The name and license number of the manager licensed by the Board;
   f. If a location change, the previous address;
   g. A history of the salon including:
      i. If previously licensed by the Board, the last name of the salon or school;
      ii. The name of each business operating at the salon address;
      iii. A statement of whether the applicant, any partner of the applicant, or any corporate officer has ever owned a salon in any state or foreign country;
      iv. A statement of whether the applicant, any partner of the applicant, or any corporate officer has ever had a salon license suspended or revoked in any state or foreign country; and
      v. A statement of whether the salon provides mobile services as stated in R4-10-403.
2. If a corporation, the articles of incorporation;
3. If a partnership, a copy of the partnership agreement;
4. An 8 1/2" by 11" floor plan of the salon. The floor plan shall designate the location of each:
   a. Wet disinfectant as specified by R4-10-109;
   b. Dry, closed, disinfected container to store disinfected tools and implements as specified by R4-10-109;
   c. Sink or shampoo bowl with hot and cold running water that is not also used as a dispensary or rest room sink;
   d. Station;
   e. Restroom;
   f. Electrical outlet; and
   g. Activity performed by individuals who are not licensed by the Board, which are related to cosmetology, but not regulated by A.R.S. § 32-501 through § 32-575; and
5. The fee required in R4-10-102.

**Historical Note**
Adopted effective April 9, 1996 (Supp. 96-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp.99-2).

**R4-10-402. Changes Affecting a Salon License**

**A.** A licensee changing a salon's location shall submit the fee required in R4-10-102 and an application packet as prescribed in R4-10-401.

**B.** A licensee shall notify the Board in writing at least 30 days before making a change in the ownership of a salon. A new owner shall obtain a license from the Board before beginning operation of a salon.

**C.** When the controlling ownership in a corporation is transferred or a corporation is reorganized, the new owner shall submit the fee required in R4-10-102, an application packet as prescribed in R4-10-401, and the following:
1. Former owner's name;
2. Date of transfer; and
3. A statement of whether the former owner relinquishes the license, salon name, and salon location.

**D.** A licensee shall notify the Board in writing at least 30 days before the date of a change in a salon's name and submit the fee required in R4-10-401.

**E.** A licensee that is a corporation or a limited liability company shall notify the Board in writing at least 3 days before a change in any corporate officer or statutory agent.

**Historical Note**

Former Section R4-10-402 renumbered to R4-10-403; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-403. Salon Requirements and Minimum Equipment**

**A.** A salon shall perform services to the public according to the type of license issued as defined by A.R.S. § 32-501.

**B.** Salons shall have enough equipment, materials, supplies, tools, and implements to ensure infection control and safety for the public and employees.

**C.** Each salon shall have:
1. A work station for each employee or person using space within the salon;
2. Electrical outlets;
3. If the salon is cosmetology salon, a minimum of 1 shampoo bowl and 1 hair dryer that may be a blow dryer, and, if the salon is an aesthetics or nail technology salon, a minimum of 1 sink in addition to the rest room sink; and
5. Clean linens kept in a closed container.

**D.** Aestheticians shall have disinfected tools and implements for each client.

**E.** Cosmetologists shall have:
1. 18 combs;
2. 12 vent or styling brushes;
3. 2 client protection robes or capes;
4. 1 comb-out cape; and
e. If neck brushes are used, each licensee shall have at least 3;

**F.** Nail technicians shall have enough equipment, materials, supplies, tools, and implements to ensure infection control and disinfection between clients.

**Historical Note**

Adopted April 9, 1996 (Supp. 96-2). Former Section R4-10-403 renumbered to R4-10-404; new Section R4-10-403 renumbered from Section R4-10-402 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-404. Mobile Services**

**A.** A mobile service shall operate as an extension of a permanent licensed salon and under the same name and ownership. The permanent licensed salon owner and manager are both responsible for compliance by the mobile service with statutes and rules.

**B.** A licensee providing mobile cosmetology, nail technology, or aesthetic services shall apply for duplicate salon and personal licenses and post them pursuant to R4-10-108 at the mobile service location.

**C.** Appointments shall be made through the licensed salon where a book shall be kept of all appointments and locations where services are performed.

**D.** A mobile service is subject to inspection by the Board at any time.

**E.** A retrofitted mobile unit used to conduct mobile services shall have the same equipment as specified by R4-10-402 and shall comply with safety and infection control requirements as specified by R4-10-109.

**F.** Mobile services which are conducted in other than a retrofitted mobile unit shall have equipment for mobile service which is disinfected before use and stored as specified in R4-10-109.

**Historical Note**

Adopted April 9, 1996 (Supp. 96-2). Former Section R4-10-404 renumbered to R4-10-405; new Section R4-10-404 renumbered from Section R4-10-403 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

**R4-10-405. Shampoo Assistants**

**A.** People who are not licensed by the Board may be hired as shampoo assistants to shampoo and apply cream rinse to an individual's hair, comb the hair to remove tangles, and remove rollers and clippies.

**B.** Shampoo assistants shall not apply conditioners, reconstructors, hair color, permanent wave solution or neutralizer, or remove rods, tint, relaxers, or other solutions from the hair.

**Historical Note**

New Section R4-10-405 renumbered from Section R4-10-404 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

# CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

(Authority: A.R.S. § 32-1203 et seq.)

*All former rules renumbered, new Article 11 added (Supp. 81-4).*

## ARTICLE 1. DEFINITIONS

*Article 1, consisting of Section R4-11-101, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 1, consisting of Sections R4-11-101 through R4-11-103, renumbered to Article 2, Sections R4-11-201 through R4-11-203; Sections R4-11-104 and R4-11-105 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-101. Definitions
R4-11-102. Renumbered
R4-11-103. Renumbered
R4-11-104. Repealed
R4-11-105. Repealed

## ARTICLE 2. SCHOOLS

*Article 2, consisting of Sections R4-11-201 through R4-11-203, renumbered from Article 1, Sections R4-11-101 through R4-11-103 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 2, consisting of Sections R4-11-201 and R4-11-203, renumbered to Article 3, Sections R4-11-301 and R4-11-302; Sections R4-11-202 and R4-11-204 through R4-11-216 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-201. Recognized School
R4-11-202. Requirements for Recognition of Dental and Dental Auxiliary Schools
R4-11-203. Site Visits for Evaluating Educational Program
R4-11-204. Repealed
R4-11-205. Repealed
R4-11-206. Repealed
R4-11-207. Repealed
R4-11-208. Repealed
R4-11-209. Repealed
R4-11-210. Repealed
R4-11-211. Repealed
R4-11-212. Repealed
R4-11-213. Repealed
R4-11-214. Repealed
R4-11-215. Repealed
R4-11-216. Repealed

## ARTICLE 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME-FRAMES

*Article 3, consisting of Sections R4-11-301 and R4-11-302, renumbered from Article 2, Sections R4-11-201 and R4-11-203 and amended; new Sections R4-11-303 through R4-11-305 adopted, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 3, consisting of Sections R4-11-301 through R4-11-304, repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-301. Application
R4-11-302. Determination of Successful Completion of Licensure Examination
R4-11-303. Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Denturist Certificates, and Dispensing Registrations
R4-11-304. Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates
R4-11-305. Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and Semi-Conscious Sedation Permits, and Conscious Sedation Permits

## ARTICLE 4. FEES

*Article 4, consisting of Sections R4-11-401 through R4-11-407, renumbered from Article 9, Sections R4-11-901 through R4-11-906 and R4-11-909, amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 4, consisting of Sections R4-11-401 through R4-11-403 and R4-11-408, renumbered to Article 6, Sections R4-11-601 through R4-11-603, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-401. Triennial Registration Fees: Dentist
R4-11-402. Triennial Registration Fees: Hygienist
R4-11-403. Triennial Registration Fees: Retired or Disabled Licensees and Certificate Holders
R4-11-404. Penalty Fees
R4-11-405. Duplicate License, Duplicate Registration Receipt
R4-11-406. Triennial Registration Fees: Denturist
R4-11-407. Fees for Anesthesia and Sedation Permits

## ARTICLE 5. DENTISTS

*Article 5, consisting of Section R4-11-501, renumbered from Article 11, Section R4-11-1102, amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 5, consisting of Section R4-11-502 and R4-11-504, renumbered to Article 7, Sections R4-11-701 and R4-11-702; Sections R4-11-501 and R4-11-503 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-501. Dentist of Record

## ARTICLE 6. DENTAL HYGIENISTS

*Article 6, consisting of Sections R4-11-601 through R4-11-603, renumbered from Article 4, Sections R4-11-402, R4-11-403, and R4-11-408 and amended; Sections R4-11-604 through R4-11-608 adopted, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 6, consisting of Sections R4-11-602 and R4-11-603, renumbered to Article 10, Sections R4-11-1001 and R4-11-1002, and Section R4-11-601 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-601. Duties and Qualifications
R4-11-602. Care of Homebound Patients
R4-11-603. Limitation on Number Supervised

R4-11-604. Selection Committee and Process
R4-11-605. Dental Hygiene Committee
R4-11-606. Candidate Qualifications and Submissions
R4-11-607 Duties of the Dental Hygiene Committee
R4-11-608. Dental Hygiene Consultants

## ARTICLE 7. DENTAL ASSISTANTS

*Article 7, consisting of Sections R4-11-701 and R4-11-702, renumbered from Article 5, Sections R4-11-502 and R4-11-504, and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 7, consisting of Section R4-11-701, renumbered to Article 5, Section R4-11-502, and Sections R4-11-702 through R4-11-710 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-701. Procedures and Functions Performed by a Dental Assistant under Supervision
R4-11-702. Limitations on Procedures or Functions Performed by a Dental Assistant under Supervision
R4-11-703. Repealed
R4-11-704. Repealed.
R4-11-705. Repealed
R4-11-706. Repealed
R4-11-707. Repealed
R4-11-708. Repealed
R4-11-709. Repealed
R4-11-710. Repealed

## ARTICLE 8. DENTURISTS

*Article 8, consisting of Sections R4-11-801 and R4-11-802, renumbered from Article 12, Sections R4-11-1201 and R4-11-1202, and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 8, consisting of Sections R4-11-802 through R4-11-806, renumbered to Article 13, Sections R4-11-1301 through R4-11-1305, and Section R4-11-801 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-801. Consultants to the Board
R4-11-802. Recognition of Schools of Denture Technology

## ARTICLE 9. RESTRICTED PERMITS

*Article 9, consisting of Sections R4-11-901 through R4-11-905, renumbered from Article 10, Sections R4-11-1001 through R4-11-1005 and amended; Section R4-11-906 adopted, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 9, consisting of Sections R4-11-901 through R4-11-906 and R4-11-909, renumbered to Article 4, Sections R4-11-401 through R4-11-407, and Sections R4-11-907 and R4-11-908 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-901. Application for Restricted Permit
R4-11-902. Issuance of a Restricted Permit
R4-11-903. Recognition of a Charitable Dental Clinic Organization
R4-11-904. Determination of Minimum Rate
R4-11-905. Restricted Permit Denial
R4-11-906. Fully Retired or Permanently Disabled Licensees or Certificate Holders Providing Charitable Services

## ARTICLE 10. DENTAL TECHNICIANS

*Article 10, consisting of Sections R4-11-1001 and R4-11-1002, renumbered from Article 6, Section R4-11-602 and R4-11-603, amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 10, consisting of Sections R4-11-1001 through R4-11-1005, renumbered to Article 9, Sections R4-11-901 through R4-11-905, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1001. Duties of Dental Laboratory Technician
R4-11-1002. Dental Technician Laboratory Work Orders
R4-11-1003. Renumbered
R4-11-1004. Renumbered
R4-11-1005. Renumbered
R4-11-1006. Repealed

## ARTICLE 11. ADVERTISING

*Article 11, consisting of Section R4-11-1101, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 11, consisting of Section R4-11-1102, renumbered to Article 5, Section R4-11-501, and Section R4-11-1104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1101. Advertising

## ARTICLE 12. CONTINUING DENTAL EDUCATION

*Article 12, consisting of Sections R4-11-1201 through R4-11-1207, renumbered from Article 14, Sections R4-11-1402 through R4-11-1408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 12, consisting of Sections R4-11-1201 and R4-11-1202, renumbered to Article 8, Sections R4-11-801 and R4-11-802, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1201. Continuing Dental Education
R4-11-1202. Compliance
R4-11-1203. Dentists
R4-11-1204. Dental Hygienists
R4-11-1205. Denturists
R4-11-1206. Restricted Permit Holders
R4-11-1207. Types of Courses

## ARTICLE 13. GENERAL ANESTHESIA AND SEDATION

*Article 13, consisting of Sections R4-11-1301 through R4-11-1305, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1301. General Anesthesia and Semi-conscious Sedation
R4-11-1302. Conscious Sedation
R4-11-1303. Reports of Adverse Occurrences
R4-11-1304. Education
R4-11-1305. Renewal of Permit

## ARTICLE 14. DISPENSING DRUGS AND DEVICES FOR PROFIT AND NOT FOR PROFIT

*Article 14, consisting of Sections R4-11-1401 through R4-11-1406, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 14, consisting of Sections R4-11-1402 through R4-11-1408, renumbered to Article 12, Sections R4-11-1201 through R4-11-1207 and Sections R4-11-1401 and R4-11-1409 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

*Article 14, consisting of R4-11-1401 through R4-11-1409, adopted effective July 21, 1995 (Supp. 95-3).*

Section
R4-11-1401. Registration and Renewal
R4-11-1402. Prescribing
R4-11-1403. Labeling and Dispensing
R4-11-1404. Storage and Packaging
R4-11-1405. Recordkeeping
R4-11-1406. Compliance

**ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION, REINSTATEMENT OF REVOKED LICENSES**

*Article 15, consisting of Sections R4-11-1501 through R4-11-1504, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1501. Ex-parte Communication
R4-11-1502. Complaint Investigator Qualifications
R4-11-1503. Initial Complaint Review
R4-11-1504. Reinstatement

**ARTICLE 16. MEDIATION**

*Article 16, consisting of Section R4-11-1601 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1601. Mediation Process

**ARTICLE 17. REHEARING OR REVIEW**

*Article 17, consisting of Section R4-11-1701, renumbered from Article 7, Section R4-11-701, and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).*

Section
R4-11-1701. Procedure

**ARTICLE 1. DEFINITIONS**

**R4-11-101. Definitions**

The following definitions, and definitions in A.R.S. § 32-1201, apply to this Chapter:

1. "Analgesia" means a state of decreased sensibility to pain produced by using nitrous oxide ($N_2O$) and oxygen ($O_2$) with or without local anesthesia.
2. "Application" means, for purposes of Article 3 only, forms designated as applications and all documents and additional information the Board requires to be submitted with an application.
3. "Calculus" means a hard mineralized deposit attached to the teeth.
4. "Certificate holder" means a denturist who practices denture technology pursuant to A.R.S. Title 32, Chapter 11, Article 5.
5. "Clinical evaluation" means a dental examination of the patient named in a complaint regarding the dental condition as it exists at the time the examination is performed.
6. "Closed subgingival curettage" means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a situation where a flap of tissue has not been intentionally or surgically opened.
7. "Conscious sedation" means the use of pharmacologic or non-pharmacologic methods, or a combination of the 2 methods which results in minimal depression of the level of consciousness and allows the patient to retain the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.
8. "Controlled substance" has the meaning prescribed in A.R.S. § 36-2501(A)(3).
9. "Credit hour" means 1 clock hour of participation in a recognized continuing dental education program.
10. "Deep sedation" has the same meaning as "semi-conscious sedation".
11. "Dental laboratory technician" or "dental technician" has the meaning prescribed in A.R.S. § 32-1201(6).
12. "Designee" means a person to whom the Board has delegated authority to act on the Board's behalf regarding a particular task specified by this Chapter.
13. "Direct supervision" means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant's work.
14. "Direct supervision" means, for purposes of Article 13 only, that a licensed dentist is physically present in the operatory and actually performing dental procedures.
15. "Dispense for profit" means selling a drug or device for any amount above the administrative overhead costs to inventory.
16. "Documentation of attendance" means a document which contains the following information:
    a. Name of sponsoring entity;
    b. Course title and synopsis;
    c. Number of credit hours;
    d. Name of speaker;
    e. Date, time, and location of the course; and
    f. Signature of person authorized to verify registration.
17. "Epithelial attachment" means the layer of cells that extends apically from the depth of the gingival (gum) sulcus (crevice) along the tooth, forming an organic attachment.
18. "Ex-parte communication" means any written or oral communication between the decision maker, fact finder, or any Board member and 1 party to the proceeding, in the absence of other parties.
19. "Fully retired" means a dentist, dental hygienist, or denturist is at least 65 years old and has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism.
20. "General anesthesia" means the use of any drug, element, or any other material which results in the elimination of sensations, accompanied by a state of unconsciousness.
21. "General supervision" means, for purposes of Article 7 only, the licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment which the dentist has authorized and for which the dentist remains responsible.
22. "Homebound patient" means a person who is unable to receive dental care in the dental office as a result of a medically diagnosed disabling physical or mental condition.
23. "Informal interview" means the proceeding conducted under A.R.S. § 32-1263.02, during which a Board member, acting as an informal interviewing officer, and other investigators, hear testimony from the complainant, licensee, or certificate holder, and any witnesses, and receive and review evidence relating to the complaint to

form findings of fact, conclusions of law, and a recommended disposition for presentation to the full Board.

24. "Intravenous or intramuscular sedation" means the parenteral use of any drug, element, or material to produce general anesthesia, semi-conscious sedation, or conscious sedation.
25. "Investigative interview" means a proceeding conducted under A.R.S. § 32-1263.02, during which an investigator or investigative panel hears testimony from the complainant, licensee, or certificate holder, and any witnesses, and receives and reviews evidence relating to the complaint to form findings of fact, conclusions of law, and a recommended disposition for presentation to the full Board.
26. "Irreversible procedure" means a single treatment, or a step in a series of treatments, which causes change in the affected hard or soft tissues and is permanent or requires reconstructive or corrective procedures.
27. "Jurisdiction" means the Board's power to investigate and rule on complaints which allege grounds for disciplinary action under A.R.S. Title 32, Chapter 11 or the rules in this Chapter.
28. "Lay person" means a person who is not a dentist, dental hygienist, dental assistant, denturist, or dental technician.
29. "Licensee" means a dentist, dental hygienist, or person who holds a restricted permit pursuant to A.R.S. § 32-1237.
30. "Local anesthesia" means the elimination of sensations, such as pain, in 1 part of the body by the injection of an anesthetic drug.
31. "Nitrous oxide analgesia" means the use of nitrous oxide $N_2O/O_2$ as an inhalation analgesic.
32. "Nonsurgical periodontal treatment" means plaque removal, plaque control, supragingival and subgingival scaling, root planing, and the adjunctive use of chemical agents.
33. "Nurse anesthetist" means a licensed nurse with special training in all phases of anesthesia.
34. "Oral or rectal conscious sedation" means the oral or rectal use of any drug, element, or material to produce conscious sedation.
35. "Periodontal examination and assessment" means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.
36. "Periodontal pocket" means a pathologic fissure bordered on 1 side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the epithelial attachment.
37. "Permanently disabled" means a dentist, dental hygienist, or denturist has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism due to a physician's order because of a medical reason.
38. "Plaque" means a film-like sticky substance composed of mucoidal secretions containing bacteria and toxic products, dead tissue cells, and debris.
39. "Prescription-only device" means:
    a. Any device that is limited by the federal act, as defined in A.R.S. § 32-1901(31), restricted to use only under the supervision of a medical practitioner; or
    b. Any device required by the federal act, as defined in A.R.S. § 32-1901(31), to bear on its label the legend, "Caution: federal law prohibits dispensing without prescription".
40. "Prescription-only drug" means:
    a. A drug which, because of its toxicity or other potential for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use, except by or under the supervision of a medical practitioner;
    b. Any drug that is limited by an approved new drug application under the federal act or A.R.S. § 32-1962 to use under the supervision of a medical practitioner;
    c. Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or
    d. Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Caution: federal law prohibits dispensing without prescription."
41. "President's designee" means the Board's executive director, an investigator, or another Board member.
42. "Preventative and therapeutic agents" means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues to aid in preventing or treating oral disease.
43. "Prophylaxis" means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.
44. "Recognized continuing dental education" means a program whose content directly relates to the art and science of oral health and treatment, provided by a recognized dental school as defined in A.R.S. § 32-1201(15), recognized dental hygiene school as defined in A.R.S. § 32-1201(14), or recognized school of denture technology as defined in A.R.S. § 32-1201(16), or sponsored by a national or state dental, dental hygiene, or denturist association, dental, dental hygiene, or denturist study club, governmental agency, or commercial dental supplier.
45. "Representative" means, for purposes of Article 15 only, a person recognized by the Board as authorized to act on behalf of a complainant or a party in proceedings governed by this Chapter.
46. "Restricted permit holder" means a dentist who meets the requirements of A.R.S. § 32-1237 and is issued a restricted permit by the Board.
47. "Root planing" means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or contaminated with toxins or microorganisms.
48. "Scaling" means use of instruments on the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.
49. "Section 1301 permit" means a permit to administer general anesthesia and semi-conscious sedation, pursuant to Article 13.
50. "Section 1302 permit" means a permit to administer conscious sedation, pursuant to Article 13.
51. "Semi-conscious sedation" means use of pharmacologic or non-pharmacologic methods, or a combination of the 2 methods, to induce a state of depressed consciousness accompanied by partial loss of protective reflexes, and the inability to continually maintain an airway independently or respond appropriately to physical stimulation or verbal command.
52. "Specialist" means, for purposes of Article 15 only, a licensee whose practice is limited to 1 of the following 8 specialty categories recognized by the American Dental

Association: endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral pathology, or dental public health.

53. "Study Club" means a group of at least 5 Arizona licensed dentists, dental hygienists, or denturists who provide written course materials or a written outline for a continuing education presentation that meets the requirements of Article 12.
54. "Treatment records" means all documentation related directly or indirectly to the dental treatment of a patient.

**Historical Note**
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-101 renumbered to R4-11-201, new Section R4-11-101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-102. Renumbered**

**Historical Note**
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-102 renumbered to R4-11-202 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-103. Renumbered**

**Historical Note**
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-03 renumbered as Section R4-11-103 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-103 renumbered to R4-11-203 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-104. Repealed**

**Historical Note**
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-04 renumbered as Section R4-11-104 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-105. Repealed**

**Historical Note**
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-05 renumbered as Section R4-11-105 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-105 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 2. SCHOOLS

**R4-11-201. Recognized School**
The Board shall recognize all dental and dental auxiliary schools which meet the minimal educational, facility, faculty, and administrative requirements in this Article. The school or the person who is applying for recognition of a school shall satisfy the requirements in this Article.

**Historical Note**
Former Rule 2a; Amended effective November 20, 1979 (Supp. 79-6). Amended effective November 28, 1980 (Supp. 80-6). Former Section R4-11-11 renumbered as Section R4-11-201 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-201 renumbered to R4-11-301, new Section R4-11-201 renumbered from R4-11-101 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-202. Requirements for Recognition of Dental and Dental Auxiliary Schools**

**A.** University relationship: The Arizona Board of Dental Examiners believes that a school of dentistry will thrive best under university auspices and a school for dental auxiliaries best under, at the least, postsecondary educational institutions and will, therefore, expect any dental or dental auxiliary school seeking recognition to be a component of 1 of these types of systems of higher education. It is expected that a dental or dental auxiliary education program will be conducted consistent with the standards of scholarship and teaching applied to the programs of other professional schools of the university or college of which it is a part or with which it is affiliated. The administrative, admissions, teaching, research and service areas are expected to fulfill the stated aims and objectives of the institution.

**B.** Financial management and support:
1. The Arizona Board of Dental Examiners expects the administration of a school of dentistry or a dental auxiliary program to demonstrate that the continuity of the education program can be assured through previous support that has been given, through existing affiliations with recognized institutions of higher education and through the existing program with its long range plans. The Board will expect to find evidence that the dental or dental auxiliary education program is receiving equitable financial support from its parent institution.
2. The Board will survey the financial management and support of a dental or dental auxiliary program and will determine the adequacy of the financial support and management on the basis of educational criteria. Consideration will be given to the adequacy and certainty of the income from endowments, from appropriations and other sources, and the relation of the income from fees and charges of all descriptions to the total budget. The direct or indirect application of tuition and clinic income to the enrichment of teaching, research and service will be viewed carefully. The financial records covering income, expenditures and indebtedness, as related to the school of dentistry, will be evaluated.

**C.** Physical plant:
1. The physical plant should be adequate to meet the requirements implied in the institution's objectives. The Arizona Board of Dental Examiners encourages the educational institution to review and modify its physical facilities to reflect current philosophies in dental education and practice and to incorporate sound changes on a continuing basis. Examination of the physical plant and equipment will include consideration of buildings, classrooms, laboratories, clinics and their equipment, ventilation, heating, lighting, cleanliness and other features which contribute to effective functioning of the program.
2. The physical plant should be adequate to accommodate the total number of students in all programs, faculty and administrative personnel. The Board will regard overcrowding in any class or in the institution as a whole, as a factor operating against the attainment of sound educational objectives.

**D.** Library: The Arizona Board of Dental Examiners regards adequate library facilities as essential in a program of dental or dental auxiliary education. The expanding content of the curriculum, the encouragement of independent study, and the

demands of research create a continuous need for the accumulation and intelligent use of all library resources of dentistry and its related sciences. Such resources should be broad enough to meet the teaching and research needs of the institution.

1. The dental library, whether established separately or as a section of a combined library, should be well housed, conveniently located and open for the use of students and faculty at all reasonable hours. It should be administered by a professionally qualified staff and should have an adequate budget.
2. The Board encourages efforts to improve and expand the functions and effectiveness of the library, thus promoting improved teaching, learning and research. The library should be sensitive and respond to the needs of the teaching and research activities of the dental education program and should foster liaison and communication with the faculty to promote an effective teaching and learning environment.

**E.** Admissions: One of the essential criteria for an acceptable dental or dental auxiliary education program is the enrollment of students qualified for and interested in the study of dentistry. Because of the academic requirements of the dental curriculum, it is usually necessary for the applicant to have completed at least 2 years of preprofessional education at postsecondary level. This period of education should provide students with competence to undertake the biological and physical science courses with the dental curriculum.

1. The Board supports the trend in admission policies to encourage the acquisition of a baccalaureate degree. This additional period of education affords the student the opportunity to acquire a better understanding of the humanities and social sciences.
2. It is the opinion of the Board that the selection of students for admission to dental or dental auxiliary schools should be based on estimates of their capacity for success in the study of dentistry as determined by evaluation of all available and significant information. Consideration of the qualifications of applicants for admission should include information regarding their character, the quality of their preprofessional education, health status and aptitude and interest in a career in dentistry. The Board emphasizes that the admissions committee has the major responsibility for determining the qualifications of prospective students in the light of educational aims and objectives of the profession.
3. As an aid in the selection of students the Board encourages the use of tests and measurements of demonstrated usefulness.

**F.** Curriculum: In its evaluation of a dental education program, the Arizona Board of Dental Examiners will consider the stated objectives of the school, what it seeks to accomplish for the student, the profession and the public, and how much it succeeds in realizing these objectives. Inasmuch as no curriculum has enduring value the program of each dental or dental auxiliary school will be judged finally not by its conformity to type nor by predetermined measurements, but rather in terms of the achievement of its own stated aims and objectives which should lead to a graduate qualified to practice dentistry. Although the Board recognizes that the dental curriculum is customarily of 4 years duration, it will be recognized that it is possible for an outstanding student to meet the standards for graduation in less than 4 years. Some students may, of course, require a period of longer than 4 years.

1. The curriculum should be flexible and should be based on appreciation of dentistry as a health service. It should provide for introspection and research and should afford opportunities for adjusting to advances in knowledge. The relative time assigned to the subjects in the dental curriculum should be determined by their respective contributions to the aims of the dental education program. The curriculum should be conceived of as a unit and in terms of the interdependence and balance of its related parts. Correlation of the various courses is essential to an effective educational program, as well as to optimal student achievement.
2. The curriculum should provide the dental student with education and training in the utilization of auxiliary personnel so that he may use the services of these auxiliaries most effectively in his practice. The content and procedures of the educational program should demonstrate that adequate dental service is based on biological principles. It is essential, therefore, that students acquire understanding and appreciation of oral systemic relations in both health and disease; the behavioral sciences; the biological significance of and the therapeutic ability in preventative and rehabilitative services; and the interdependence of the dentist and the physician in meeting the total health needs of the individual and the community.
3. This concept does not minimize the importance of the technical phase of dentistry but it does recognize oral diseases and disorders as major health problems and emphasizes the necessity for the thorough preparation of the student in the biologic fields.
4. Continuous incorporation into the curriculum of the latest scientific knowledge, deletion of what is no longer useful and employment of the newest teaching methods and devices should be routine practice on the part of every dental faculty.

**G.** Faculty:

1. The Arizona Board of Dental Examiners will be concerned about the general and professional education, clinical competence, preparation and experience for teaching and research, and the productive scholarship of the faculty. It will expect to find that the dental faculty are continuing their professional development.
2. While no specific student-to-teacher ratios will be required, it is expected that the teaching personnel will be sufficient to meet the objectives of the educational program. The Board will be concerned, however, about the proportion of the faculty who devote full time to the institution. It believes that the active practitioners of dentistry, who teach part-time, bring to a dental or dental auxiliary school a service and a viewpoint of value which should not be lost. However, it is recognized also that teaching is in itself a profession and that the trend in professional education on the university level is increasingly toward the appointment of qualified persons who devote their careers to teaching and research. The Board encourages schools to retain departmental chairmen on a full time basis.

**H.** Research:

1. The Arizona Board of Dental Examiners recognizes that the primary roll of a dental or dental auxiliary school is teaching. However, in a university discipline, the responsibility to extend the frontiers of knowledge through research is essential, thus no dental school fulfills its educational responsibility unless teachers and students include a commitment of the university to provide facilities and financial assistance for research.
2. In the allocation of faculty time and responsibility, the Board will expect to find an appropriate balance between

teaching and research. The activities of a dental faculty should include investigations leading to the improvement of the educational program.

**I.** Hospital and medical school relationships:
1. An effective teaching relationship with an approved hospital is essential for a satisfactory dental education program. This relationship should afford the student opportunities to provide direct patient care, to participate in the management of those health and social problems of the hospital patient and to learn hospital procedures and medical-dental relationships. The objective of this experience should be to prepare the student to provide comprehensive dental service in the hospitals of the community in which he will practice.
2. If the parent university conducts a program of medical education, the Board will expect to find effective working relationships between the medical and dental facilities. In all instances, the dental school should have access to the university or affiliated hospitals for teaching purposes.

**J.** Evaluation of the educational program: The Arizona Board of Dental Examiners believes that evaluation of both the institution and the student is an essential aspect of a sound educational program. It is the responsibility of the institution to develop evaluation systems to measure reliably the quality of the teaching program, effectiveness of teaching methodologies and adequacy of student performance. In the evaluation of program activity and student performance, it is important that faculty and students be informed of the results of evaluation studies and that these results be applied to continued improvement of the education program. In general, the Board will expect the dental or dental auxiliary school to refine its evaluation of the total program to assure a satisfactory level of competence on the part of the graduating dentist.

**Historical Note**
Former Rule 2b; Former Section R4-11-12 renumbered as Section R4-11-202 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-202 repealed, new Section R4-11-202 renumbered from R4-11-102 and the heading amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Labeling changes made to reflect current style requirements (Supp. 99-1).

**R4-11-203. Site Visits for Evaluating Educational Program**

**A.** To evaluate an educational program pursuant to this Article, the Board shall visit the facility applying for recognition. The institution or person applying on behalf of the institution for school recognition shall pay for the Board, or its representatives, to visit the facility.

**B.** The following procedures will be utilized in order that the visiting committee may evaluate the program in a most efficient and expeditious manner.
1. Conferences to be held with dean or program director on the 1st day of the visit to include discussion of the following: operating finances, relationships with institution administration and selected special subjects agreed upon between chairman and administrators.
2. A tour of intra- and extramural teaching facilities.
3. Conferences with the dean, program director and admissions officer to discuss administration and admissions procedures.
4. Conferences with department chairmen and faculty members with teaching or administrative responsibility. Committee members will visit laboratories, clinics, and review randomly selected patients who have been or are being treated by students.
5. A conference with student representatives.
6. A conference with selected standing committees.
7. A conference with program administrators.
8. A conference with chief administrative officer at the parent institution or his or her appointed representative. The purpose of this meeting is to inform the administrator of some of the committee's findings.

**C.** Other material and data to be supplied by administrators and faculty are as follows:
1. A statement of the aims and objectives of the educational program conducted by the sponsoring institution, to include the specific aims and objectives of the dental, advanced education or auxiliary training programs, as well as the general educational objectives and purposes of the parent institution.
2. Admissions data.
3. Student performance records.
4. Course outlines and other materials describing curriculum content.
5. Lists of textbooks, laboratory manuals, and other reference material used by divisions or departments.
6. Quizzes, mid-term and final examinations, term papers, and special study assignments used by departments or divisions.
7. Selected samples or exhibits of student work.
8. List of research projects currently in progress. (Including lists of research investigators, faculty and supervisors and students.)

**Historical Note**
Former Rule 2c; Former Section R4-11-13 repealed, new Section R4-11-13 adopted effective November 20, 1979 (Supp. 79-6). Amended effective October 30, 1980 (Supp. 80-5). Former Section R4-11-13 renumbered as Section R4-11-203 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-203 renumbered to R4-11-302, new Section R4-11-203 renumbered from R4-11-103 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-204. Repealed**

**Historical Note**
Former Rule 2d; Former Section R4-11-14 repealed, new Section R4-11-14 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-14 renumbered as Section R4-11-204, repealed, and new Section R4-11-204 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-204 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-205. Repealed**

**Historical Note**
Former Rule 2e; Former Section R4-11-15 renumbered as Section R4-11-205 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-205 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-206. Repealed**

**Historical Note**
Former Rule 2f; Amended as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted and amended effective September 7, 1979 (Supp. 79-5). Former Section R4-11-16 renumbered as Section R4-11-206 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-206 repealed by final rule-

making at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-207. Repealed**

**Historical Note**
Former Rule 2g; Former Section R4-11-17 renumbered as Section R4-11-207, repealed, and new Section R4-11-207 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-207 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-208. Repealed**

**Historical Note**
Former Section R4-11-20 repealed, new Section R4-11-20 adopted effective May 12, 1977 (Supp. 77-3). Amended effective October 30, 1980 (Supp. 80-5). Former Section R4-11-20 renumbered as Section R4-11-208 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-208 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-209. Repealed**

**Historical Note**
Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-19 renumbered as R4-11-209 and repealed. Former Section R4-11-21 renumbered as Section R4-11-209 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-209 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-210. Repealed**

**Historical Note**
Adopted effective March 23, 1976 (Supp. 76-2). Amended effective June 7, 1978 (Supp. 78-3). Former Section R4-11-22 renumbered as Section R4-11-210 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-210 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-211. Repealed**

**Historical Note**
Adopted effective August 26, 1977 (Supp. 77-4). Former Section R4-11-23 renumbered as Section R4-11-211 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-211 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-212. Repealed**

**Historical Note**
Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-24 renumbered as Section R4-11-212 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-212 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-213. Repealed**

**Historical Note**
Adopted as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-25 renumbered as Section R4-11-213, repealed, and new Section R4-11-213 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-213 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-214. Repealed**

**Historical Note**
Former Rule 2h; Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-18 renumbered as Section R4-11-214 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-214 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-215. Repealed**

**Historical Note**
Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-215 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-216. Repealed**

**Historical Note**
Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-216 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME-FRAMES

**R4-11-301. Application**

**A.** An applicant shall provide the following information and documentation on a form provided by the Board:
1. A sworn statement of the applicant's qualifications;
2. A photograph of the applicant that is no more than 6 months old;
3. An official, sealed transcript sent directly from the applicant's dental, dental hygiene, or denture technology school to the Board;
4. A copy of the certificate from the Western Regional Examining Board, indicating that the applicant passed the Western Regional Examining Board examination within the 5 years immediately preceding the date the application was filed with the Board;
5. An official score card sent directly from the National Board examination to the Board;
6. A copy of the applicant's cardiopulmonary resuscitation certification, indicating the expiration date;
7. A letter of endorsement from any other jurisdiction in which an applicant is licensed, sent directly from that jurisdiction to the Board;
8. A copy of the self-inquiry from the National Practitioner Data Bank that is no more than 6 months old;
9. A letter of endorsement from the dental, dental hygiene, or dental technology school from which the applicant graduated if the applicant is a new graduate or has been practicing less than 6 months;
10. A letter of endorsement from the applicant's commanding officer or superior if the applicant is in the military or employed by the United States government; and
11. The jurisprudence examination fee.

**B.** The Board may request that an applicant provide:
1. An official copy of the applicant's dental, dental hygiene, or dental technology school diploma,
2. A copy of a certified document which indicates the reason for a name change if the applicant's application contains different names,
3. Written verification of the applicant's work history, and
4. A copy of a high school diploma or equivalent certificate.

**C.** An applicant shall pass the Arizona jurisprudence examination.

**Historical Note**
Former Rule 3A; Former Section R4-11-29 repealed, new Section R4-11-29 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-29 renumbered as Section R4-11-301 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-301 repealed, new Section R4-11-301 renumbered from R4-11-201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-302. Determination of Successful Completion of Licensure Examination**

To determine the minimum passing grade in all examinations conducted by the Board:

1. The Board may require a composite average of 75% for successful completion of the examination; or
2. The Board may use a performance rating of 0 to 6 to evaluate each procedure performed and require a specific point total to achieve successful completion.
3. The Board shall vote, at least 30 days before the examination, to determine which scoring system is to be used. For the percentage system the Board shall also determine the relative values of the individual procedures tested. For the proficiency evaluation the Board shall determine the minimum point total required to successfully complete the examination.

**Historical Note**
Former Rule 3B; Former Section R4-11-30 repealed, new Section R4-11-30 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-30 renumbered as Section R4-11-302 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-302 repealed, new Section R4-11-302 renumbered from R4-11-203 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-303. Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Denturist Certificates, and Dispensing Registrations**

**A.** Within 14 calendar days of receiving an initial or renewal application for a dental license, restricted permit, dental hygiene license, denturist certificate, or dispensing registration, the Board shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

**B.** An applicant with an incomplete package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.

**C.** Upon receipt of all missing information, the Board shall notify the applicant, in writing, within 10 calendar days, that the application is complete.

**D.** The Board shall not process an application until the applicant has fully complied with the requirements of this Article.

**E.** The Board shall notify an applicant, in writing, whether an initial license or renewal governed by this Section is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.

**F.** The Board may deny a license or renewal governed by this Section for any of the reasons stated in A.R.S. Title 32, Chapter 11, or if the applicant:

1. Fails to provide complete documentation;
2. Provides false or misleading information; or
3. Fails to meet the requirements of A.R.S. Title 32, Chapter 11, or this Chapter.

**G.** The notice of denial shall inform the applicant of the following:

1. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
4. The name and telephone number of an agency contact person who can answer questions regarding the application process.

**H.** The following time-frames apply for an initial or renewal application governed by this Section:

1. Administrative completeness review time-frame: 24 calendar days.
2. Substantive review time-frame: 90 calendar days.
3. Overall time-frame: 114 calendar days.

**J.** An applicant whose license is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**
Former Rule 3C; Former Section R4-11-31 renumbered as Section R4-11-303 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-303 repealed, new Section R4-11-303 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-304. Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates**

**A.** Within 14 calendar days of receiving an application from an applicant for a dental assistant certificate, the Board or its designee shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

**B.** An applicant with an incomplete package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.

**C.** Upon receipt of all missing information, within 10 calendar days, the Board or its designee shall notify the applicant, in writing, that the application is complete.

**D.** The Board or its designee shall not process an application until the applicant has fully complied with the requirements of this Article.

**E.** The Board or its designee shall notify an applicant, in writing, whether the certificate is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.

**F.** The Board or its designee shall deny certification if an applicant fails the clinical or written portions of the Dental Assisting National Board examination.

**G.** The notice of denial shall inform the applicant of the following:

1. The reason for the denial, with a citation to the statute or rule which requires the applicant to pass the examination;
2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and

4. The name and telephone number of an agency contact person or a designee who can answer questions regarding the application process.

**H.** The following time-frames apply for certificate applications governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
2. Substantive review time-frame: 90 calendar days.
3. Overall time-frame: 114 calendar days.

**J.** An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**
Former Rule 3D; Former Section R4-11-32 renumbered as Section R4-11-304 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-304 repealed, new Section R4-11-304 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-305. Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and Semi-conscious Sedation Permits, and Conscious Sedation Permits**

**A.** Within 14 calendar days of receiving an initial or renewal application for a general anesthesia and semi-conscious sedation permit or a conscious sedation permit, the Board shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

**B.** An applicant with an incomplete package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.

**C.** Upon receipt of all missing information, the Board shall notify the applicant, in writing, within 10 calendar days, that the application is complete.

**D.** The Board shall not process an application until the applicant has fully complied with the requirements of this Article.

**E.** The Board shall notify an applicant, in writing, whether the initial permit or renewal governed by this Section is granted or denied, no later than 120 calendar days after the date of the notice advising the applicant that the package is complete.

**F.** The Board may deny a permit or renewal governed by this Section for any of the reasons stated in A.R.S. Title 32, Chapter 11, or if the applicant:
1. Fails to provide complete documentation;
2. Provides false or misleading information; or
3. Fails to meet the requirements of A.R.S. Title 32, Chapter 11 or this Chapter.

**G.** The notice of denial shall inform the applicant of the following:
1. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
4. The name and telephone number of an agency contact person who can answer questions regarding the application process.

**H.** The following time-frames apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
2. Substantive review time-frame: 120 calendar days.
3. Overall time-frame: 144 calendar days.

**Historical Note**
New Section R4-11-305 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 4. FEES

**R4-11-401. Triennial Registration Fees: Dentist**
The triennial registration fee for dentists is $450.00.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-42 renumbered as Section R4-11-401 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-401 repealed, new Section R4-11-401 renumbered from R4-11-901 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-402. Triennial Registration Fees: Hygienist**
The triennial registration fee for hygienists is $225.00.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-43 renumbered as Section R4-11-402, repealed, and new Section R4-11-402 adopted effective July 29, 1981 (Supp. 81-4). Amended effective February 16, 1995 (Supp. 95-1). Former Section R4-11-402 renumbered to R4-11-601, new Section R4-11-402 renumbered from R4-11-902 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-403. Triennial Registration Fees: Retired or Disabled Licensees and Certificate Holders**
The triennial registration fee for fully retired or permanently disabled licensees or certificate holders is $15.00.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-44 renumbered as Section R4-11-403 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-403 renumbered to R4-11-602, new Section R4-11-403 renumbered from R4-11-903 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-404. Penalty Fees**
The penalty fee for a licensee who does not pay the triennial registration fee on or before June 30 is $25.00.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1_. Former Section R4-11-45 renumbered as Section R4-11-404 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-404 renumbered from R4-11-904 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-405. Duplicate License, Duplicate Registration Receipt**
Each duplicate license or registration fee is $25.00.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-46 repealed, new Section R4-11-46 adopted effective March 23, 1976 (Supp. 76-2).

Former Section R4-11-46 renumbered as Section R4-11-405 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-405 renumbered from R4-11-905 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-406. Triennial Registration Fees: Denturist**

The triennial registration fee for denturists is $225.00.

**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-47 renumbered as Section R4-11-406 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-406 renumbered from R4-11-906 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-407. Fees for Anesthesia and Sedation Permits**

**A.** Pursuant to A.R.S. § 32-1207(D), the fee for a Section 1301 permit to administer general anesthesia and semi-conscious sedation or a Section 1302 permit to administer conscious sedation is $300.

**B.** Upon successful completion of the initial on-site evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301 or 1302 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every 3rd year.

**C.** The renewal fee for each Section 1301 or 1302 permit is $300 per dentist, per location.

**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-48 renumbered as Section R4-11-407 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-407 renumbered from R4-11-909 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-408. Renumbered**

**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-49 renumbered as Section R4-11-408 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1).

**R4-11-409. Repealed**

**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3).

## ARTICLE 5. DENTISTS

**R4-11-501. Dentist of Record**

**A.** A dentist shall ensure that each patient record card has the treatment records for a patient treated in any dental office, clinic, hospital dental clinic, or charitable institution dental clinic, and the full name of a dentist in the office, clinic, hospital dental clinic or charitable dental clinic who is responsible for all of the patient's treatment.

**B.** A dentist of record shall obtain a patient's consent to change the treatment plan that the patient originally agreed to and incur additional costs.

**C.** A dentist of record who leaves the practice of dentistry, or a practice in which the dentist is the dentist of record on specific patient records, shall ensure that a new dentist of record is entered on each patient record card.

**D.** A dentist of record remains responsible for the care given to the patient while the dentist was the dentist of record even after being replaced by another dentist.

**E.** A dentist of record shall remain responsible for the care of a patient during the course of treatment and shall be available to the patient through the dentist's office, an emergency number, an answering service, or a substituting dentist. Lack of availability to the patient on an emergency basis constitutes abandonment, and the dentist is subject to disciplinary action for such unprofessional conduct pursuant to A.R.S. Title 32, Chapter 11, Article 3.

**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-62 renumbered as Section R4-11-501 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-501 repealed, new Section R4-11-501 renumbered from R4-11-1102 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-502. Renumbered**

**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-63 renumbered as Section R4-11-502 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-502 renumbered to R4-11-701 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-503. Repealed**

**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-64 repealed, new Section R4-11-64 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-64 renumbered as Section R4-11-503 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-503 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-504. Renumbered**

**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-65 repealed, new Section R4-11-65 adopted effective May 23, 1976 (Supp. 76-2). Former Section R4-11-65 renumbered as Section R4-11-504, repealed, and new Section R4-11-504 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-504 renumbered to R4-11-702 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-505. Repealed**

**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-66 renumbered as Section R4-11-505 and repealed effective July 29, 1981 (Supp. 81-4).

**R4-11-506. Repealed**

**Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-67 renumbered as Section R4-11-506 and repealed effective July 29, 1981 (Supp. 81-4).

## ARTICLE 6. DENTAL HYGIENISTS

**R4-11-601. Duties and Qualifications**

**A.** A dental hygienist may apply preventative and therapeutic agents under the general supervision of a licensed dentist.

**B.** A dental hygienist may perform a procedure not specifically authorized by A.R.S. § 32-1281 when all of the following conditions are satisfied:
1. The procedure is recommended or prescribed by the supervising dentist;
2. The hygienist has received instruction, training, or education to perform the procedure in a safe manner; and
3. The procedure is performed under the general supervision of a licensed dentist.

**C.** The Board shall ensure that a dental hygienist is qualified to administer local anesthesia and nitrous oxide analgesia as authorized by A.R.S. § 32-1281(F)(1) and (2), by requiring evidence that the hygienist has completed courses in techniques taught at a recognized dental hygiene school or recognized dental school, as defined in A.R.S. § 32-1201(14) and (15), which consist of a minimum of 36 clock hours of instruction, and has passed examinations in theoretical knowledge and clinical competency in the following subject areas:
1. Review of head and neck anatomy;
2. Pharmacology of anesthetic and analgesic agents;
3. Medical - dental history considerations;
4. Emergency procedures;
5. Selection of appropriate armamentarium and agents;
6. Nitrous oxide administration;
7. Clinical practice, under direct supervision, as defined in A.R.S. § 32-1281(H)(1), including at least 3 experiences administering each of the following:
   a. Posterior superior alveolar injection,
   b. Middle superior alveolar injection,
   c. Anterior superior alveolar injection,
   d. Nasopalatine injection,
   e. Greater - palatine injection,
   f. Inferior alveolar nerve injection,
   g. Lingual injection,
   h. Mental injection,
   i. Long buccal injections, and
   j. Nitrous oxide analgesia.

**D.** In addition to the recognized course of study described in subsection (C), the hygienist shall successfully complete the examination in local anesthesia given by the Western Regional Examining Board. The hygienist shall submit proof of the successful completion of the local anesthesia examination to the Board. The Board shall then issue a Local Anesthesia Certificate.

**E.** For purposes of qualification of a dental hygienist to place interrupted sutures as authorized by A.R.S. § 32-1281(F)(3), the Board recognizes courses in advanced periodontal therapy offered by a recognized dental hygiene school or a recognized dental school, as defined in A.R.S. § 32-1201(14) and (15), which consist of a minimum of 200 clock hours of instruction and successful completion of those examinations of a theoretical knowledge and clinical competency in the following subject areas:
1. A review of oral histology,
2. Inflammation and pathogenesis of a periodontal pocket,
3. Patient assessment,
4. Dental hygiene treatment planning,
5. Advanced root planing and debridement,
6. Subgingival curettage,
7. Suturing,
8. Wound repair and new attachment, and
9. Clinical experience in each of the following:
   a. Root planing,
   b. Subgingival curettage,
   c. Suturing.

**F.** The hygienist shall submit proof of the successful completion of a recognized course in advanced periodontal therapy, as described in subsection (E), to the Board. The Board shall then issue a certification sticker for Suture Placement, which shall be affixed to the hygienist's license.

**G.** Dental hygienists shall not perform an irreversible procedure.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-82 renumbered as Section R4-11-601 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-601 repealed, new Section R4-11-601 renumbered from R4-11-402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-602. Care of Homebound Patients**

Dental hygienists treating homebound patients shall provide only treatment prescribed by the dentist of record in the diagnosis and treatment plan. The diagnosis and treatment plan shall be based on examination data obtained not more than 12 months before the treatment is administered.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-83 renumbered as Section R4-11-602 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-602 renumbered to R4-11-1001, new Section R4-11-602 renumbered from R4-11-403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-603. Limitation on Number Supervised**

A dentist shall not supervise more than 3 dental hygienists at a time.

**Historical Note**
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-84 renumbered as Section R4-11-603 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-603 renumbered to R4-11-1002, new Section R4-11-603 renumbered from R4-11-408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-604. Selection Committee and Process**

**A.** The Board shall appoint a selection committee to screen candidates for the dental hygiene committee. The selection committee consists of 3 members. The Board shall appoint at least 2 members who are dental hygienists and 1 member who is a current Board member. The Board shall fill any vacancy for the unexpired portion of the term.

**B.** Each selection committee member's term is 1 year.

**C.** By majority vote, the selection committee shall nominate each candidate for the dental hygiene committee and transmit a list of names to the Board for approval, including at least 1 alternate.

**Historical Note**
New Section R4-11-604 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-605. Dental Hygiene Committee**

**A.** The Board shall appoint 7 members to the dental hygiene committee as follows:
1. One dentist appointed at the annual December Board meeting, currently serving as a Board member, for a 1 year term;

2. One dental hygienist appointed at the annual December Board meeting, currently serving as a Board member and possessing the qualifications required in Article 6, for a 1 year term;
3. Four dental hygienists that possess the qualifications required in Article 6; and
4. One lay person.

**B.** Except for members appointed as prescribed in subsections (A)(1) and (2), the Board shall appoint dental hygiene committee members for staggered terms of 3 years, beginning January 1, 1999, and limit each member to 2 consecutive terms. The Board shall fill any vacancy for the unexpired portion of the term.

**C.** The dental hygiene committee shall annually elect a chairperson at the 1st meeting convened during the calendar year.

**Historical Note**
New Section R4-11-605 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-606. Candidate Qualifications and Submissions**

**A.** A dental hygienist who seeks membership on the dental hygiene committee shall possess a license in good standing, issued by the Board.

**B.** A dental hygienist who is not a Board member and qualifies under subsection (A) shall submit a letter of intent and resume to the Board.

**C.** The selection committee shall consider all of the following criteria when nominating a candidate for the dental hygiene committee:
1. Geographic representation,
2. Experience in postsecondary curriculum analysis and course development,
3. Public health experience, and
4. Dental hygiene clinical experience.

**Historical Note**
New Section R4-11-606 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-607 Duties of the Dental Hygiene Committee**

**A.** The committee shall advise the Board on all matters relating to the regulation of dental hygienists.

**B.** In performing the duty in subsection (A), the committee may:
1. Act as a liaison for the Board, promoting communication and providing a forum for discussion of dental hygiene regulatory issues;
2. Review applications, syllabi, and related materials and make recommendations to the Board regarding certification of courses in local anesthesia, nitrous oxide analgesia, and suture placement under Article 6 and other procedures which may require certification under Article 6;
3. Review documentation submitted by dental hygienists to determine compliance with the continuing education requirement for license renewal under Article 12 and make recommendations to the Board regarding compliance;
4. Make recommendations to the Board concerning statute and rule development which affect dental hygienists' education, licensure, regulation, or practice;
5. Provide advice to the Board on standards and scope of practice which affect dental hygiene practice;
6. Provide ad hoc committees to the Board upon request;
7. Request that the Board consider recommendations of the committee at the next regularly scheduled Board meeting; and
8. Make recommendations to the Board for approval of dental hygiene consultants.

**C.** Committee members who are licensed dentists or dental hygienists may serve as Western Regional Examining Board (WREB) examiners or Board consultants.

**D.** The committee shall meet at least 2 times per calendar year. The chairperson or the president of the Board, or their respective designees, may call a meeting of the committee.

**E.** The Board may assign additional duties to the committee.

**Historical Note**
New Section R4-11-607 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-608. Dental Hygiene Consultants**

After submission of a current curriculum vitae or resume and approval by the Board, dental hygiene consultants may:
1. Act as Western Regional Examining Board (WREB) examiners for the clinical portion of the dental hygiene examination;
2. Act as Western Regional Examining Board (WREB) examiners for the local anesthesia portion of the dental hygiene examination;
3. Participate in Board-related procedures, including clinical evaluations, investigation of complaints concerning infection control, insurance fraud, or the practice of supervised personnel, and any other procedures not directly related to evaluating a dentist's quality of care; and
4. Participate in on-site office evaluations for infection control, as part of a team.

**Historical Note**
New Section R4-11-608 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 7. DENTAL ASSISTANTS

**R4-11-701. Procedures and Functions Performed by a Dental Assistant under Supervision**

**A.** A dental assistant may perform the following procedures and functions under the direct supervision of a licensed dentist:
1. Place dental material into a patient's mouth in response to a licensed dentist's instruction;
2. Cleanse the supragingival surface of the tooth in preparation for:
   a. The placement of bands, crowns, and restorations;
   b. Dental dam application;
   c. Acid etch procedures; and
   d. Removal of dressings and packs;
3. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments;
4. Remove temporary cement, interim restorations, and periodontal dressings with hand instruments;
5. Remove sutures;
6. Place and remove dental dams and matrix bands;
7. Fabricate and place interim restorations with temporary cement;
8. Apply sealants;
9. Apply topical fluorides;
10. Prepare a patient for nitrous oxide and oxygen analgesia administration upon the direct instruction and presence of a dentist; or
11. Observe a patient during nitrous oxide and oxygen analgesia as instructed by the dentist.

**B.** A dental assistant may perform the following procedures and functions under the general supervision of a licensed dentist:
1. Train or instruct patients in oral hygiene techniques, preventive procedures, dietary counseling for caries and

plaque control, and provide pre-and post-operative instructions relative to specific office treatment;
2. Collect and record information pertaining to extraoral conditions; and
3. Collect and record information pertaining to existing intraoral conditions.

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-100 renumbered as Section R4-11-701 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-701 renumbered to R4-11-1701, new Section R4-11-701 renumbered from R4-11-502 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-702. Limitations on Procedures or Functions Performed by a Dental Assistant under Supervision**
A dental assistant shall not perform the following procedures or functions:
1. A procedure which by law only licensed dentists, licensed dental hygienists, or certified denturists can perform;
2. Intraoral carvings of dental restorations or prostheses;
3. Final jaw registrations;
4. Taking final impressions for any activating orthodontic appliance, fixed or removable prosthesis;
5. Activating orthodontic appliances; or
6. An irreversible procedure.

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-101 renumbered as Section R4-11-702 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-702 repealed, new Section R4-11-702 renumbered from R4-11-504 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-703. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-102 renumbered as Section R4-11-703 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-703 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-704. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-103 renumbered as Section R4-11-704 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-704 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-705. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-104 renumbered as Section R4-11-705 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-705 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-706. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-105 renumbered as Section R4-11-706 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-706 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-707. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-106 renumbered as Section R4-11-707 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-707 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-708. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-107 renumbered as Section R4-11-708 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-708 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-709. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-108 renumbered as Section R4-11-709 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-709 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-710. Repealed**

**Historical Note**
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-109 renumbered as Section R4-11-710 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-710 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 8. DENTURISTS

**R4-11-801. Consultants to the Board**
**A.** The Board shall appoint 5 certified denturists to assist and advise the Board regarding complaints, disciplinary actions, and examinations concerning denturists.
**B.** The Board of Dental Examiners shall appoint an examining team for each denturist certification examination pursuant to A.R.S. § 32-1297.02.
**C.** The examining team shall administer and grade the examination as required by A.R.S. § 32-1297.02 and shall make recommendations to the Board for certification of those who successfully completed the examination.

**Historical Note**
Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-120 renumbered as Section R4-11-801 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-801 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-801 repealed, new Section R4-11-801 renumbered from R4-11-1201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-802. Recognition of Schools of Denture Technology**
**A.** The Board shall use the criteria in Article 2 to determine whether to recognize a denture technology school.
**B.** The basic curriculum to recognize a program in denture technology shall contain those courses and number of course hours delineated in A.R.S. § 32-1297(C) and may include the following subjects: partial denture techniques, cardiopulmonary

resuscitation, X-ray interpretation, jurisprudence, and practice management.

**Historical Note**
Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-121 renumbered as Section R4-11-802 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-802 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-802 renumbered to R4-11-1301, new Section R4-11-802 renumbered from R4-11-1202 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-803. Renumbered**

**Historical Note**
Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-122 renumbered as Section R4-11-803 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-803 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-803 renumbered to R4-11-1302 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-804. Renumbered**

**Historical Note**
Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-123 renumbered as Section R4-11-804 without change effective July 29, 1981 (Supp. 81-4). Section R4-11-804 repealed, new Section filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Former Section R4-11-804 renumbered to R4-11-1303 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-805. Renumbered**

**Historical Note**
Adopted as filed April 4, 1986, adopted effective January 1, 1988 (Supp. 86-2). Amended effective May 17, 1995 (Supp. 95-2). Former Section R4-11-805 renumbered to R4-11-1304 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-806. Renumbered**

**Historical Note**
Adopted effective May 17, 1995 (Supp. 95-2). Former Section R4-11-806 renumbered to R4-11-1305 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 9. RESTRICTED PERMITS

**R4-11-901. Application for Restricted Permit**

**A.** An applicant for a restricted permit shall provide the following information and documentation on a form provided by the Board:
1. A sworn statement of the applicant's qualifications;
2. A photograph of the applicant that is no more than 6 months old;
3. A letter of endorsement from any other jurisdiction in which an applicant is licensed, sent directly from that jurisdiction to the Board;
4. A letter of endorsement from the applicant's commanding officer or superior if the applicant is in the military or employed by the United States government;
5. A copy of the applicant's cardiopulmonary resuscitation certification, indicating the expiration date; and
6. A copy of the applicant's pending contract with a charitable dental clinic or organization offering dental services.

**B.** The Board may request that an applicant provide a copy of a certified document that indicates the reason for a name change if the applicant's application contains different names.

**Historical Note**
Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-130 renumbered as Section R4-11-901, repealed, and new Section R4-11-901 adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-901 renumbered to R4-11-401, new Section R4-11-901 renumbered from R4-11-1001 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-902. Issuance of a Restricted Permit**

Before issuing a restricted permit under A.R.S. §§ 32-1237 through 32-1239, the Board shall investigate the professional and statutory qualifications of the charitable dental clinic or organization. For the Board to recognize a dental clinic or organization under A.R.S. § 32-1237 as a charitable dental clinic or organization permitted to employ dentists not licensed in Arizona who hold restricted permits, the Board shall make the following findings of fact:
1. That the entity is a dental clinic or organization offering professional dental services in a manner consistent with the public health;
2. That the dental clinic or organization offering dental services is operated for charitable purposes only, offering dental services either without compensation to the clinic or organization or with compensation at a minimum rate to provide only reimbursement for dental supplies and overhead costs;
3. That the persons performing dental services for the dental clinic or organization do so without compensation; and
4. That the charitable dental clinic or organization operates in accordance with applicable provisions of law.

**Historical Note**
Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-131 renumbered as Section R4-11-902, repealed, and new Section R4-11-902 adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-902 renumbered to R4-11-402, new Section R4-11-902 renumbered from R4-11-1002 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-903. Recognition of a Charitable Dental Clinic Organization**

In order for the Board to make the findings required in R4-11-902, the charitable clinic or organization shall provide information to the Board, such as employment contracts with restricted permit holders, Articles and Bylaws, and financial records.

**Historical Note**
Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-132 renumbered as Section R4-11-903, repealed, and new Section R4-11-903 adopted

effective July 29, 1981 (Supp. 81-4). Former Section R4-11-903 renumbered to R4-11-403, new Section R4-11-903 renumbered from R4-11-1003 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-904. Determination of Minimum Rate**

In determining whether professional services are provided at a minimum rate to provide reimbursement for dental supplies and overhead costs, pursuant to A.R.S. § 32-1237(1), the Board shall obtain and review information relating to the actual cost of dental supplies to the dental clinic or organization, the actual overhead costs of the dental clinic or organization, the amount of charges for the dental services offered and any other information relevant to its inquiry.

**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-133 renumbered as Section R4-11-904 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-904 renumbered to R4-11-404, new Section R4-11-904 renumbered from R4-11-1004 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-905. Restricted Permit Denial**

If the applicant for restricted permit or the dental clinic or organization with whom the applicant has a pending contract refuses or fails to furnish information requested by the Board with the result that the Board is unable to perform its duties under A.R.S. §§ 32-1237 through 32-1239, the Board shall not issue a restricted permit to the applicant.

**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-134 renumbered as Section R4-11-905 without change effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-2). Former Section R4-11-905 renumbered to R4-11-405, new Section R4-11-905 renumbered from R4-11-1005 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-906. Fully Retired or Permanently Disabled Licensees or Certificate Holders Providing Charitable Services**

A licensee or certificate holder who is fully retired or permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes.

**Historical Note**

Adopted effective July 29, 1981 (Supp. 81-4). Amended effective April 4, 1986 (Supp. 86-4). Emergency amendment adopted effective June 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Adopted effective July 13, 1992 (Supp. 92-3). Former Section R4-11-906 renumbered to R4-11-406, new Section R4-11-906 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-907. Repealed**

**Historical Note**

Adopted effective April 4, 1986 (Supp. 86-2). Former Section R4-11-907 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-908. Repealed**

**Historical Note**

Adopted effective April 4, 1986 (Supp. 86-2). Former Section R4-11-908 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-909. Renumbered**

**Historical Note**

Adopted effective May 17, 1995 (Supp. 95-2). Former Section R4-11-909 renumbered to R4-11-407 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 10. DENTAL TECHNICIANS

**R4-11-1001. Duties of Dental Laboratory Technician**

A dental technician may, pursuant to a written work order of a dentist, construct, alter, repair, reline, reproduce, or duplicate any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-140 renumbered as Section R4-11-1001 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1001 renumbered to R4-11-901, new Section R4-11-1001 renumbered from R4-11-602 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1002. Dental Technician Laboratory Work Orders**

**A.** A dentist shall retain a copy of a dental technician laboratory work order for at least 2 years from date of issuance.

**B.** A dental laboratory technician shall retain an original laboratory work order for at least 1 year from date of issuance.

**C.** A dentist and a dental laboratory technician shall permit the Board to inspect upon demand, the original and the duplicate of all work orders.

**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-141 renumbered as Section R4-11-1002 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1002 renumbered to R4-11-902, new Section R4-11-1002 renumbered from R4-11-603 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1003. Renumbered**

**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-142 renumbered as Section R4-11-1003 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1003 renumbered to R4-11-903 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1004. Renumbered**

**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-143 renumbered as Section R4-11-1004 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1004 renumbered to R4-11-904 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1005. Renumbered**

**Historical Note**

Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-144 renumbered as Section R4-11-1005 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1005 renumbered to R4-11-905 by final rulemaking at 5 A.A.R. 580, effective Febru-

ary 4, 1999 (Supp. 99-1).

**R4-11-1006. Repealed**

**Historical Note**
Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3).

## ARTICLE 11. ADVERTISING

**R4-11-1101. Advertising**

**A.** A dentist may advertise as a specialist or use the terms "specialty" or "specialist" to describe professional services only if the dentist practices in 1 of the specialty areas listed below, is recognized by the specialty board which certifies specialists for that area, and is accredited by the Commission on Dental Accreditation of the American Dental Association:
1. Endodontics,
2. Oral and maxillofacial surgery,
3. Orthodontics and dentofacial orthopedics,
4. Pediatric dentistry,
5. Periodontics,
6. Prosthodontics,
7. Dental Public Health, or
8. Oral Pathology.

**B.** For purposes of this Article, a dentist who wishes to advertise as a specialist in a recognized field shall meet the criteria in 1 or more of the following categories:
1. Grandfathered: A dentist who declared a specialty area before December 31, 1964, according to requirements established by the American Dental Association, and has a practice limited to a dentistry area approved by the American Dental Association.
2. Educationally qualified: A dentist who has successfully completed an educational program, 2 or more years long, in a specialty area accredited by the Commission on Dental Accreditation of the American Dental Association, as specified by the Council on Dental Education of the American Dental Association.
3. Board eligible: A dentist who has met the guidelines of an established specialty board in a recognized specialty area that operates in accordance with the requirements established by the American Dental Association. The specialty board shall have established examination requirements and standards, appraised an applicant's qualifications, administered comprehensive examinations, and upon completion issued a certificate to a dentist who has achieved diplomate status.
4. Board certified: A dentist who has met the requirements of a specialty board referenced in subsection (B)(3), and who has received a certificate from the speciality board, indicating the dentist has achieved diplomate status.

**C.** A dentist, dental hygienist, or denturist whose advertising implies that services rendered in a dental office are of a specialty area other than those listed in subsection (A), and recognized by a specialty board which has been accredited by the Commission on Dental Accreditation of the American Dental Association, has violated this Article and A.R.S. § 32-1201(18)(u), and is subject to discipline pursuant to A.R.S. Title 32, Chapter 11.

**D.** A dentist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase "Services provided by an Arizona licensed general dentist." A dental hygienist may advertise specific dental hygiene services only if the advertisement includes the phrase "Services provided by an Arizona licensed dental hygienist." A denturist may advertise specific denture services only if the advertisement includes the phrase "Services provided by an Arizona certified denturist."

**Historical Note**
Adopted effective July 29, 1981 (Supp. 81-4). Amended by repealing the former guideline on "Management of Craniomandibular Disorders" and adopting a new guideline effective June 16, 1982 (Supp. 82-3). Repealed effective November 20, 1992 (Supp. 92-4). Former Section R4-11-1101 repealed, new Section R4-11-1101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1102. Renumbered**

**Historical Note**
Adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1102 renumbered to R4-11-501 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1103. Reserved**

**R4-11-1104. Repealed**

**Historical Note**
Adopted effective November 25, 1985 (Supp. 85-6). Former Section R4-11-1104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1105. Repealed**

**Historical Note**
Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3).

## ARTICLE 12. CONTINUING DENTAL EDUCATION

**R4-11-1201. Continuing Dental Education**

**A.** A licensee, certificate holder, or restricted permit holder shall satisfy a continuing dental education requirement which is designed to provide an understanding of current developments, skills, procedures, or treatment related to the licensee, certificate holder, or restricted permit holder's practice.

**B.** A licensee, certificate holder, or restricted permit holder shall complete the recognized continuing dental education required by Article 12 each triennial period.

**C.** A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education by the end of the 1st full triennial period.

**Historical Note**
Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1201 renumbered to R4-11-801, new Section R4-11-1201 renumbered from R4-11-1402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1202. Compliance**

**A.** When applying for a renewal license or certificate pursuant to A.R.S. § 32-1236 for a dentist, A.R.S. § 32-1287 for a dental hygienist, and A.R.S. § 32-1297.06 for a denturist, the dentist, dental hygienist, or denturist shall certify to the Board completion of the prescribed credit hours of recognized continuing dental education triennially.

**B.** Each licensee or certificate holder shall possess, before receiving an original or renewal license or certificate, a current cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, the American Heart Association, or another certifying agency that follows the same procedures, standards, and techniques for CPR training and certification as the American Red Cross or American Heart Association.

**C.** A licensee or certificate holder shall include a written affidavit affirming the licensee's or certificate holder's completion of the prescribed credit hours of recognized continuing dental education with a renewal application. A licensee or certificate holder shall include on the affidavit the licensee's or certificate holder's name, license or certificate number, name of sponsor, program title and description, date, time, and location of the program, and dates of attendance.

**D.** If a licensee or certificate holder fails to meet the credit hour requirement because of illness, military service, dental or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board, upon written request, may grant an extension of time to complete the recognized continuing dental education credit hour requirement. The licensee or certificate holder shall request an extension before the time for renewal.

**E.** The Board shall only accept recognized continuing dental education credits accrued during the triennial period immediately before renewal for license or certificate renewal.

**F.** A licensee or certificate holder shall not carry forward recognized continuing dental education credit to a succeeding triennial renewal period.

**G.** A licensee or certificate holder shall preserve documentation of attendance for each program for which credit is claimed. The documentation shall verify the recognized continuing dental education credit hours for the preceding 2 triennial renewal periods.

**H.** Each year, the Board shall audit continuing education affidavits on a random basis or when the documentation submitted by the licensee or certificate holder does not appear to comply with this Section. A licensee or certificate holder whose affidavit is selected for audit shall provide the Board with documentation of attendance in support of the affidavit within 60 days from the date the licensee or certificate holder received notice, by certified mail, of the audit.

**I.** Any false statement in an affidavit shall be grounds for suspension, revocation, refusal to renew a license or certificate, or any other disciplinary action authorized by A.R.S. Title 32, Chapter 11.

**Historical Note**

Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1202 renumbered to R4-11-802, new Section R4-11-1202 renumbered from R4-11-1403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1203. Dentists**

A dentist shall complete 72 hours of recognized continuing dental education in a triennial period as follows:

1. At least 45 credit hours of recognized continuing dental education shall be in 1 or more of the following areas: Dental and medical health, cardiopulmonary resuscitation, preventative services, dental diagnosis and treatment planning, dental clinical procedures, including courses in corrective and restorative oral health and basic dental sciences which may include current research, new concepts in dentistry, and behavioral and biological sciences which are oriented to dentistry. A licensee who holds a permit to administer anesthesia, semi-conscious sedation, or conscious sedation who is required to obtain continuing education pursuant to Article 13 may apply those credit hours to this requirement.
2. No more than 18 credit hours of recognized continuing dental education shall be in the following areas: Dental practice organization and management, patient management skills, and methods of health care delivery.
3. At least 3 credit hours of recognized continuing dental education shall be in the area of chemical dependency.
4. At least 6 credit hours of recognized continuing dental education shall be in the area of infectious diseases and infectious disease control.
5. The Board may apply credit hours earned by a licensee in continuing education ordered by the Board pursuant to A.R.S. Title 32, Chapter 11 toward a licensee's 72-hour requirement.

**Historical Note**

Adopted effective September 12, 1985 (Supp. 85-5). Repealed effective July 21, 1995 (Supp. 95-3). New Section R4-11-1203 renumbered from R4-11-1404 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1204. Dental Hygienists**

A dental hygienist shall complete 54 credit hours of recognized continuing dental education in a triennial period as follows:

1. At least 34 credit hours of recognized continuing dental education shall be in 1 or more of the following areas: Dental and medical health, cardiopulmonary resuscitation, and dental hygiene services, which may include periodontal disease, care of implants, maintenance of cosmetic restorations and sealants, radiology safety and techniques, and new concepts in dental hygiene.
2. No more than 14 credit hours of recognized continuing dental education shall be in 1 or more of the following areas: Dental hygiene practice organization and management, patient management skills, and methods of health care delivery.
3. At least 2 credit hours of recognized continuing dental education shall be in the area of chemical dependency.
4. At least 4 credit hours of recognized continuing dental education shall be in the area of infectious diseases and infectious disease control.
5. The Board may apply credit hours earned by a licensee in continuing education ordered by the Board pursuant to A.R.S. Title 32, Chapter 11 toward a licensee's 54-hour requirement.

**Historical Note**

New Section R4-11-1204 renumbered from R4-11-1405 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1205. Denturists**

Denturists shall complete 24 credit hours of recognized continuing dental education in a triennial period as follows:

1. At least 15 credit hours of recognized continuing dental education shall be in 1 or more of the following areas: Medical and dental health, cardiopulmonary resuscitation, laboratory procedures, and clinical procedures.
2. No more than 6 credit hours of recognized continuing dental education may be in 1 or more of the following areas: Denturist practice organization and management, patient management skills, and methods of health care delivery.
3. At least 1 credit hour of recognized continuing dental education shall be in the area of chemical dependency.
4. At least 2 credit hours of recognized continuing dental education shall be in the area of infectious diseases and infectious disease control.
5. The Board may apply credit hours earned by a certificate holder in continuing education ordered by the Board pursuant to A.R.S. Title 32, Chapter 11 toward a certificate holder's 24-hour requirement.

**Historical Note**
New Section R4-11-1205 renumbered from R4-11-1406 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1206. Restricted Permit Holders**
A restricted permit holder shall comply with the requirements in R4-11-1202 except as indicated below:

1. When applying for renewal pursuant to A.R.S. § 32-1238, the licensee shall provide information to the Board that the licensee has completed 24 credit hours of recognized continuing dental education yearly.
2. Each renewal application shall include a written affidavit affirming the licensee's completion of 24 credit hours of recognized continuing dental education. The affidavit shall include a licensee's name, license number, name of sponsor, program title and description, date, time, and location of the program, and dates of attendance.
3. To determine whether to grant the renewal, the Board shall only consider recognized continuing dental education credits accrued between July 1 and June 30 immediately before the licensee submitted the renewal application.
4. A restricted permit holder shall maintain documentation of attendance for each program for which credit is claimed. The documentation shall verify the recognized continuing dental education credits in which the licensee has participated during the preceding 2 renewal periods.
5. A restricted permit holder shall complete 24 hours of recognized continuing dental education prior to renewal as follows:
   a. At least 15 credit hours of recognized continuing dental education shall be in 1 or more of the subjects enumerated in R4-11-1203(1).
   b. No more than 6 credit hours of recognized continuing dental education may be in 1 or more of the subjects enumerated in R4-11-1203(2).
   c. At least 1 credit hour of recognized continuing dental education shall be in the subjects enumerated in R4-11-1203(3).
   d. At least 2 credit hours of recognized continuing dental education shall be in the subjects enumerated in R4-11-1203(4).
   e. The Board may apply credit hours earned by a licensee in continuing education ordered by the Board pursuant to A.R.S. Title 32, Chapter 11 toward a licensee's 24-hour requirement.

**Historical Note**
New Section R4-11-1206 renumbered from R4-11-1407 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1207. Types of Courses**
A licensee or certificate holder shall obtain recognized continuing dental education from 1 or more of the following types of curricula:

1. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry, or
2. Curricula designed to prepare for specialty board certification as a specialist or recertification examinations or advanced training at an accredited institution as defined in A.R.S. Title 32, Chapter 11.
3. No more than 18 credit hours for dentists, 14 credit hours for dental hygienists, or 6 credit hours for denturists per triennial period shall be earned for any of the following activities which provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry:
   a. A dental education program based on self-instruction which utilizes videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, computers, or independent reading with examination;
   b. Participation on the Board or in Board complaint investigations including clinical evaluations and investigative interviews, peer review, or quality of care or utilization review in a hospital, institution, or governmental agency;
   c. Providing dental-related instruction to dental, dental hygiene, or denturist students, or allied health professionals in a recognized dental school, recognized dental hygiene school, or recognized school of denture technology, or is sponsored by a national or state dental, dental hygiene, or denturist association; or
   d. Publication or presentation of a dental paper, report, or book that the licensee or certificate holder has authored and published, which provides information on current developments, skills, procedures, or treatment related to the practice of dentistry. Credit hours shall be claimed only once for materials presented. Credits shall be claimed as of the date of publication or original presentation. One credit hour may be reported per hour of preparation, writing or presentation.

**Historical Note**
New Section R4-11-1207 renumbered from R4-11-1408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 13. GENERAL ANESTHESIA AND SEDATION

**R4-11-1301. General Anesthesia and Semi-conscious Sedation**

**A.** To administer general anesthesia by any means, or semi-conscious sedation by intravenous or intramuscular means, on an outpatient basis, a dentist shall possess a permit to administer general anesthesia and semi-conscious sedation ("Section 1301 permit") issued by the Board. A Section 1301 permit shall be renewed every 3 years by complying with R4-11-1305.

**B.** To obtain or renew a Section 1301 permit, a dentist shall:
1. Apply to the Board on the prescribed application form available from the Board office. The application form shall require information about each requirement to issue and renew a Section 1301 permit, as specified in subsections (B)(2) and (3), and R4-11-1305.
   a. The application form shall require general information about the applicant such as: name; home and office addresses and telephone numbers; limitations of practice; hospital affiliations; denial, curtailment, revocation, or suspension of hospital privileges; and denial of membership in, or renewal of membership in, or disciplinary action by any dental regulatory body or dental organization.
   b. The application form shall require the dentist to sign an affidavit stating that information provided is true, and that the dentist has read and complied with the Board's statutes and rules. The dentist shall return the completed form to the Board office;
2. Produce evidence that the dentist:
   a. Will administer general anesthesia and semi-conscious sedation in a facility containing the following properly operating equipment and supplies: anesthesia or analgesia machine; emergency drugs; electro-

cardiograph monitor; pulse oximeter; cardiac defibrillator; positive pressure oxygen; suction; laryngoscope and blades; endotracheal tubes; Magill forceps; oral airways; stethoscope and blood pressure monitoring device;

b. Has a supervised team of auxiliary personnel for each facility in which the dentist will administer general anesthesia and semi-conscious sedation. A team shall be capable of handling procedures, problems, and emergency incidents. All team members shall hold a current certification in basic cardiopulmonary resuscitation (CPR) annually;

c. Holds a valid license to practice dentistry in Arizona;

d. Maintains a current permit to prescribe and administer controlled substances in Arizona issued by the United States Drug Enforcement Administration; and

e. Has passed a course approved by the American Heart Association or the American Red Cross on advanced cardiac life support (ACLS) within the 2 years before submitting the permit application; and

3. Meets 1 or more of the following conditions:

a. Has completed a full credit load, as defined by the training program, during 1 calendar year of training, in anesthesiology or related academic subjects, beyond the undergraduate dental school level in a training program described in R4-11-1304(A), offered by a hospital accredited by the Joint Commission of Accreditation of Hospitals Organization, or sponsored by a university accredited by the American Dental Association Commission on Dental Accreditation;

b. Is a Diplomate of the American Board of Oral and Maxillofacial Surgeons, or is eligible for examination by the American Board of Oral and Maxillofacial surgeons, or is a Fellow of the American Association of Oral and Maxillofacial surgeons, or is a Fellow of the American Dental Society of Anesthesiology or is eligible for examination by the American Dental Society of Anesthesiology; or

c. Employs or works with a licensed medical or osteopathic physician who is a member of the anesthesiology staff of an accredited hospital in Arizona and the anesthesiologist remains on the dental facility premises until any patient given general anesthetic or semi-conscious sedation regains consciousness and is discharged.

**C.** After submitting the application and written evidence of compliance with requirements outlined in subsection (B) to the Board, the dentist shall schedule an on-site evaluation by the Board in which the dentist shall administer general anesthesia and semi-conscious sedation. After a dentist completes the application requirements and successfully completes the on-site evaluation, the Board shall issue the dentist a 1301 permit.

1. The on-site evaluation team shall be 2 dentists who are Board members, or Board designees. The on-site evaluation team shall look for the following:

a. The availability of equipment and personnel, pursuant to subsection (B)(2);

b. Proper administration of general anesthesia or parenteral semi-conscious sedation to a patient by the dentist before the evaluation team; and

c. Successful responses to oral examination questions, about patient management, medical emergencies, and emergency medications.

2. The on-site evaluation of a subsequent facility in which general anesthesia is administered shall consist of the elements described in subsection (C)(1)(a) only as verified by an affidavit.

**D.** A dentist shall keep an anesthesia record for each general anesthesia and semi-conscious sedation administered.

1. The record shall include the following entries: pre-and post-operative electrocardiograph reports; pre-, post-, and intra-operative pulse oximeter readings; blood pressure and vital signs; intra-operative blood pressures; and a list of all medications given, with dosage and time intervals.

2. The record may include the following entries: route and site of administration; type of catheter or portal with gauge; nothing by mouth or last intake noted; consent form; time of discharge and status, including name of escort.

**E.** A dentist, who has obtained a Section 1301 permit to administer general anesthesia and semi-conscious sedation, may employ a nurse anesthetist to administer general anesthesia and semi-conscious sedation under direct supervision.

**F.** A dentist who has obtained a Section 1301 permit is also authorized to administer conscious sedation without obtaining a Section 1302 permit.

**Historical Note**

New Section R4-11-1301 renumbered from R4-11-802 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1302. Conscious Sedation**

**A.** A dentist who possesses a Section 1301 permit is also authorized to administer conscious sedation. To administer conscious sedation by intravenous or intramuscular means on an outpatient basis, a dentist who does not possess a Section 1301 permit shall possess a permit to administer conscious sedation ("Section 1302 permit") issued by the Board. The Section 1302 permit shall be renewed every 3 years by complying with R4-11-1305.

**B.** To obtain or renew a Section 1302 permit, the dentist shall:

1. Apply to the Board on the prescribed application form available from the Board office. The application form shall require information regarding the requirements to obtain and renew a Section 1302 permit, as specified in subsections (B)(2) and (3) and R4-11-1305.

a. The application form shall require general information about the applicant such as: name; home and office addresses and telephone numbers; limitations of practice; hospital affiliations; denial, curtailment, revocation, or suspension of hospital privileges; and denial of membership in, or renewal of membership in, or disciplinary action by any dental regulatory body or dental organization.

b. The application form shall require the dentist to sign an affidavit stating that information provided is true, and that the dentist has read and complied with the Board's statutes and rules. The dentist shall return the completed form to the Board office; and

2. Produce evidence that the dentist:

a. Will administer conscious sedation intravenously or intramuscularly in a facility containing the following properly operating equipment and supplies: emergency drugs; positive pressure oxygen; stethoscope; suction; nasopharyngeal tubes; pulse oximeter; oropharyngeal tubes; and, blood pressure monitoring device;

b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency

incidents for each facility in which the dentist will administer conscious sedation. At least 1 staff member, present during the procedure, shall be certified in basic cardiac life support (CPR) annually;

c. Holds a valid license to practice dentistry in Arizona;

d. Maintains a current permit to prescribe and administer controlled substances in Arizona issued by the United States Drug Enforcement Administration;

e. Has passed a course approved by the American Heart Association or the American Red Cross on advanced cardiac life support (ACLS) within the 2 years before submitting the permit application; and

f. Has participated in 60 clock hours of Board approved undergraduate, graduate, or postgraduate education within the 3 years before submitting the permit application, which includes training in basic conscious sedation, including administration of parenteral sedative medications to at least 10 patients; physical evaluation, management of medical emergencies, monitoring, and the use of monitoring equipment.

**C.** After submitting the application and written evidence of compliance with requirements outlined in subsection (B) to the Board, the dentist shall schedule an on-site evaluation by the Board in which the dentist shall administer conscious sedation. After a dentist completes the application requirements and successfully completes the on-site evaluation, the Board shall issue the dentist a 1302 permit.

1. The on-site evaluation team shall be 2 dentists who are Board members, or Board designees. The on-site evaluation team shall look for the following:
   a. The availability of equipment and personnel pursuant to subsection (B)(2);
   b. Proper administration of conscious sedation to a patient by the dentist before the evaluation team; and
   c. Successful responses to oral examination questions, about patient management, medical emergencies, and emergency medications.
2. The on-site evaluation of a subsequent facility in which conscious sedation is administered shall consist of the elements described in subsection (C)(1)(a) only, as verified by an affidavit.

**D.** A dentist shall keep an anesthesia record for each conscious sedation administered.

1. The record shall include the following entries: pre-, post-, and intra-operative pulse oximeter readings; pre-and postoperative blood pressure and vital signs; intra-operative blood pressures; and a list of all medications given, with dosage and time intervals.
2. The record may include the following entries: pre- and post-operative electrocardiograph report; route and site of administration; type of catheter or portal with gauge; nothing by mouth or last intake noted; consent form; time of discharge and status, including name of escort.

**E.** A dentist who has obtained a Section 1302 permit to administer conscious sedation, may employ a nurse anesthetist to administer conscious sedation under direct supervision.

**Historical Note**
New Section R4-11-1302 renumbered from R4-11-803 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1303. Reports of Adverse Occurrences**

If a death, or incident causing a patient temporary or permanent physical or mental injury or requiring medical intervention, occurs in an outpatient facility as a direct result of the administration of general anesthesia, semi-conscious sedation, or conscious sedation, the permit holder and the treating dentist involved shall submit a complete report of the incident to the Board within 10 days after its occurrence.

**Historical Note**
New Section R4-11-1303 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1304. Education**

**A.** To obtain a Section 1301 permit by satisfying the education requirement of R4-11-1301, a dentist shall successfully complete an advanced education program (postgraduate or graduate) in pain control.

1. The program shall include instruction in the following subject areas:
   a. Anatomy and physiology of the human body and its response to the various pharmacologic agents used in pain control;
   b. Physiological and psychological risks for the use of various modalities of pain control;
   c. Psychological and physiological need for various forms of pain control and the potential response to pain control procedures;
   d. Techniques of local anesthesia, sedation, and general anesthesia, and psychological management and behavior modification, as they relate to pain control in dentistry; and
   e. Handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.
2. The program shall consist of didactic and clinical training. The didactic component of the program shall be the same for all dentists, general practitioners, or specialists. The didactic component shall include each subject area listed in subsection (A)(1).
3. The dentist shall complete at least 1 calendar year of training as prescribed in R4-11-1301(B)(3)(a).

**B.** To maintain a Section 1301 or 1302 permit pursuant to R4-11-1301 or R4-11-1302, a dentist shall participate in 12 clock hours of continuing education every 3 years. The education shall be in 1 or more of the following areas: general anesthesia; conscious sedation; physical evaluation; medical emergencies; monitoring and use of monitoring equipment; or pharmacology of utilized drugs and agents. In addition to these 12 hours, the dentist shall pass a course approved by the American Heart Association or American Red Cross on advanced cardiac life support (ACLS), at intervals described in R4-11-1301(B)(2)(e) and R4-11-1302(B)(2)(e).

**Historical Note**
New Section R4-11-1304 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1305. Renewal of Permit**

**A.** To renew a Section 1301 or 1302 permit before December 31 of every 3rd year, a dentist shall provide written documentation of compliance with continuing education requirements, as prescribed in R4-11-1304 by submitting the application form to the Board described in Article 13. Not less than 90 days before the expiration of a dentist's current permit, the dentist shall arrange for a new on-site evaluation as described in Article 13. After a dentist has successfully completed the evalua-

tion and submitted required affidavits, the Board shall issue a renewal Section 1301 or 1302 permit.

**B.** The Board may stagger due dates for renewal applications.

**Historical Note**
New Section R4-11-1305 renumbered from R4-11-806 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 14. DISPENSING DRUGS AND DEVICES FOR PROFIT AND NOT FOR PROFIT

### R4-11-1401. Registration and Renewal

**A.** A dentist who is currently licensed to practice dentistry in Arizona may dispense controlled substances, prescription-only drugs, and prescription-only devices for profit after providing the Board the following information:
1. A completed registration form which includes the following information:
   a. The dentist's name and dental license number;
   b. A list of the types of drugs and devices to be dispensed for profit, including controlled substances; and
   c. Locations where the dentist desires to dispense the drugs and devices for profit; and
2. A copy of the dentist's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the dentist desires to dispense the drugs and devices for profit.

**B.** The Board shall issue a numbered certificate indicating the dentist is registered with the Board to dispense drugs and devices for profit.

**C.** A dentist shall renew a registration to dispense drugs and devices for profit by complying with the requirements in subsection (A) before the dentist's June 30 triennial license expiration date. When a dentist has made timely and complete application for the renewal of a registration, the dentist may continue to dispense until the Board approves or denies the application. Failure to renew a registration shall result in immediate loss of dispensing for profit privileges.

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1401 repealed, new Section R4-11-1401 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

### R4-11-1402. Prescribing

**A.** A prescription order shall contain, in addition to the requirements of A.R.S. §32-1298(C), the following information:
1. Date of issuance;
2. Name and address of the patient to whom the prescription has been issued;
3. Name, strength, and quantity of the drug prescribed;
4. Name and address of the dentist prescribing the medication; and
5. Drug Enforcement Administration registration number of the dentist prescribing for controlled substances.

**B.** Before dispensing for profit, a dentist shall write a prescription for the drug or device being dispensed, and include on the prescription the following statement in bold type: "This prescription may be filled by the prescribing dentist or by a pharmacy of your choice." If a dentist is not dispensing for profit, a prescription does not need to be written.

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1402 renumbered to R4-11-1201, new Section R4-11-1402 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

### R4-11-1403. Labeling and Dispensing

**A.** A dentist shall include the following information on the label of all drugs and devices dispensed:
1. The dentist's name, address, and telephone number;
2. The serial number;
3. The date the drug or device is dispensed;
4. The patient's name;
5. Name, strength, and quantity of drug dispensed;
6. The name of the drug manufacturer or distributor;
7. Directions for use and cautionary statement necessary for the safe and effective use of the drug or device; and
8. If a controlled substance is prescribed, the cautionary statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

**B.** A dentist shall perform the following professional practices, in directly dispensing for profit a prescription medication or device from a prescription order:
1. Verify the legalities and pharmaceutical feasibility of dispensing, including allergies, incompatibilities, unusual quantities of dangerous drugs or narcotics, and signature of the prescribing dentist;
2. Verify that the dosage is within proper limits;
3. Interpret the prescription order;
4. Prepare the package and label, or assume responsibility for preparing, packaging, and labeling the medication or device, dispensed under an individual prescription order;
5. Check the label to verify it precisely communicates the prescriber's directions and hand-initial every label;
6. Record, or assume responsibility for recording the serial number and the date dispensed on the front of the original prescription order; and
7. Record on the original prescription order the name or initials of the dentist who dispensed the order.

**C.** Before delivery, the dentist shall prepare the drug or device to ensure compliance with the prescription and personally inform the patient of the name of the drug or device, directions for its use, precautions, and storage requirements.

**D.** A dentist shall purchase all dispensed drugs and devices from a licensed manufacturer, distributor, or pharmacy.

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1403 renumbered to R4-11-1202, new Section R4-11-1403 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

### R4-11-1404. Storage and Packaging

**A.** A dentist shall keep all drugs and devices secured in a locked cabinet or room, control access to the cabinet or room by written procedure, and maintain an ongoing inventory of the contents. The written procedure shall be made available to the Board or its authorized agents on demand for inspection or copying.

**B.** A dentist shall maintain storage rooms so that the temperature in the storage rooms does not exceed 85° Fahrenheit.

**C.** A dentist shall not dispense a drug or device that has expired or is improperly labeled.

**D.** A dentist shall not redispense a drug or device that has been returned.

**E.** A dentist shall dispense a drug or device:
1. In a prepackaged container or light-resistant container with a consumer safety cap, unless the patient or patient's representative requests a non-safety cap; and
2. With a label that is mechanically or electronically printed.

**F.** A dentist shall destroy controlled substances pursuant to the Drug Enforcement Administration regulations or by using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration.

**G.** A dentist shall destroy an outdated, deteriorated, or defective non-controlled substance drug or device by returning it to the supplier or using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration.

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1404 renumbered to R4-11-1203, new Section R4-11-1404 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1405. Recordkeeping**

**A.** A dentist shall:
1. Chronologically date and sequentially number prescription orders in the order that the drugs or devices were originally dispensed,
2. Sequentially file orders separately from patient records, as follows:
   a. Schedule II drug orders shall be filed separately from all other prescription orders;
   b. Schedule III, IV, and V drug orders shall be filed separately from all other prescription orders; and
   c. All other prescription orders shall be filed separately from those stated in subsections (A)(2)(a) and (b),
3. Record the name of the manufacturer or distributor of the drug or device dispensed on each prescription order and label, and
4. Record the name or initials of the dentist dispensing the drug or device on each prescription order and label.

**B.** A dentist shall record in the patient's dental record the name, form, and strength of the drug or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, and the dental therapeutic reasons for dispensing the drug or device, with respect to dispensing for profit and not for profit.

**C.** A dentist shall maintain purchase and dispensing records of all drugs and devices, for profit and not for profit, for 3 years from the date dispensed.

**D.** A dentist who dispenses drugs and devices, for profit and not for profit, shall inventory schedule II, III, IV, and V drugs as prescribed by federal law. A dentist shall perform a controlled substance inventory on March 1 annually, as directed by the Board, and at the opening or closing of a dental practice. A dentist shall maintain the inventory for 3 years from the inventory date. One inventory book may be used for all controlled substances. When recording Schedule II drugs, an exact count shall be done. When doing an inventory on bottles of 1,000 or less of Schedule III, IV, and V drugs, an estimate may be made.

**E.** A dentist shall maintain invoices, for drugs and devices dispensed for profit and not for profit, for 3 years from the date of the invoices, filed as follows:
1. Schedule II drug invoices shall be filed separately from all other records;
2. Schedule III, IV, and V drugs shall be filed separately from all other records; and
3. All other invoices shall be filed separately from those referenced in subsections (E)(1) and (2).

**F.** A dentist shall file Drug Enforcement Administration order forms, No. DEA 222, for controlled substances sequentially and separately from every other record.

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1405 renumbered to R4-11-1204, new Section R4-11-1405 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1406. Compliance**

**A.** A dentist who determines that drugs have been illegally removed from the dentist's office, or that there is a drug shortage of controlled substances, shall immediately notify a local law enforcement agency and the Board. The dentist also shall provide the law enforcement agency with a written report, using a DEA 106 form, and provide copies to the Drug Enforcement Administration and the Board within 7 days of the discovery.

**B.** A dentist who dispenses drugs or devices in a manner inconsistent with Article 14 is subject to discipline pursuant to A.R.S. Title 32, Chapter 11, Article 3.

**Historical Note**
Adopted effective July 21, 1995; inadvertently not published with Supp. 95-3 (Supp. 95-4). Former Section R4-11-1406 renumbered to R4-11-1205, new Section R4-11-1406 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1407. Renumbered**

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1407 renumbered to R4-11-1206 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1408. Renumbered**

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1408 renumbered to R4-11-1207 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1409. Repealed**

**Historical Note**
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1409 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION, REINSTATEMENT OF REVOKED LICENSES

**R4-11-1501. Ex-parte Communication**

A complainant and licensee or certificate holder against whom a complaint has been filed, shall not engage in ex-parte communication.

**Historical Note**
New Section R4-11-1501 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1502. Complaint Investigator Qualifications**

A dentist, dental hygienist, or denturist appointed as a Board investigator shall:
1. Possess a valid license, restricted permit, or certificate to practice in Arizona;
2. Have at least 5 years of practice in Arizona; and
3. Not have been disciplined by the Board within the past 24 months.

**Historical Note**
New Section R4-11-1502 adopted by final rulemaking at

5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1503. Initial Complaint Review**

**A.** The president's designee shall initially review a complaint. If the designee determines that the Board has no jurisdiction, the complaint shall be forwarded to the Board for termination.

**B.** If the designee determines that the Board has jurisdiction:

1. Board personnel shall notify the complainant and licensee or certificate holder of the investigative and adjudicative process as follows:
   a. By regular U.S. Mail that the complaint has been filed and whether a clinical evaluation will be scheduled; and
   b. By certified U.S. Mail of an informal interview, investigative interview, or mediation, if the complaint has been tabled or remanded, of a postponement or continuance, and a subpoena, notice, or order.
2. The president's designee shall refer the complaint to an informal interview, investigative interview, or mediation. Where the allegations, if proven, may result in suspension or revocation of license or certificate, the complaint shall be referred to an informal interview. All other complaints shall be referred to investigative interview or mediation.
3. The Board may subpoena a patient's treatment records from the licensee, certificate holder, or any other health care provider.
4. Board personnel shall provide the licensee or certificate holder with a copy of the complaint upon receipt of the treatment records.
5. If a complaint alleges a violation of the state or federal criminal code, the Board shall refer the complaint to the proper law enforcement agency.
6. If during the course of investigating a complaint, but before an investigative or informal interview, it appears the evidence does not support the allegations contained in the complaint the president's designee shall forward the complaint to the Board for termination.

**C.** The Board's procedures for complaints referred to clinical evaluation are:

1. Except as provided in subsection (C)(1)(a), the president's designee shall appoint 1 or more dentists to perform a clinical evaluation. If there is more than 1 clinical evaluation, the clinical evaluators do not need to be present at the same time. The Board shall approve each clinical evaluator.
   a. If the complaint involves a dental hygienist, denturist, or dentist who is a recognized specialist, the president's designee shall appoint a clinical evaluator from that area of practice or specialty.
   b. The Board shall not disclose the identity of the licensee to a clinical evaluator before the Board receives the clinical evaluator's report.
2. The president's designee or clinical evaluator shall prepare a clinical evaluation report for the informal or investigative interview or Board meeting. The president's designee shall provide a copy of the clinical evaluation report to the licensee or certificate holder. The licensee or certificate holder may submit a written response to the clinical evaluation report before the informal or investigative interview or Board meeting.

**D.** The Board's procedures for investigative and informal interviews are as follows:

1. Board personnel shall provide the complainant and licensee or certificate holder with written notice of the time and date of the investigative interview or informal interview. The notice shall include all allegations contained in the complaint and any allegation which arose during the Board's investigation before the notice date.
2. The Board's president or the president's designee may request an informal interview. The Board president or president's designee:
   a. May appoint 1 or more Board members to act as the informal interviewing officer; or
   b. May appoint a Board approved investigator to assist the informal interviewing officer; and
   c. Shall appoint 1 investigator or Board member from the relevant area of practice or specialty, if the licensee or certificate holder is a dental hygienist, denturist, or recognized dental specialist.
3. If a complaint is referred for an investigative interview, the president's designee shall appoint an investigator or an investigative panel, consisting of at least 2 dentists and 1 lay person to conduct the investigative interview. One panel member, who is not a lay person, shall serve as the chairperson. If the licensee or certificate holder is a dental hygienist, denturist, or a recognized dental specialist, at least 1 investigator shall be from that area of practice or specialty.
4. The complainant and licensee may agree to waive the requirements in this Section regarding appointment of a licensee from a specific practice area or specialty, or a lay person.
5. The complainant and licensee or certificate holder and any witness present at the informal interview or investigative interview may be questioned by the informal interviewing officer, investigators, or investigative interview panel. Counsel representing the complainant, licensee, or certificate holder, or the complainant, licensee, or certificate holder may direct questions through the chairperson of the investigative interview panel or informal interviewing officer. Following the presentation of all testimony and evidence, the complainant and licensee or certificate holder or their respective representative may make a closing statement.
6. The informal interviewing officer, investigator, or investigative interview panel shall develop findings of fact, conclusions of law, and a recommendation for disposition of the complaint based on the treatment records, the clinical evaluation observations and documentation, testimony of the complainant and licensee or certificate holder, and any other witnesses or relevant documents.
7. Board personnel shall prepare a written report of the investigative or informal interview from the recording of the interview and the informal interviewing officer's or investigator's or investigative interview panel's written findings of fact, conclusions of law, and recommendation.
8. Board personnel shall record all informal and investigative interviews mechanically or stenographically.

**Historical Note**

New Section R4-11-1503 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-1504. Reinstatement**

**A.** A person who wants to reinstate a revoked license shall comply with the application requirements in A.R.S. Title 32, Chapter 11 and this Chapter.

**B.** An applicant for reinstatement also shall provide information to the Board reflecting that the applicant is rehabilitated with respect to the conduct which was the basis for the revocation.

**C.** An applicant for reinstatement who submits an application more than 5 years after the date of revocation shall also com-

ply with the examination requirements in A.R.S. Title 32, Chapter 11 and this Chapter.

**Historical Note**
New Section R4-11-1504 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 16. MEDIATION

**R4-11-1601. Mediation Process**

**A.** The Board's executive director or chief investigator shall review each complaint that does not involve dental incompetence, malpractice, or criminal allegations to decide whether to refer the complaint to mediation.

**B.** A complaint against a respondent who has 2 or more final Board disciplinary actions in the 24 months immediately preceding the date that the current complaint was filed with the Board shall not be referred to mediation.

**C.** If a complaint is referred to mediation, the investigator shall seek written agreements from the complainant and respondent to participate in mediation before mediation proceeds.

**D.** The Board's staff may subpoena relevant records. The Board's staff shall provide the mediator with all documentation regarding the complaint including the complaint, response, dental records, billings, and correspondence. The documents obtained by subpoena or produced by either the complainant or the respondent may be used in the investigation of the complaint if an investigation proceeds.

**E.** Upon receipt of the signed agreements to participate in mediation, and all relevant records, the mediator shall schedule the location, date, and time of the mediation. Mediation may be held in person, or telephonically.

**F.** The Board staff shall mail a mediation meeting notice to the complainant and respondent at least 20 days before the scheduled mediation.

**G.** Mediation sessions shall not be recorded. Statements made during mediation are confidential and shall not be used in any subsequent administrative or legal proceeding. The mediator's notes shall not be part of the complaint file, and shall be kept confidential. The mediator shall not be subpoenaed, or otherwise involved, in any court proceeding, lawsuit, or other legal action involving the parties and the subject matter that was a part of a complaint that was sent to mediation.

**H.** Any agreement reached by the complainant and respondent shall not be construed as an admission of any wrongdoing.

**I.** If a mediation agreement is reached, the mediator shall put it in writing. The agreement shall be signed by the complainant and the respondent, and is subject to review and approval by the Board.

**J.** The Board staff shall monitor the respondent's compliance with the terms of the mediation agreement.

**K.** If the respondent fully complies with the terms of a Board approved mediation agreement, the complaint shall be dismissed by Board order.

**L.** A complaint shall proceed through the Board's investigative and adjudicative procedures pursuant to A.R.S. Title 32, Chapter 11, Article 3 if:

1. A complaint is not referred to mediation,
2. Mediation is declined,
3. A mediation agreement is not reached,
4. The Board does not approve a mediation agreement, or
5. The Board is presented with facts indicating that the respondent may not have complied with the terms of mediation agreement.

**Historical Note**
New Section R4-11-1601 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

## ARTICLE 17. REHEARING OR REVIEW

**R4-11-1701. Procedure**

**A.** Except as provided in subsection (F), a party who is aggrieved by an order issued by the Board may file a written motion for rehearing or review with the Board, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the grounds for rehearing or review.

**B.** A party filing a motion for rehearing or review under this rule may amend the motion at any time before it is ruled upon by the Board. Other parties or the attorney general may file a response within 15 days after the date the motion for rehearing or review is filed. The Board may require that the parties file supplemental memoranda explaining the issues raised in the motion, and may permit oral argument.

**C.** The Board may grant a rehearing or review of the order for any of the following causes materially affecting a party's rights:

1. Irregularity in the proceedings of the Board or any order or abuse of discretion, which deprived a party of a fair hearing;
2. Misconduct of the Board, its personnel, the informal interviewing officer, the investigative interview panel, the hearing officer, the administrative law judge, or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Excessive or insufficient penalties;
5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding;
6. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion;
7. That the findings of fact or decision is not justified by the evidence or is contrary to law; or
8. Newly discovered, material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing.

**D.** The Board may affirm or modify the order or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. The Board, within the time for filing a motion for rehearing or review, may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. An order granting a rehearing or review shall specify the grounds on which rehearing or review is granted, and any rehearing or review shall cover only those matters specified.

**E.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party or the attorney general may, within 15 days after such service, serve opposing affidavits.

**F.** If the Board makes specific findings that the immediate effectiveness of the order is necessary for the preservation of public health and safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the order may be issued as a final order without an opportunity for a rehearing or review. If an order is issued as a final order without an opportunity for rehearing or review, the aggrieved party shall make an application for judicial review of the order within the time limits permitted for application for judicial review of the Board's final order.

**G.** The Board shall rule on the motion for rehearing or review within 15 days after the response has been filed, or at the Board's next meeting after the motion is received, whichever is later. If a rehearing or review is granted, the Board shall

hold the rehearing or review within 120 days after it issues the order granting the rehearing or review. If a motion for rehearing or review is not considered or reheard within these time limits, the motion is granted.

**Historical Note**
New Section R4-11-1701 renumbered from R4-11-701 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

## CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS

(Authority: A.R.S. § 32-1302 et seq.)

*Articles 1 through 4 consisting of Sections R4-12-101 through R4-12-405 adopted effective June 16, 1981. Section numbering not in sequence, refer Historical Notes.*

*Article 1 through 9 consisting of Sections R4-12-01 through R4-12-03, R4-12-12 through R4-12-16, R4-12-31, R4-12-32, R4-12-42 through R4-12-44, R4-12-54, R4-12-64, R4-12-65, R4-12-75, R4-12-85, R4-12-95 repealed effective June 16, 1981.*

### ARTICLE 1. GENERAL PROVISIONS

Section
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R4-12-103. Office of Board
R4-12-104. Meetings; election of officers
R4-12-105. Duties of officers
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### ARTICLE 2. LICENSING PROVISIONS

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### ARTICLE 5. PREARRANGED FUNERAL AGREEMENTS

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## ARTICLE 1. GENERAL PROVISIONS

**R4-12-101. Definitions**

In Title 32, Chapter 12, Arizona Revised Statutes, and in these rules, the following definitions of terms shall apply.

1. "Board" means the Arizona State Board of Funeral Directors and Embalmers.
2. "Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance", "accommodation", "cash disbursement", or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral establishment on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items, cemetery or crematory charges, pallbearers, public transportation, clergy honoraria, flowers, motorcycle escorts, musicians or singers, hair dressers, barbers, nurses, obituary notices, gratuities and death certificates.
3. "Conviction" means a judgment of conviction by any state or federal court of competent jurisdiction in a criminal cause, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.
4. "Direct cremation" means a cremation of human remains without formal viewing, visitation or ceremony with the body present.
5. The terms "fraudulent", "misleading", "misrepresentation", "deceive", "deception", "deceptive" or "false" as used in connection with statements or activities of licensees with respect to transactions with funeral services consumers are defined and interpreted as provided in A.R.S. § 44-1522.
6. "Funeral services consumer" or "purchaser" means any person, entity or agency which purchases or requests funeral merchandise or services from a funeral establishment in connection with or in preparation for funeral arrangements, transportation or disposition of human remains.
7. "Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation or ceremony with the body present.
8. "Inexpensive caskets" means the least expensive adult caskets held for sale by the establishment to funeral services consumers.
9. "Licensee" means any person or enterprise issued a license, certificate of qualification or registration, permit or similar authority to provide funeral directing or embalming services or to provide any other services or funeral merchandise pursuant to Title 32, Chapter 12, A.R.S.
10. "Unfinished wood box" means an unornamented casket made of wood or wood products which does not have a fixed interior lining.

**Historical Note**

Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1).

**R4-12-102. Reserved**

**R4-12-103. Office of Board**

The office of the Board is located at 1645 West Jefferson, Phoenix, Arizona 85007. The office telephone number is (602) 255-3095.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3).

**R4-12-104. Meetings; election of officers**
Board meetings will be held at least quarterly at a place designated by the Board. Each January, members of the Board will elect a president, secretary and treasurer. The term of each officer will commence on February 1 following the election.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1). Amended effective September 18, 1987 (Supp. 87-3).

**R4-12-105. Duties of officers**
**A.** The president shall be the chief presiding officer; but, if absent from the state, such authority shall fall to the Secretary or Treasurer in turn; and, if the President is absent from meetings, one of the other two officers shall preside.
**B.** The Secretary shall be the executive officer of the Board and shall be responsible for the administration of the examination, licensing and registration programs under A.R.S. § 32-1301, et seq.
**C.** The Treasurer shall be responsible for the maintenance of records concerning the revenues and expenditures of the Board.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-105 repealed, new Section R4-12-105 adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-106. Reserved**
**R4-12-107. Reserved**
**R4-12-108. Fees**
**A.** The Board will charge the following fees concerning funeral directors' applications and renewals:
1. Application for examination, $150.00;
2. Application for oral re-examination, $20.00;
3. Application for out-of-state license, $200.00;
4. Biennial renewal of each license, $140.00;
5. Reinstatement for each license, $20.00;
6. Issuance of license, prorated quarterly until the next biennial renewal date, $140.00.

**B.** The Board will charge the following fees concerning embalmers' applications and renewals:
1. Application for examination, $150.00;
2. Application for oral re-examination, $20.00;
3. Application for out-of-state license, $200.00;
4. Biennial renewal of license, $120.00;
5. Reinstatement for each license, $20.00;
6. Issuance of license, prorated quarterly until the next biennial renewal date, $120.00.

**C.** The Board will charge the following fees concerning assistant funeral directors' applications and renewals:
1. Application for registration, $65.00;
2. Application for transfer, $10.00;
3. Annual renewal of registration, $65.00;
4. Reinstatement of registration, $10.00 per year;
5. Issuance of registration, prorated quarterly until the next annual renewal date, $64.00.

**D.** The Board will charge the following fees concerning apprentice embalmers' applications and renewals:
1. Application for registration, $50.00;
2. Reinstatement after lapse of registration:
   a. If actively employed during lapse of registration, $10.00 for the first year and $50.00 per year thereafter;
   b. If inactive during lapse and within two years of lapse date, $10.00;
3. Annual renewal of registration, $50.00;
4. Issuance of registration, prorated quarterly until the next annual renewal date, $52.00.

**E.** The Board will charge the following fees for the applications and renewals of funeral establishments:
1. Application for license, $300.00;
2. Application for change of ownership, $300.00;
3. Application for change in location, $250.00;
4. Application for change in name, $50.00;
5. Biennial renewal of license shall be based on the number of final dispositions of human remains performed by the establishment during the immediately preceding calendar year as follows:
   a. Those establishments which perform from zero to 50 final dispositions, $200.00;
   b. Those establishments which perform from 51 to 300 final dispositions, $350.00;
   c. Those establishments which perform 301 or more final dispositions, $400.00.
6. Reinstatement for each license, $50.00 per year;
7. Issuance of license, prorated quarterly until the next biennial renewal date, $340.00. This fee shall not be imposed on licenses for change of ownership, location or name if the previous license has not lapsed.

**F.** The Board will charge the following fees concerning prearranged funeral sales:
1. Application for sales endorsement, $150.00;
2. Application for salesperson registration, $80.00;
3. Annual renewal of sales endorsement, $140.00;
4. Annual renewal of salesperson registration, $60.00;
5. Reinstatement of sales endorsement, $50.00 per year;
6. Reinstatement of salesperson registration:
   a. If actively selling during lapse, $20.00 per year;
   b. If inactive during lapse, $10.00 for each reinstatement.
7. Issuance of sales endorsement, prorated quarterly until the next annual renewal date, $140.00;
8. Issuance of salesperson registration, prorated quarterly until the next annual renewal date, $60.00;
9. Examination fee for salesperson registration, $70.00;
10. Filing of annual reports:
    a. For each establishment which has a prearranged funeral trust account and files in the time and manner required by A.R.S. § 32-1391.15 and R4-12-561, $150.00;
    b. For each establishment which has a prearranged funeral trust account and files late, incomplete or otherwise inconsistent with A.R.S. § 32-1391.15 and R4-12-561, $200.00;
    c. For each establishment which does not have a a prearranged funeral trust account established after January 1, 1985 but has contractual prearranged funeral agreements, fixed or non-fixed, established prior to that date and files timely and complete, $100.00;
    d. For each establishment which meets the criteria in subparagraph (c) but files late, incomplete or otherwise inconsistent with A.R.S. § 32-1391.15 and R4-12-561, $150.00;
    e. For each establishment which has no contractual prearranged funeral agreements and files in a timely manner, no charge;
    f. For each establishment which has no contractual prearranged funeral agreements but files late, $100.00.

**G.** Except for inactive prearranged funeral salespersons and inactive apprentice embalmers, reinstatement fees are penalties for failure to renew a license or registration. Such fees are imposed in addition to the regular license or registration fee for each year or portion of a year from the time the renewal is due.

**H.** The Board will charge the following fees for the duplication or copying of public records:
1. Noncommercial copy, 25¢ a page;
2. Commercial copies requiring more than 15 minutes' search and copying time will be charged at the rate of $5.00 for each additional 15-minute interval;
3. Directories for noncommercial use, 5¢ per name and address; if printed on labels, 10¢ per name and address;
4. Directories for commercial use, 25¢ per name and address; if printed on labels, 30¢ per name and address;
5. The Board may waive the fees under this subsection for charitable organizations and government entities.

**I.** The Board will charge $5.00 per copy of the funeral directors' laws and rules. Any licensee may request one free copy of this publication during each renewal period.

**J.** Federal Trade Commission rules and guidelines identified in rules R4-12-305 and R4-12-310 respectively, $5.00 per copy.

**K.** The Board will charge each licensed funeral establishment the actual cost of production and handling of each consumer information pamphlet entitled Arizona Funerals Information which is published by the Board and distributed to the licensed establishment pursuant to R4-12-308.

**L.** Duplicate license, $20.00.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1). Amended effective Dec. 27, 1985 (Supp. 85-6). Amended effective May 25, 1989 (Supp. 89-2).

**R4-12-109. Enforcement advisory committee**
The Board may appoint a citizen advisory committee concerning enforcement matters. The committee shall consist of nine members, of which four members shall be from the funeral industry, four members shall be lay members having no affiliation with a funeral establishment or cemetery, and one member shall be a representative of another state or local government agency involved with final disposition matters. The committee shall review and evaluate investigative files referred to it by the Board, hold voluntary informal interviews, and make advisory recommendations to the Board concerning possible settlement, dismissal or other disposition of investigative matters. The Board, in its sole discretion, may accept, reject or modify the committee's advisory recommendations.

**Historical Note**
Adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-110. Reserved**

**R4-12-111. Reserved**

**R4-12-112. Reserved**

**R4-12-113. Reserved**

**R4-12-114. Reserved**

**R4-12-115. Reserved**

**R4-12-116. Reserved**

**R4-12-117. Reserved**

**R4-12-118. Reserved**

**R4-12-119. Reserved**

**R4-12-120. Reserved**

**R4-12-121. Investigation procedures**

**A.** The Board shall investigate violations of Title 32, Chapter 12, A.R.S. and of these rules, including violations involving deceptive practices, failure to provide price disclosures and professional negligence. Investigations shall be conducted in accordance with procedures established by the Board. At the conclusion of an investigation, the Board may enter into a settlement of the matter with the funeral establishment, licensee, or registrant if it determines that the settlement adequately protects the public safety, health and welfare.

**B.** Complaints, investigative reports, documents, exhibits and other materials relating to an investigation shall remain confidential until the matter is closed, until the issuance of a hearing notice pursuant to A.R.S. § 32-1364, or until the matter is settled by consent order. During an investigation the Board may, after notifying the subject of the complaint, release the name of the complainant and the general nature of the complaint to the public. The funeral establishment, licensee or registrant which is the subject of the complaint shall be informed of the name of the complainant within 30 days after the initiation of the investigation if the investigation was initiated as a result of a complaint.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-121 repealed, new Section R4-12-121 adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-122. Issuance of subpoenas**
All subpoenas issued in connection with Board disciplinary proceedings pursuant to Title 32, Chapter 12, shall be approved and issued by the secretary of the Board.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3).

**R4-12-123. Reserved**

**R4-12-124. Disciplinary action; penalties**

**A.** The Board may take disciplinary action against any licensee in accordance with the provisions of Title 32, Chapter 12, Arizona Revised Statutes for a violation or offense. Revocation or suspension of a certificate, license or registration and imposition of an administrative penalty may be separately or cumulatively used as regulatory sanctions in any disciplinary action.

**B.** With respect to funeral establishments, the establishment license may be suspended for not more than 90 days for the first offense and not more than 180 days for a second offense. The funeral establishment's license may be revoked for three or more offenses or for any single offense which results in substantial economic or other injury to funeral services consumers or members of the public. Any disciplinary hearing initiated by the Board may include all charged offenses in one proceeding.

**C.** The Board may impose an administrative penalty in a disciplinary action for each offense in accordance with the following schedule:

| | Administrative Penalty | | | |
|---|---|---|---|---|
| | Individual Funeral | | Licensee Establishment | |
| Name of Violation | Min. | Max. | Min. | Max. |
| 1.Violation resulted in substantial consumer injury or public harm | $1,000 | to $2,500 | $2,500 | to $5,000 |

2.Violation involved dishonest, deceptive or misleading conduct$500 to $2,500$1,000 to $5,000

3.Violation involved potential threat to public health, safety or welfare$500 to $2,500$1,000 to $5,000

4.Violation involved failure to provide disclosures required by Title 32, Ch. 12, Art. 3.1, A.R.S. or by Board rules$250 to $1,000$500 to $2,500

5.Other violations of Title 32, Ch. 12 or of Board rules$250 to $1,000$500 to $2,500

**D.** "Violation" or "offense" as used in this Section means each incident, action or failure to act in violation of any provision of Title 32, Chapter 12, or Title 44, Chapter 11, Article 8, Arizona Revised Statutes or of these rules.

**Historical Note**

Adopted effective June 16, 1981 (Supp. 81-3).

**R4-12-125. Hearing procedures**

**A.** Notice procedures: Notice of a formal disciplinary hearing shall be given at least twenty (20) days prior to date set for the hearing. Notice shall be served personally or by mailing a copy, by certified mail to the address last known by the Board. The Notice shall include the following information:
1. Statement of time, place and nature of hearing.
2. Statement of legal authority and jurisdiction under which hearing is to be held.
3. Statement giving reference to particular sections of the Statutes and Rules involved.
4. Statement of matters asserted. Initial notice may be limited to a statement of the issues involved. Upon application, a more definite and detailed statement shall be furnished.

**B.** Conduct at hearings: Disciplinary hearings may be conducted without adherence to the rules of evidence required in judicial proceedings.

**C.** Opportunity to respond: All parties shall be afforded the opportunity to respond and present evidence and argument on all issues involved.

**D.** Failure to appear: Failure of parties to appear for a hearing shall leave the Board free to act upon the evidence and other information at hand without further notice to the registrant.

**E.** Findings of fact: Findings of fact shall be based exclusively on the evidence and matters officially noticed.

**F.** Records: A record of the hearing shall be made and kept by the Board and, where requested by a party or ordered by the Board, a transcript shall be prepared and filed with the Board. If the transcript is prepared at the request of a party, the cost of the transcript shall be paid by the party making the request, unless the Board for good cause shown waives assessment of such costs. The Board records in a contested case shall include the following:
1. All pleadings, motions, interlocutory rulings.
2. Evidence received or considered.
3. Statement of matters officially noticed.
4. Objections and offers of proof and rulings thereon.
5. Proposed findings and exceptions.
6. Decision, opinion or report by the Board or presiding officer.
7. All staff memoranda, other than privileged communications, or data submitted to the Board.

**Historical Note**

Adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-126. Rehearing of Board's decisions**

**A.** Except as provided in subsection (G), any party to a disciplinary action before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than ten (10) days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this Subsection a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this Rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten (10) days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties or disciplinary action;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten (10) days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten (10) days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding twenty (20) days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** To the extent that the provisions of this Rule are in conflict with the provisions of any statute providing for rehearing of the decisions of the Board, such statutory provisions shall govern.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3).

## ARTICLE 2. LICENSING PROVISIONS

**R4-12-201. Apprenticeship requirements for embalmer's license**

**A.** The Board will accept apprenticeship wherever served, provided the apprenticeship was:
1. Registered with the state in which the apprenticeship was served, or
2. Served under the auspices of a recognized agency of the federal government or in an area where it was impossible to register the apprenticeship, and
3. Served under a qualified practicing embalmer.

**B.** The applicant shall provide:
1. If applicable, a written explanation of the reasons why the apprenticeship was not registered.
2. The names of the qualified practicing embalmers under which the apprenticeship was served, and
3. Written documentation of the apprenticeship including the dates served and the number of bodies embalmed from either the association or group charged with certifying an apprenticeship in the area in which the apprenticeship was served, or from the funeral establishments or the agencies of the federal government in which the apprenticeship was served.

**C.** An apprentice does not quarry for examination until the apprentice has served one hundred and four weeks or twenty-four months of approved apprenticeship.

**Historical Note**
Former Rule, Section 1, Article III; Former Section R4-12-26 renumbered as Section R4-12-201 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-201 repealed and a new Section R4-12-201 adopted effective September 18, 1987 (Supp. 87-3).

**R4-12-202. Apprenticeship time criteria**

For the purpose of determining actual apprenticeship time served, the following criteria will be used:
1. At least 20 hours per calendar week will constitute one week of apprenticeship time, or
2. At least 86 hours per calendar month will constitute one month of apprenticeship time.

**Historical Note**
Adopted effective September 18, 1987 (Supp. 87-3).

**R4-12-203. Background checks**

**A.** Except for apprentice registration, each application for a license shall be accompanied by a completed fingerprint card and the fee prescribed by and made payable to the Arizona Department of Public Safety.

**B.** If an applicant has previously submitted legible fingerprints to the Board, this requirement is waived.

**Historical Note**
Former Rule, Section 3, Article III; Former Section R4-12-27 amended and renumbered as Section R4-12-203 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-203 repealed and a new Section R4-12-203 adopted effective September 18, 1987 (Supp. 87-3).

**R4-12-204. Processing applications**

**A.** The Board will notify the applicant as follows:
1. If eligible to take the examination, the applicant will be notified of the place and time of the examination.
2. If the Board determines that the applicant is not qualified or has cause to believe that the applicant has made substantial false or misleading statements on the application, it will deny the application and the applicant will be notified of the reasons for denial.

**B.** If the only reason for denial is failure to meet the apprenticeship or embalmer time requirements and such requirements can be met within one year of the Board's decision, the application will be held pending completion of the time requirements but not longer than 15 months and no additional application fee will be charged for the examination.

**C.** Application fees are not refundable. Application fees will not be applied toward a future examination if the applicant fails to appear at the examination for which he applied, except as provided in subsection (B) or under one of the following conditions:
1. A serious accident or severe illness to the applicant or a member of the applicant's immediate family which can be documented.
2. A death or extreme emergency involving a member of the applicant's immediate family which can be documented.

**D.** The Board will approve an application subject to receipt of required materials, but no license will be issued until all requirements for licensure have been satisfied.

**Historical Note**
Former Rule, Section 5, Article III; Former Section R4-12-28 amended and renumbered as Section R4-12-204 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-204 repealed, new Section R4-12-204 adopted effective September 18, 1987 (Supp. 87-3).

**R4-12-205. Funeral directors' examination**

The examination for a funeral director's certificate shall consist of not less than seventy written questions upon the following subjects: funeral directing, proper embalming practices and procedures; methods of determining whether proper embalming practices and procedures are being, or have been, followed for preservation of the dead human body and prevention of the spread of disease; the laws and regulations and approved practices governing the preparation, burial, and disposal of dead human bodies, and the shipment of bodies dying from infectious or contagious diseases.

**Historical Note**
Former Section R4-12-29 amended and renumbered as Section R4-12-205 effective June 16, 1981 (Supp. 81-3).

**R4-12-206. Examinations**

**A.** Written examinations for embalmer and funeral director licensing will be given at least twice each year.

**B.** While an examination is in progress, examinees shall not leave the room nor communicate with any other person without the permission of an attending proctor.

**C.** An examinee who creates any disturbance which interferes with the maintenance of order during an examination may be ejected from the room; and, if ejected, will be considered to have failed the examination and shall forfeit all application fees.

**D.** At the completion of the written examination, all examination questions and answers shall be delivered to the proctor.

**Historical Note**
Former Rule, Section 9, Article 111; Former Section R4-12-30 renumbered as Section R4_12- 206 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-206

repealed and a new Section R4-12-206 adopted effective September 18,1987 (Supp. 87-3).

**R4-12-207. Oral examinations**

**A.** An oral examination shall consist of at least twenty-five questions on the laws of Arizona pertaining to the Funeral Directors Act, A.R.S. § 32-1301 et seq., these rules, and Department of Health Services rules (A.A.C.) R9-19-301 et seq. as appropriate.

**B.** Oral examination questions appropriate to the type of license or registration applied for shall be constructed and approved by the Board prior to the examination date.

**C.** The passing grade for an oral examination shall be a score of 75% or more. The Board may weight questions according to their importance in determining the competency of the applicant.

**D.** The Board may determine that the applicant may read the questions propounded but all answers will be given verbally unless a physical handicap prevents a verbal response.

**E.** The Board shall attempt to accommodate handicapped applicants insofar as it is able to without jeopardizing the validity of the examination.

**F.** An oral examination given pursuant to A.R.S. § 32-1323 to be taken in conjunction with a written examination can be given at a different place and time if it is mutually agreeable to the applicant and the Board's administrator.

**G.** Oral examinations given pursuant to A.R.S. § 32-1333 (out-of state applicant) or A.A.C. R4-12-208 (waiver of written examination) will be given by individual appointment at a time and place mutually convenient to the applicant and the Board's administrator and may be given prior to the Board's approval of application and license but, in no case, will a license be issued without prior approval of the Board and payment of the license fee.

**Historical Note**

Adopted effective January 2,1985 (Supp. &5-1). Amended by adding subsections (F) and (G) effective September 18, 1987 (Supp. 87-3).

**R4-12-208. Exception to written examination**

**A.** The Board shall accept a certificate issued by the Conference of Funeral Service Examining Boards in lieu of the written portion of the embalmer's or funeral director's examination provided such examination was successfully completed within five years of application or the applicant has legally practiced the art of embalming or the profession of funeral directing, as appropriate to the application, within the last five years.

**B.** This exception does not apply to the oral examination.

**Historical Note**

Adopted effective January 2,1985 (Supp. 85-1).

**R4-12-209. Reserved**

**R4-12-210. Reserved**

**R4-12-211. Application for funeral establishment license**

**A.** Each application sham meet the requirements of R4-12-203 pertaining to background checks for each owner, trustee, receiver or other person desiring a funeral establishment license.

**B.** The responsible funeral director of the establishment shall certify on the application that the establishment will be equipped and maintained in accordance with this Chapter.

**C.** If an application is for change of owner, the location or the name of the establishment, the license previously issued to the establishment shall be surrendered with the application for an establishment license.

**D.** A license surrendered with a timely application will remain in effect until a new license is issued or denied.

**Historical Note**

Adopted effective June 16,1981 (Supp. 81-3). Former Section R4-12-211 repealed and a new Section R4-12-211 adopted effective September 18, 1987 (Supp. 87-3).

**R4-12-212. Repealed**

**Historical Note**

Adopted effective June 16, 1981 (Supp. 81-3). Repealed effective September 18, 1987 (Supp. 87-3).

## ARTICLE 3. REGULATORY PROVISIONS

**R4-12-301. General funeral services requirements**

**A.** Any funeral director, embalmer, funeral establishment or other person licensed by the Board shall comply with the following general funeral service requirements:

1. Licensees shall deal with funeral services consumers in an honest and truthful manner, and shall be responsive and sensitive to particular requirements or needs concerning funeral arrangements. Licensees shall not engage in any conduct which causes or results in disrespect for the deceased person, disruption of the funeral services or any injury to the decedent's family, contrary to the prevailing standards and practices of the profession in this state.
2. Licensees shall perform their respective responsibilities concerning the care, handling, transportation and disposition of human remains and concerning all transactions with funeral services consumers in a careful and competent manner in accordance with the prevailing standards and practices of the profession in this state.
3. Licensees shall comply with all laws and regulations pertaining to their activities in the care, handling, transportation and disposition of human remains including, without limitation, the provisions of the Funeral Directors Act (A.R.S. § 32-1301 et seq.), the Prearranged Funeral Plan Act (A.R.S. § 44-1721 et seq.), and these rules. Licensees shall comply with all health laws and regulations which pertain to the embalming and preparation of human remains. The following health laws and rules should be reviewed and followed to the extent applicable:

| Subject | Law or Rule |
|---|---|
| Vital statistics | A.R.S. § 36-301 et seq. |
| Health menaces | A.R.S. § 36-601 et seq. |
| Disposition of bodies | A.R.S. § 36-801 et seq. |
| Communicable diseases (Arizona Department of Health Services rules) | A.A.C. R9-6-110 et seq. |
| Vital statistics (Arizona Department of Health Services rules) | A.A.C. R9-19-301 et seq. |

4. Licensees should also make reasonable efforts to cooperate with the customs of all religions and creeds according to the desires of the decedent or his family.
5. Licensees shall not make statements nor engage in activities which foreseeably could result in needless infliction of emotional distress on members of the decedent's family or result in exposing the remains to unnecessary indignity, including without limitation:
   a. Making statements to members of the family designed to offend their sensibilities during grief, including unsolicited comments concerning graphic details of the embalming, or of the condition,

decomposition or decay of the remains, except that statements which are necessary under the circumstances to adequately inform the family concerning the advisability of viewing the remains or having an open-casket funeral ceremony are not prohibited by this subparagraph.

b. Permitting the remains to be exposed or displayed to members of the family or the public in a manner not consistent with public health.

c. Permitting the remains to be exposed or displayed to members of the family or the public in a manner designed to offend their sensibilities during grief, including exposing or displaying the remains:
   i. During the embalming or preparation process;
   ii. Without clothing or suitable covering of the trunk and limbs of the remains;
   iii. For any promotional or commercial purpose;
   iv. For photographs, videotape or other reproductive process without clothing or suitable covering or during the embalming or preparation process.

   This subparagraph does not apply where public officials in the discharge of their duties view or examine the remains.

6. Licensees shall not disclose or divulge any privacy, secrecy, confidence or secret of the domestic or private life of any deceased or the family thereof or of any home or circle learned as a result of professional employment, unless such disclosure is required by law, or is necessary to conduct the legitimate business of the funeral establishment in accordance with law. Licensees shall not discuss facts concerning the cause of death, expenditures for the funeral, the source of funds, or other matters of a personal nature except with the members of the family or their authorized representatives. Such information may be released to the Board during an investigation or inspection if a release or other permission is obtained or received from a family member or if pursuant to a subpoena or other court or administrative directive.

7. Licensees shall not pay or cause to be paid to any person including without limitation a nurse, attendant, doctor, ambulance personnel, hospital personnel, health care facility personnel, clergy or law enforcement officers, money or other valuable consideration to secure business from or through such person.

**B.** Failure to substantially comply with the provisions of this Section shall be deemed to be evidence of gross negligence, repeated or continuing negligence or other professional incompetence.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3).

**R4-12-302. Deceptive practices prohibited**

**A.** In selling or offering to sell funeral goods or funeral services to funeral services consumers, it is a deceptive act or practice for a funeral establishment, funeral director, embalmer, or agents or employees of a funeral establishment:

1. To advertise for or solicit business through the use of deceptive, misleading or inaccurate statements or other information.
2. To display or represent funeral merchandise or services in a deceptive or misleading manner. Failure to display to or show funeral services consumers inexpensive caskets and containers regularly offered for sale and stocked by the funeral establishment is deemed to be a misleading display practice. Display of inexpensive caskets or containers, or photos or facsimiles thereof, under less favorable conditions or circumstances, including poor lighting, merchandise damage or defacement or conditions inhibiting the consumer's free choice of merchandise is also deemed to be a misleading display practice.
3. To embalm a deceased human body unless:
   a. State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or
   b. Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or
   c. The funeral establishment is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral establishment shall disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.
4. To fail to promptly release upon request, deceased human remains to a family member, representative of the family or other person authorized by the family to take possession of the remains.
5. To make any false, misleading or unsubstantiated statements or claims, or in any manner imply that natural decomposition or decay of human remains can be prevented by embalming, or certain caskets, vaults or other burial containers, or to otherwise make any false, misleading or unsubstantiated statements or claims of watertightness or airtightness of caskets, vaults or other burial containers.
6. To reuse a casket or container previously purchased by or delivered to another decedent's family and intended for or used in connection with the burial, cremation or other final disposition of the previous decedent. This provision does not apply to the rental of caskets, containers, casket shells or other devices used in connection with the funeral services if the funeral services consumer is informed of the rental arrangement.
7. To bill or otherwise charge a purchaser for merchandise or services not actually provided by or arranged through the funeral establishment.
8. To represent that the price charged for a cash advance item is the same as the cost to the funeral establishment for the item when such is not the case, or to fail to disclose to purchasers that the price being charged for a cash advance item is not the same as the cost to the funeral establishment for the item when such is the case.
9. To make disparaging statements concerning the quality, utility, suitability or durability of inexpensive caskets or containers without basis in fact.
10. To make false or misleading statements concerning or otherwise engage in deceptive, misleading or fraudulent practices in connection with the advertising, solicitation or sale of prearranged funeral plans.
11. To make any misrepresentations or omissions of material fact concerning funeral services, prices or the merchandise and services included in a stated price.
12. To represent or insinuate that a direct cremation, immediate burial, inexpensive funeral arrangements or inexpen-

sive casket, container or unfinished wood box would be disrespectful or inconsiderate to the decedent or family members, or friends, neighbors or associates of the decedent or family.

13. To disrupt the funeral arrangement process or funeral service, intimidate, harass or coerce a family member, with the intent to prevent such family member from exercising existing contractual or legal rights.

**B.** Failure to substantially comply with the provisions of this Section shall be deemed to be evidence of gross negligence, repeated or continuous negligence or other professional incompetence.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1).

**R4-12-303. Misrepresentation of legal or cemetery requirements**

**A.** In selling or offering to sell funeral goods or funeral services to funeral services consumers, it is a deceptive act or practice for a funeral establishment, funeral director, embalmer, or agents or employees of a funeral establishment to:

1. Represent that state or local law requires that a deceased person be embalmed when such is not the case, or fail to disclose that embalming is not required by law except where burial or cremation will not occur within 24 hours or where the body is not refrigerated immediately after death.
2. Represent that state or local law requires a casket for direct cremation, or represent that a casket (other than an unfinished wood box) is required for direct cremations.
3. Represent that state or local laws or regulations, or particular cemeteries require burial vaults, grave boxes or grave liners when such is not the case, or fail to disclose to persons arranging funerals that state law does not require the purchase of an outside receptacle.
4. Represent that federal, state or local laws, or particular cemeteries or crematories require the purchase of any funeral goods or funeral services when such is not the case.

**B.** Failure to substantially comply with the provisions of this Section shall be deemed to be evidence of gross negligence, repeated or continuous negligence or other professional incompetence.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-303 repealed, new Section R4-12-303 adopted effective January 2, 1985 (Supp. 85- 1).

**R4-12-304. Telephone price disclosures requirement**

**A.** Each funeral establishment shall tell persons who contact the establishment by telephone and ask about terms, conditions or prices of funeral goods or funeral services offered that price information is available over the telephone. The funeral establishment shall provide accurate information from the funeral price list required by R4-12-305 which reasonably answers the question and any other information which reasonably answers the question about the retail prices of funeral goods or funeral services readily available for sale to the caller.

**B.** If the caller requests a funeral price list, the funeral establishment shall mail its funeral price list required by R4-12-305 to the caller. If a funeral establishment mails a funeral price list to a caller, it may charge a reasonable postage and handling fee not to exceed two dollars. The establishment shall mail the price list to the caller within five days after receipt of the handling charge, or if the establishment does not require a handling charge, within seven days after the caller's price list request.

**Historical Note**
Adopted effective January 2, 1985 (Supp. 85- 1).

**R4-12-305. Price lists requirement**

**A.** Each funeral establishment, funeral director or embalmer shall provide a casket price list, an outside receptacle price list and a general price list in the form and in the manner required by Federal Trade Commission rules 16 CFR 453.2(b)(2), (3) and (4) issued pursuant to the Federal Trade Commission Act as amended and in effect on June 1, 1984. The items required by the Federal rules shall be included before additional items.

**B.** A copy of Federal Trade Commission rule 16 CFR 453.2(b) is on file with the Secretary of State and is incorporated by reference.

**Historical Note**
Adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-306. Merchandise price card requirement**

Each funeral establishment shall place a price card on each casket, container and outside receptacle the establishment makes available for sale to funeral services consumers. Each price card shall be placed on or attached to each item of merchandise in a conspicuous manner which permits a potential purchaser to see the information on the price card when standing near the casket or other item of merchandise. Each price card shall conspicuously disclose the separate retail price of the merchandise item available for sale. Price cards on caskets or outside receptacles shall also disclose the construction or type, manufacturer or assembler, and model number or popular name of the casket or outside receptacle. Price cards on containers shall also disclose the construction or type and manufacturer or assembler of the container. Photographs or accurate pictures of merchandise items may be used if conspicuously displayed with the price card information required by this Section.

**Historical Note**
Adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-307. Funeral goods and services memorandum**

**A.** Each funeral establishment, funeral director or embalmer shall give an itemized written or printed memorandum of funeral goods and services ("statement") for retention to each potential purchaser of funeral goods or services at the conclusion of the discussion of any funeral arrangements and before the establishment enters into a contract with a purchaser of funeral goods or services. The itemized statement shall list at least the following information:

1. The name and address of the funeral establishment;
2. A caption entitled "Statement of Funeral Goods and Services Selected";
3. The funeral goods and services selected by that person and the prices to be paid for each item, specifically itemized cash advance items, the total cost of the goods and services selected and other information contained in or indicated by the "Statement of Funeral Goods and Services Selected" format in Appendices B or C (following R4-12-565) to these rules.

**B.** The information required by this Section may be included on any contract, statement or other document which the funeral establishment would otherwise provide at the conclusion of discussion of arrangements. The itemized disclosures required by this Section shall be made in a clear and conspicuous manner. The establishment shall indicate immediately adjacent to the appropriate items under the "funeral arrangements" and "automotive equipment" categories the funeral services, facilities and automotive equipment items selected by the pur-

chaser. A funeral establishment may include additional itemized disclosures on the statement concerning goods and services selected. If certain charges required to be itemized on the statement are not known or reasonably ascertainable at the time the contract is signed, a good faith estimate of the charges shall be given on the statement and the establishment shall provide a written description of the actual charges to the purchaser within fifteen (15) days after the information becomes available to the establishment.

**C.** If an establishment uses the "statement of funeral goods and services selected" as a final bill, the following disclosures must be added to the statement, as shown in Appendix C to these rules:

> "If you elected a funeral which requires embalming, such as a funeral with a viewing, you may have to pay for the embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why in writing".

If an establishment does not use the "statement of funeral goods and services selected" as a final bill, the disclosures concerning embalming required by this subsection must be added to the final bill, contract or other written evidence of the agreement or obligation given to the purchaser, and the establishment may use the "statement of funeral goods and services selected" format as shown in Appendix B. The establishment shall disclose in writing to the purchaser on the statement any legal, cemetery or crematory requirement which mandates that the consumer purchase a specific funeral good or service. The establishment also shall disclose on the statement the "Notice to Purchaser" concerning casket and container legal requirements required by A.R.S. § 32-1373(B).

**Historical Note**
Adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-308. Consumer information pamphlet requirement**
Each funeral establishment shall provide a copy of the Board's consumer information pamphlet "Arizona Funerals Information" for retention to each person who personally inquires about funeral arrangements or funeral goods or services. Copies of this pamphlet shall be distributed to funeral establishments by the Board. When initial supplies of the pamphlet have been exhausted, the establishment shall provide the Board with a reasonable estimate of the number of pamphlets required by the establishment during a twelve month period. The requested pamphlets will be sent to the establishment after the Board office has reviewed the request and verified the estimate.

**Historical Note**
Adopted effective July 1, 1985 (Supp. 85-1).

**R4-12-309. Records retention requirement**
To prevent the deceptive or unprofessional acts or practices specified in this Article, funeral establishments shall retain and make available for inspection by Board representatives true and accurate copies of the price lists specified in Section R4-12-305 and of the memorandum of funeral goods and services as required by R4-12-307 for a period of three years from the date such documents were prepared by the establishment. In the case of the memorandum of goods and services, the date the memorandum was completed for the purchaser is deemed the date of preparation. Other funeral arrangement documents prepared for a funeral service shall be retained for a period of three years from the date of preparation.

**Historical Note**
Adopted effective January 2, 1985 (Supp. 85-1).

**R4-12-310. Applicability of federal guidelines**

**A.** Compliance guidelines of the Federal Trade Commission, published in the Federal Register, Volume 50, #131, Tuesday, July 9, 1985, as enforcement criteria for the federal rule on funeral trade practices (16 CFR 453) will be used for the interpretation of rules:

> R4-12-302 (Deceptive practices); R4-12-303 (Legal misrepresentations); R4-12-303(A) (Telephone disclosures), equivalent provisions of R4-12-305 (Price list); R4-12-307 (Itemized statement); and R4-12-309 (Document retention), to the extent applicable and to the extent not in conflict with state law or this Article. Federal Trade Commission guidelines will not be used in the interpretation of rules R4-12-301 (Funeral director requirements), R4-12-304(B) (Mailed price list), R4-12-306 (Merchandise cards), R4-12-308 (Consumer pamphlet), or other Sections of this Article which have no federal rule equivalent.

**B.** The compliance guidelines described in subsection (A) are incorporated herein by reference and are on file in the Office of the Secretary of State.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).
Amended effective September 18, 1987 (Supp. 87-3).

**R4-12-311. Minimum embalming requirements**

**A.** Embalmers and apprentice embalmers shall comply with the following minimum embalming procedures when embalming human remains:

1. All persons participating in the embalming procedure shall be either a licensed embalmer or a registered apprentice embalmer. Apprentice embalmers shall be under the direct supervision of a licensed embalmer during the embalming. "Direct supervision", as used in this paragraph, means that the licensed embalmer shall at all times be immediately available on the funeral establishment premises to supervise the apprentice embalmer, except that if the apprentice embalmer has embalmed at least ten adult human remains and has been registered with the Board for a minimum of six months, the supervision requirement is deemed to have been met if the apprentice has immediate access to and is performing according to the directions of a licensed embalmer.
2. Regulations of the Arizona Department of Health Services and of county health departments pertaining to sewage, sanitation and public health requirements shall be observed.
3. All persons engaged in the embalming process shall wear a clean smock or gown and wear impervious rubber gloves.
4. All clothing shall be removed from the remains and a visual inspection of the condition of the remains shall be conducted.
5. To the extent feasible under the circumstances, the entire remains, including all extremities (legs, arms, feet, hands and head) shall be washed with an antiseptic or detergent solution.
6. To the extent feasible under the circumstances, the arterial injection technique shall be used in the embalming process. If the arterial circulation of any portion of the remains is materially incomplete or impaired due to advanced decomposition or autopsy, then the embalming may be done by hypodermically injecting those areas.
7. Embalming solution shall be injected into the entire remains, including extremities (legs, arms, feet, hands and head), and shall be injected in such dilutions and

pressures as warranted by the condition of the remains in accordance with prevailing professional practice.

8. The abdominal and thoracic cavities of the remains shall be injected with a concentrated cavity chemical after liquids and materials have been substantially removed through a trocar. The cavity chemical shall be injected into and thoroughly distributed in such cavities in accordance with prevailing professional practice.
9. If the body is to be viewed at a funeral service, cosmetic procedures should be employed in accordance with the wishes of the family and prevailing professional practice.
10. Within 24 hours after the embalming procedure, an embalming case report shall be prepared describing the elapsed time since death, condition of the remains before and after embalming, and embalming procedures used.
11. After embalming procedures have been completed, the remains shall be covered and diligent effort shall be made to maintain the privacy of the remains.

**B.** The care and preparation for burial or other disposition of human remains shall be strictly private and no one shall be allowed in the embalming room while a dead human body is being embalmed, except licensees or other authorized employees of the establishment, instructors of the science of embalming and their students, public officials in the discharge of their duties or other persons having the legal right to be present.

**C.** Each funeral establishment and responsible funeral director shall adopt and implement adequate procedures concerning the supervision of embalming personnel to assure compliance with this rule.

**D.** Failure to substantially comply with the minimum embalming standards contained in this rule shall be deemed to be evidence of gross negligence, repeated or continuing negligence or other professional incompetence.

**Historical Note**
Adopted effective June 16.1981 (Supp. 81-3).

**R4-12-312. Equipment and sanitation requirements**

**A.** The Board recommends that the following instruments, equipment and supplies be maintained in the preparation room of a funeral establishment:

1. 1 set metal or rubber drain tubes (large, medium, small)
2. 1 set metal injection tubes (large, medium, small)
3. 1 grooved director or equal
4. 1 aneurysm needle
5. 1 large trocar
6. 1 small trocar
7. 1 scalpel
8. 1 pair scissors
9. 6 hemostats
10. 2 forceps
11. 1 hypodermic syringe
12. hypodermic needles (assorted)
13. aspirator
14. suture needles
15. suture thread
16. disinfectant
17. 1 set of cream or liquid cosmetics
18.. 1 powder brush
19. 1 application brush
20. wax for restorative work
21. soap
22. cotton
23. head rest
24. hardening compound
25. arterial embalming fluid
26. cavity embalming fluid
27. embalming machine or percolator gravity injector and bulb syringe if latter used
28. sheets or covers for remains.

**B.** All funeral establishments shall be kept and maintained in a clean and sanitary condition and all embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming human remains shall be thoroughly cleansed and disinfected with a one percent (1%) solution of chlorinated soda, or other suitable and effective disinfectant immediately after the embalming of each remains.

**C.** Every preparation room shall be equipped with a sanitary embalming table, and such table should be provided with running water.

**D.** Every preparation room should be provided with proper and convenient receptacles for refuse, bandages, cotton and other waste materials and supplies, and all such waste materials shall be properly disposed of.

**E.** At no time shall the operation of the establishment constitute or create a health nuisance or hazard.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3).

**R4-12-313. Reserved through R4-12-331. Reserved**

## ARTICLE 4. FUNERAL SERVICE EDUCATION

**R4-12-401. Reserved**

**R4-12-402. Reserved**

**R4-12-403. Reserved**

**R4-12-404. Reserved**

**R4-12-405. Approved embalming schools**

Schools and colleges of embalming and funeral service education which have been accredited by the American Board of Funeral Service Education prior to December 16, 1986 are approved by the Board for the period of time such accreditation has been in effect.

**Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-405 repealed, a new Section R4-12405 adopted effective September 18, 1987 (Supp. 87-3).

**R4-12-406. Reserved**

**R4-12-407. Reserved**

**R4-12-408. Reserved**

**R4-12-409. Reserved**

**R4-12-410. Reserved**

**R4-12-411. Reserved**

**R4-12-412. Reserved**

**R4-12-413. Continuing education; hours required; reporting**

**A.** Each person licensed as a funeral director, embalmer or both shall complete no fewer than five hours of approved continuing education per calendar year unless exempt under R4-12-414.

**B.** Each funeral establishment's owner and responsible funeral director shall provide to each employee subject to this rule time sufficient to complete the continuing education requirements.

**C.** Beginning on February 1, 1992, and each year thereafter, each licensee shall submit an affidavit to the Board affirming that the licensee has completed five hours or more of continuing education as required. The affidavit shall identify the courses

and the number of credit hours completed and shall include documentation as follows:

1. If the course is a mortuary school or college accredited course, a copy of the transcript showing completion of the course or a letter from the school or college certifying completion of the course and the number of semester credits earned.
2. If the course is part of an event, a certificate of completion issued by the sponsor which identifies each part completed.
3. For any other course, a certificate of completion issued by the sponsor or presenter.
4. If the licensee cannot obtain the above documentation, any other documents, affidavits or testimony which provides reasonable assurance that the licensee has completed the requirements.

**Historical Note**
Adopted effective February 8, 1991 (Supp. 91-1).

**R4-12-414. Continuing education; exemptions**

**A.** A funeral director or embalmer may apply to the Board for exemption from the requirements if any of the following conditions occur after August 31 of the year in which continuing education is required:
1. Reinstatement of license, if lapse occurred in a preceding year;
2. Initial licensure in Arizona;
3. Resumption of residency in Arizona after at least one year on nonresidency. Living in or practicing funeral directing or embalming in Arizona shall be deemed residency.

**B.** The provisions of subsections (A)(1) and (2) do not authorize application for exemption by a person who is required to complete continuing education to maintain a license not covered by those paragraphs.

**C.** A licensee who demonstrates to the Board an inability to fulfill the continuing education requirements due to extreme hardship, illness, disability or military service shall be exempt from the continuing education requirements.

**D.** A licensee who resides outside Arizona and who has not practiced funeral directing or embalming in Arizona during the year in which the continuing education is required is exempt from the continuing education requirements.

**E.** For each year that a licensee seeks exemption, the licensee shall apply in writing to the Board for exemption. The application shall include a notarized affidavit stating the reason for exemption and documentation supporting the affidavit.

**Historical Note**
Adopted effective February 8, 1991 (Supp. 91-1).

**R4-12-415. Continuing education; approval of courses**

An individual or organization seeking credit for or approval of a continuing education course shall apply to the Board. The application shall contain the following information on the course:

1. Title and description of course content for each course;
2. Time, date and place;
3. Number of credit hours requested;
4. Name of the sponsor and presenter;
5. Brief curriculum vitae of the presenter.

**Historical Note**
Adopted effective February 8, 1991 (Supp. 91-1).

## ARTICLE 5. PREARRANGED FUNERAL AGREEMENTS

**R4-12-501. Definitions**

In Title 32, Chapter 12, Article 5, A.R.S., and in this Article, the following definitions of terms shall apply.

1. "Affiliated with a funeral establishment" means a person who holds ten percent of the common stock or exercises control or serves on the Board of Directors or is an officer of both the financial institution and a funeral establishment. "Control" as used in this definition means the exercise of significant influence over management or operations of the enterprise or entity.
2. "Business day" means a day when the responsible financial institution is open for business.
3. "Conspicuous", when referring to a printed statement, means the statement shall stand out from other print either in bold-face type or capital letters.
4. "Payment before death" means any direct or indirect payment for future funeral services but does not include an assignment of insurance benefits or at-need funeral arrangements.
5. "Prearranged funeral trust account established before the effective date of this Article" means any trust account established with a financial institution in which monies paid under a prearranged funeral agreement were deposited by or on behalf of a funeral establishment pursuant to prearranged funeral laws in existence before January 1, 1985.
6. "Primary container" means any container, other than a casket, designed to house human remains.
7. "Substantially equivalent" means sufficiently similar that a reasonable person would believe the substituted goods to be the most similar or next most similar alternatives to the originally contracted goods within the same class of goods. For purposes of this definition, the following factors shall be considered:
   a. Materials, workmanship and quality.
   b. Specifications and quantity.
   The following factors shall also be considered with respect to caskets:
   c. Type of construction, gauge of metal and finish.
   d. Interior fabric and materials.
   e. Manufacturer and model.
   f. Special features.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).
Amended by adding a new paragraph (4) effective June 18, 1987 (Supp. 87-2).

**R4-12-502. Applicability of rules to amended agreements**

Title 32, Chapter 12, Article 5, A.R.S. and these rules shall apply to any preexisting, prearranged funeral agreements modified or amended on or after January 1, 1985.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-503. Exemptions**

For the purpose of determining an exemption under A.R.S. § 32-1391.16, paragraph (1), "prearrangement of funeral arrangements by a funeral establishment where no payments are solicited from or made by the purchaser" means an unsolicited selection of funeral arrangements prior to death which is not binding on the funeral establishment, the beneficiary or his representative and where no monies are paid or made payable to the funeral establishment, its employees or agents prior to the death of the beneficiary.

**Historical Note**
Adopted effective June 18, 1987 (Supp. 87-2).

**R4-12-504. Reserved through**

**R4-12-520. Reserved**

**R4-12-521. Prearranged funeral sales endorsement application**

The initial application shall contain the following information concerning all prearranged funeral agreements sold and prearranged funeral trust accounts established prior to the application date:

1. The total amount of the trust funds, including accrued interest, as of the quarter ending before the application is filed.
2. The total number of currently existing prearranged funeral agreements entered into prior to January 1, 1985.

The application shall be signed and dated by the owner or responsible funeral director of the establishment and sworn to before a notary public. The application shall be dated no later than 30 days before the application is filed with the Board.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-522. Reserved**

**R4-12-523. Surety bond requirements**

**A.** A funeral establishment applying for a prearranged funeral sales endorsement shall provide the Board with the number of prearranged funeral agreements sold during the immediately preceding calendar year and provide the applicable surety bond as follows:

1. $15,000 if the establishment sold fewer than 100 prearranged funeral agreements during the immediately preceding calendar year;
2. $30,000 if the establishment sold 100 or more, but fewer than 250 prearranged funeral agreements during the immediately preceding calendar year; or
3. $50,000 if the establishment sold 250 or more prearranged funeral agreements during the immediately preceding calendar year.

The amount of the surety bond shall be increased by $5,000 for each salesperson currently registered by the Board for the establishment.

**B.** The corporate surety bond provided to the Board shall contain the language specified by Appendix D (following R4-12-565).

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-524. Reserved**
**R4-12-525. Reserved**
**R4-12-526. Reserved**
**R4-12-527. Reserved**
**R4-12-528. Reserved**
**R4-12-529. Reserved**
**R4-12-530. Reserved**

**R4-12-531. Salesperson registration application**

The application for prearranged funeral salesperson shall be signed and dated by the applicant and sworn to before a notary public. The responsible funeral director shall verify on the application that he will employ the applicant as a prearranged funeral salesperson if the registration is issued. The application and verification shall be dated no more than 30 days before the application is filed with the Board. The written examination shall be taken by an applicant for registration within 30 days after the application is filed.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-532. Reserved**

**R4-12-533. Reserved**

**R4-12-534. Reserved**

**R4-12-535. Reserved**

**R4-12-536. Reserved**

**R4-12-537. Reserved**

**R4-12-538. Reserved**

**R4-12-539. Reserved**

**R4-12-540. Reserved**

**R4-12-541. Consumer disclosures**

**A.** The consumer notice required by A.R.S. § 32-1391.08(A) and (C) shall be conspicuously printed on either the first or signature page of the prearranged funeral agreement.

**B.** At the time the purchaser signs the agreement the funeral establishment shall provide a copy of the prearranged funeral agreement for retention by the purchaser.

**C.** At the time of the inquiry or solicitation the funeral establishment shall provide a copy of its current price list for retention by the person who inquires about or is personally solicited regarding a prearranged funeral agreement.

**D.** Pursuant to A.R.S. § 32-1373, each contract for prearranged funeral services also shall contain one of the following notices, as appropriate, conspicuously printed near the top of the first page:

1. THIS FUNERAL CONTRACT IS FUNDED BY INSURANCE.
2. THIS FUNERAL CONTRACT IS FUNDED BY A PREARRANGED FUNERAL TRUST ACCOUNT.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).
Amended by adding a new subsection (D) effective June 18, 1987 (Supp. 87-2).

**R4-12-542. Reserved**

**R4-12-543. Reserved**

**R4-12-544. Reserved**

**R4-12-545. Deceptive, misleading or professionally negligent practices**

In selling or offering to sell prearranged funerals, or in handling the trust funds or accounts of a prearranged funeral consumer, it is a deceptive, misleading or professionally negligent practice for anyone licensed under Title 32, Chapter 12, A.R.S. or his agent:

1. To misstate or omit to state any material fact upon which a prearranged funeral consumer detrimentally relies concerning the transaction or the prearranged funeral.
2. To represent or imply that the prices of funeral goods and services to be provided pursuant to a fixed price prearranged funeral agreement are guaranteed, frozen or otherwise an absolute economic certainty.
3. To guarantee or promise that the funeral establishment will be in business at any indefinite time in the future.
4. To fail to disclose to the purchaser or beneficiary within ten business days after a request, the most currently available information concerning the purchaser's principal payments, all earned interest on the principal and total service fees charged concerning that purchase.
5. To intentionally mislead or deceive by entering into a contract with a prearranged funeral purchaser, while any blank in the contract other than for the account number has not been completed.

6. To enter into a prearranged funeral agreement to provide funeral goods and services not regularly sold by the funeral establishment at the time of execution of the agreement.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-546. Description of casket**
A prearranged funeral agreement shall be deemed misleading unless it describes the following information concerning any casket to be provided under the agreement:
1. Specific construction and type.
2. Interior fabric.
3. Manufacturer and model number or popular name.
4. Special features, if any.
5. Casket retail price.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-547. Reserved**

**R4-12-548. Possession of trust account passbook**
With respect to individual trust accounts, the funeral establishment shall offer a prearranged funeral purchaser the option of either obtaining a copy of the financial institution passbook, certificate of deposit, or other similar documentation of the prearranged funeral trust account for his personal possession, or authorizing the funeral establishment to maintain such documentation on behalf of the purchaser. This Section does not apply to common trust accounts.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-549. Reserved**

**R4-12-550. Reserved**

**R4-12-551. Certificate of entitlement**
The certificate of entitlement which a funeral establishment delivers to the financial institution servicing a prearranged funeral trust account or accounts shall contain the following information:
1. Name of the funeral establishment.
2. Name and location of financial institution.
3. Prearranged funeral trust account number(s).
4. The amount of trust funds to be withdrawn as the annual service fee.
5. Certification by the funeral establishment that it is contractually entitled to an annual service fee for the preceding calendar year pursuant to the terms of the prearranged funeral agreement(s).

The certificate shall be signed and dated by the owner or responsible funeral director of the establishment and sworn to before a notary public. On receipt of an appropriately completed certificate of entitlement, the financial institution shall release a portion of the trust funds equal to the annual service fee to the funeral establishment. The portion of trust funds released to the establishment shall not exceed ten percent of the interest which has accrued on the trust funds during the preceding calendar year.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-552. Certificate of performance**
**A.** The certificate of performance which a funeral establishment delivers to the financial institution servicing a prearranged funeral trust account after the death of the beneficiary of a prearranged funeral agreement shall contain the following information:
1. Name of the funeral establishment.
2. Name and location of financial institution and trust account number
3. Name of deceased beneficiary.
4. Certification of the total charges for the funeral goods and services provided in the funeral arrangements.
5. Certification that it provided the funeral goods and services pursuant to the prearranged funeral agreement.

**B.** If the certificate of performance concerns a fixed price prearranged funeral agreement, it shall contain the following additional information:
1. Certification that the establishment agreed in the prearranged funeral agreement to fix the prices of the funeral goods and services provided under the agreement at the price levels in effect at the time of the execution of the agreement by the purchaser.

**C.** The certificate shall be signed and dated by the owner or responsible funeral director of the establishment and sworn to before a notary public. The certified death certificate of the deceased beneficiary shall accompany the certificate of performance when it is delivered to the financial institution. On receipt of the certified death certificate and appropriately completed certificate of performance, the financial institution shall release a portion of the trust funds equal to the establishment's charges for funeral goods and services for the beneficiary's funeral arrangements. If the certificate of performance concerns a fixed price prearranged funeral agreement, the financial institution may release an additional portion of the trust funds to the establishment equal to that portion of the total accrued interest on principal payments deposited in the trust account during the term of the prearranged funeral agreement which the purchaser agreed to convey to the establishment.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-553. Reserved**

**R4-12-554. Statement of accrued taxes**
The statement of accrued taxes which a funeral establishment delivers to the financial institution servicing a prearranged funeral trust account or accounts shall contain the following information:
1. Name of the funeral establishment.
2. Name and location of financial institution.
3. Prearranged funeral trust account number(s).
4. Statement identifying the person by whom taxes are due and payable concerning income earned from funds deposited in the trust account(s). The statement shall describe the taxing authority to which the taxes are due, the amount of taxes due and payable concerning each trust account and the fiscal period the taxes concern. The statement shall be signed and dated by the owner or responsible funeral director and one other employee of the establishment. On receipt of an appropriately completed statement of accrued taxes, the financial institution shall release a portion of the trust funds equal to the accrued taxes, payable to the taxing authority, to the funeral establishment.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-555. Reserved**

**R4-12-556. Notice of trust account transfer**
**A.** If a funeral establishment directs a financial institution to transfer a common prearranged funeral trust account pursuant to A.R.S. § 32-1391.04(C), it shall provide written notice by first class mail to the last known address of each participant not less than ten business days before transfer of the account.

The notice shall advise each participant that the account is being transferred and give the name and location of the new financial institution and trust account number. The notice also shall contain a conspicuous statement that the establishment will provide specific information concerning the trust account status upon request.

**B.** If a funeral establishment is sold, or its name or location is changed or the prearranged funeral trust account is in any way transferred to another entity, the funeral establishment shall notify the Board of the disposition of the trust account within ten business days after the change in the status of the trust account. The funeral establishment also shall provide written notice by certified mail to the last known address of each participant in the prearranged funeral trust account within thirty business days after the change in the status of the trust account. The notice shall advise each participant of the change of status of the trust account and shall contain a conspicuous statement that the establishment, or its successor in interest, will provide specific information concerning the trust account status upon request.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).
Amended by adding a new subsection (B) effective June 18, 1987 (Supp. 87-2).

**R4-12-557. Reserved**
**R4-12-558. Reserved**
**R4-12-559. Purchaser cancellation requests**

The written request from a purchaser of a prearranged funeral agreement or designated person to terminate the agreement and refund the trust funds shall contain the following information:

1. Name of funeral establishment.
2. Full name of the prearranged funeral purchaser or designated person making the request.
3. Statement of purchaser or designated or legally responsible person requesting refund of the trust funds.

The cancellation request shall be signed by the purchaser, designated or legally responsible person. Within five days following receipt of a properly signed cancellation request, the financial institution shall release the trust funds, payable to the person making the cancellation request, to the establishment for refund to the requesting person.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-560. Reserved**
**R4-12-561. Annual report format**

**A.** The annual report concerning prearranged funeral sales and trust account activities filed by funeral establishments pursuant to A.R.S. § 32-1391.15 shall contain the information indicated by the annual report format in Appendix E (following R4-12-565). If a funeral establishment does not offer or sell prearranged funerals on or after January 1, 1985, it shall annually provide to the Board the information required by Appendix E concerning:

1. Each prearranged funeral trust account established before the effective date of this Article and in existence during any portion of the preceding calendar year and;
2. Trust account deposits, withdrawals and service fees during the preceding calendar year.

**B.** If a funeral establishment offers or sells prearranged funeral agreements on or after January 1, 1985, it shall annually provide to the Board the information required by Appendix E concerning:

1. Each prearranged funeral trust account established before the effective date of this Article and in existence during any portion of the preceding calendar year;
2. Each prearranged funeral agreement sold after January 1, 1985 and in existence during any portion of the preceding calendar year, and;
3. Trust account deposits, withdrawals and service fees during the preceding calendar year.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**R4-12-562. Reserved**
**R4-12-563. Reserved**
**R4-12-564. Reserved**
**R4-12-565. Records retention requirement**

Each funeral establishment shall retain and make available for inspection by Board representatives true and accurate copies of the following records during the term of the prearranged funeral agreement and for three years following the death of the beneficiary or the termination of the agreement:

1. The prearranged funeral agreement.
2. Each notice of the transfer of the trust account to another financial institution, together with a record of the names and last known addresses of the purchasers and the dates on which the notice was mailed.
3. The certificate of performance from the funeral establishment stating that it provided the requested funeral goods and services which is delivered to a financial institution.
4. Each certificate from the funeral establishment concerning entitlement to service fees concerning the trust account.
5. Each statement of accrued taxes from the funeral establishment concerning the trust account.
6. Each cancellation or termination request from a purchaser.
7. Detailed financial institution statements and accounting records concerning the trust account.

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**Appendix B**

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

*The charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing.*

*FUNERAL OF*

*FORWARDING OF REMAINS TO ANOTHER FUNERAL HOME* $_____

This charge includes removal of body, services of staff, necessary authorizations, embalming, and local transportation (but not shipping charges.)

*RECEIVING OF REMAINS FROM ANOTHER FUNERAL HOME* $_____

This charge includes services of staff, care of remains, and transportation to cemetery or crematory.

*DIRECT CREMATION* (As selected)$_____

This charge includes removal of body, necessary authorizations, services of staff, transportation to crematory, and cremation of body.

*TRANSFER OF REMAINS TO FUNERAL HOME* ( _____ miles transported)$_____

*IMMEDIATE BURIAL* (As selected)$_____

This charge includes removal of body, services of staff, necessary authorizations, and local transportation to cemetery.

*FUNERAL ARRANGEMENTS* (Indicated services and facilities selected) $_____

Funeral Director and Staff Services_____
Embalming _____
Other preparation of body _____
Use of facilities for viewing _____
Use of facilities for funeral _____
Other use of facilities_____

AUTOMOTIVE EQUIPMENT *(Indicated items selected)*$_____

Hearse _____
Limousine _____
Other automobiles _____

*ACKNOWLEDGMENT CARDS*$_____

*CASKET SELECTED*$_____

*VAULT OR LINER*$_____

OTHER ITEMS *(describe)*_____ $_____

_____$_____

*CASH ADVANCE ITEMS*

Organist and/or other music$_____
Hairdresser or barber $_____
Flowers $_____
Pallbearers $_____
Motorcycle escorts $_____
Clergy Honoraria $_____
Obituary Notice $_____
Death Certificate(s) $_____
Gratuities $_____
Other (describe) $_____
Total $_____

*TOTAL COST FOR ARRANGEMENTS SELECTED*$_____

FOR FUNERAL HOMEDate

Arranged byDate

NOTICE TO PURCHASER

**You may choose to purchase a casket or container for the funeral services and final disposition. However, except under certain public health circumstances pursuant to A.R.S. § 36-136, state law does not require the purchase or use of caskets or containers.**

METHOD OF PAYMENT AND INTEREST CHARGES [describe the method of payment required by the funeral establishment for the funeral services and any interest charges.

[Statement not used as final bill]

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**Appendix C**

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

*The charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing.*

*FUNERAL OF*

*FORWARDING OF REMAINS TO ANOTHER FUNERAL HOME* $_____

This charge includes removal of body, services of staff, necessary authorizations, embalming, and local transportation (but not shipping charges.)

*RECEIVING OF REMAINS FROM ANOTHER FUNERAL HOME* $_____

This charge includes services of staff, care of remains, and transportation to cemetery or crematory.

*DIRECT CREMATION* (As selected)$_____

This charge includes removal of body, necessary authorizations, services of staff, transportation to crematory, and cremation of body.

*TRANSFER OF REMAINS TO FUNERAL HOME* ( _____ miles transported)$_____

*IMMEDIATE BURIAL* (As selected)$_____

This charge includes removal of body, services of staff, necessary authorizations, and local transportation to cemetery.

*FUNERAL ARRANGEMENTS* (Indicated services and facilities selected) $_____

Funeral Director and Staff Services_____
Embalming _____
Other preparation of body _____
Use of facilities for viewing _____
Use of facilities for funeral _____
Other use of facilities_____

AUTOMOTIVE EQUIPMENT *(Indicated items selected)*$_____

Hearse _____
Limousine _____
Other automobiles _____

*ACKNOWLEDGMENT CARDS*$_____

*CASKETS SELECTED*$_____

*VAULT OR LINER*$_____

OTHER ITEMS *(describe)*_____ $_____

_____$_____

*CASH ADVANCE ITEMS*

Organist and/or other music$_____
Hairdresser or barber $_____
Flowers $_____
Pallbearers $_____
Motorcycle escorts $_____
Clergy Honoraria $_____
Obituary Notice $_____
Death Certificate(s) $_____
Gratuities $_____
Other (describe) $_____
Total $_____

*TOTAL COST FOR ARRANGEMENTS SELECTED*$_____

FOR FUNERAL HOMEDate

Arranged byDate

NOTICE TO PURCHASER

**You may choose to purchase a casket or container for the funeral services and final disposition. However, except under certain public health circumstances pursuant to A.R.S. § 36-136, state law does not require the purchase or use of caskets or containers.**

METHOD OF PAYMENT AND INTEREST CHARGES [describe the method of payment required by the funeral establishment for the funeral services and any interest charges.]

[Statement not as final bill]

**Historical Note**

Adopted effective January 1, 1985 (Supp. 85-1).

**Appendix D**

The corporate surety bond delivered to the Board with a prearranged funeral sales endorsement application shall contain the following language:

"PREARRANGED FUNERAL ENDORSEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____ of _____ as principal and _____, a surety company organized and existing under the laws of the State of _____ and authorized to do business under the laws of the State of Arizona as surety, are held and firmly bound unto the State of Arizona for the use and benefit of persons injured by violations of Title 32, Chapter 12, Article 5, Arizona Revised Statutes, in the penal sum of _____

(_____) lawful money of the United States of America, to be paid to the State of Arizona for the use and benefit aforesaid, for which sum, well and truly to be paid, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

The Condition of the above obligation is such that:

WHEREAS the above named principal has applied for an endorsement to its funeral establishment license in the State of Arizona to sell prearranged funeral agreements in conformance with Title 32, Chapter 12, Article 5, Arizona Revised Statutes, and is required by the provisions of such statutes to furnish a

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bond in the sum above-named, conditioned as herein set forth.

Now, therefore, if the principal shall during the term of this bond strictly, honestly and faithfully comply with the provisions of Title 32, Chapter 12, Article 5, Arizona Revised Statutes during the term of this bond and shall pay all damages, attorneys fees and other expenses suffered by any person by reason of the violation of any of the provisions of such statutes which concern (1) providing contract information and consumer disclosures, (2) receiving and placing purchaser funds in appropriate trust accounts, (3) maintaining the security and integrity of the trust funds until lawfully disbursed, (4) misrepresentation or deceptive conduct in the advertising, solicitation or sale of prearranged funeral agreements, and (5) criminal misconduct by employees or agents of the funeral establishment concerning the prearranged funeral agreements or trust funds, then this obligation shall be void.

The State of Arizona may proceed against the Bond for the benefit of any person injured by a violation of Title 32, Chapter 12, Article 5, or the person so injured may directly proceed against the Bond in case of default by the principal.

This bond shall become effective on the _____ day of _____, 19 ___, and shall remain in force until cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving thirty days written notice to the principal and to the Board of Funeral

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Directors and Embalmers of the State of Arizona. The liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penal sum of this bond.

Loss is covered under this bond only if a claim is made hereunder not later than two years after the cancellation or termination of the bond. If the coverage of this bond is substituted for any prior bond provided by the principal, which prior bond is terminated or cancelled as of the time of such substitution, the surety agrees that this bond applies to loss which is discovered and which would have been recoverable under such prior bond except for the fact that the time within which to discover loss thereunder had expired, provided:

(1)Such loss would have been covered under this bond had this bond with its agreements, limitations and conditions as of the time of such substitution been in force when the acts or defaults causing such loss were committed; and

(2)Recovery under this bond on account of such loss shall in no event exceed that amount which would have been recoverable under this bond in the amount for which it is written as of the time of such substitution, had this bond been in force when such acts or defaults were committed, or the amount which would have been recoverable under such prior bond or policy had such prior bond or policy continued in force until the discovery of such los, if the latter amount be smaller.

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IN WITNESS WHEREOF, the principal and surety have hereunto set their hands and seals this _____ day of _____, 1984.

_____

PRINCIPAL

By:_____

_____

Countersigned:SURETY COMPANY

By:_____By:_____

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**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

**Appendix E**

ANNUAL REPORT

For Calendar Year Ending

Name of Establishment

Address

Zip

Owners (owning a 10% or greater interest in the Establishment):

Name:Name:

Address:Address:

Name:Name:

Address:Address:

Funeral Establishment License No. _____

Issued _____

AFFIDAVIT

State of

County

, being first duly sworn and upon [my] [our] oath, depose and state:

[I am] [We are] the owner(s) of (establishment) on behalf of which [I] [we] make this affidavit, being hereunto duly authorized. The funeral establishment herein named has complied with title 32, Chapter 12, Article 5 of the Arizona Revised Statues and the rules adopted pursuant to said Article. This Annual Report includes all prearranged funeral agreements sold or administered by this establishment. [I] [We] have read this Annual Report and accompanying Schedules A, B, C, D and E and know the contents thereof, and the matters and things therein stated are true and correct. Subscribed and sworn to before me this _____ day of _____, 19 _____.

Notary Public

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**Appendix E (Cont'd)**

SCHEDULE A

Page _____

PREARRANGED FUNERAL SALES DURING

CALENDAR YEAR ENDING _____

Financial Institution Name

Address

Trust Account No.(s)*

TOTALTOTALOTHER12/31

PURCHASERTOTALINITIALINITIALMONIESMONIESTOTALBANKWITH-TRUST

NAME ANDSALESALESBENE-CONTRACTSERVICESERVICEPAID BYTO TRUSTREFUNDS

SERVICEDRAWALSACCOUNT

ADDRESSDATEPERSONFICIARYAMOUNTFEEFEE PAIDPURCHASERACCOUNTMADE

CHARGES(EXPLAIN)**BALANCE

Page Totals

TOTALS

* If this schedule concerns a number of trust accounts, provide names and addresses of financial institutions and list account numbers on separate sheet.

** If other withdrawals have occurred, explain in detail on separate sheet.

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**Appendix E (Cont'd)**

SCHEDULE B

Page _____

EXISTING PREARRANGED FUNERAL

AGREEMENTS SOLD BEFORE

CALENDAR YEAR ENDING _____

Financial Institution Name

Address

Trust Account No.(s)*

TOTAL
MONIESTOTALTOTALOTHER12/31
PURCHASERTOTALINITIALINITIALPAID BYMONIESMONIESTOTALANNUALBANK
WITH-TRUST
NAME ANDCONTRACTSERVICESERVICEPURCHASERPAID BYTO TRUSTREFUNDSSER-
VICETAXESSERVICEDRAWALSACCOUNT
SALE DATEAMOUNTFEEFEE PAIDTHIS YEARPURCHASERACCOUNTPAIDFEEPAID
CHARGES(EXPLAIN)**BALANCE

Page Totals
TOTALS

* If this schedule concerns a number of trust accounts, provide names and addresses of financial institutions and list account numbers on separate sheet.

** If other withdrawals have occurred, explain in detail on separate sheet.

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**Appendix E (Cont'd)**

SCHEDULE C

Financial Institution
Name
Address
Trust Account No(s).*

SUMMARY OF TRUST ACCOUNT

TRANSACTIONS FOR CALENDAR

YEAR ENDING _____

Total trust funds in account(s) on December 31 of previous calendar year.$ _____$ _____

Total funds received and deposited in trust account(s) during this calendar year.$ _____

Total funds withdrawn from trust account(s) during this calendar year:

1) Funeral arrangements $ _____
2) Annual service fees _____
3) Tax payments _____
4) Financial institution service charges_____
5) Refunds to purchasers _____
6) Other withdrawals** _____

TOTAL WITHDRAWALS$ _____

Total interest paid to trust account(s) during this calendar year.$ _____

Total trust funds in account(s) on December 31 of this calendar year.$ _____

Total funds received for trust but not deposited in trust account(s) as of December 31 of this calendar year.$ _____

* if this schedule concerns a number of trust accounts, provide names and addresses of financial institutions and list account numbers on separate sheet.

** If other withdrawals have occurred, explain in detail on separate sheet.

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**Appendix E (Cont'd)**

SCHEDULE D

SALESPERSONS EMPLOYED OR

ENGAGED DURING CALENDAR YEAR

Name

Address

Registration No.

SCHEDULE E

SALESPERSONS TERMINATED

DURING CALENDAR YEAR

**Historical Note**
Adopted effective January 1, 1985 (Supp. 85-1).

## ARTICLE 6. CREMATORY AND CREMATION REGULATION

**R4-12-601. Definitions**
In A.R.S. Title 32, Chapter 12, Article 6, and in this Article, the following definitions of terms shall apply.

1. "Commissioner" means the Real Estate Commissioner.
2. "Cremation container" means a rigid, combustible, closed container into which the body of a deceased person is put for subsequent placement in the cremation chamber for a cremation.
3. "Licensing authority" means the Board for funeral establishments licensed under this Chapter or the Commissioner for owners or operators holding a certificate of authority to operate a cemetery.
4. "Violation" or "offense" means each incident, action or failure to act which violates any provision of A.R.S. Title 32, Chapters 12 or 20, or rules adopted pursuant to those chapters.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-602. Authorizing agent**

**A.** In conformity with A.R.S. §§ 36-831 and 36-831.01, the persons authorized to order the cremation of human remains have the following order of precedence.
1. Spouse of the decedent.
2. An adult child with preference given in the following order:
   a. Executor of the estate.
   b. Guardian of the spouse.
   c. An adult child living in Arizona.
3. A parent of a minor child.
4. Any other person or organization, except the county where the death occurred, that is willing to order cremation and assume the legal and financial responsibility within 24 hours after the death. Preference shall be given in the following order:
   a. A parent
   b. Executor of the estate.
   c. Last appointed guardian of the decedent.

**B.** If none of the persons named in subsection (A) is willing to decide whether to cremate, the public fiduciary or other representative designated to handle funeral arrangements by the county in which the death occurred may order cremation.

**C.** A crematory authority knowingly shall not cremate human remains if a challenge of the qualifications of an authorizing agent is received prior to a cremation. If there is a challenge of the qualifications of an authorizing agent, the funeral establishment shall:
1. Provide to the decedent's family or the authorizing agent all options available at the funeral establishment for preserving the body which are not in conflict with R4-12-302(A)(3); and
2. Await a court order or settlement of the dispute before cremation may occur.

**D.** If the human remains already have been delivered to the crematory, the crematory shall either place the human remains in a refrigerated holding facility or return the human remains to the custody of the funeral establishment.

**E.** If an event described in subsections (C) or (D) occurs, chronological reports of the event shall be prepared by the funeral establishment and the crematory authority. Each report shall be dated and signed by the author and shall be entered into the cremation record within 24 hours after the occurrence.

**F.** A funeral establishment or cemetery operator may challenge the authority of an authorizing agent.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-603. Reserved**
**R4-12-604. Reserved**
**R4-12-605. Reserved**
**R4-12-606. Reserved**
**R4-12-607. Reserved**
**R4-12-608. Reserved**
**R4-12-609. Reserved**
**R4-12-610. Reserved**

**R4-12-611. Crematory authority; registration**

**A.** A person desiring to operate a crematory in Arizona for the cremation of human remains shall register with the Board as a crematory authority.

**B.** The application for registration shall contain the following information and shall be executed under oath or affirmation by the crematory authority's responsible funeral director or cemetery operator:
1. Name and location of the crematory.
2. License number and name of the funeral establishment or the cemetery authority under which the crematory authority desires to register.
3. Statement as to whether the crematory is a sole proprietorship, partnership or a corporation.
4. Name of each person owning ten percent or more of the crematory, or, if a corporation, the name of each person owning ten percent or more of the capital units or shares in the corporation.

**C.** The application for registration also shall contain the following information:
1. Mailing address and telephone number of the crematory.
2. Name, address and telephone number of the crematory authority's responsible funeral director or cemetery operator.
3. Address and telephone number of each person named in subsection (B)(4), and, if a corporation, the names, addresses and telephone numbers of the officers and statutory agent of the corporation.
4. Photocopy of the funeral establishment license or cemetery certificate of authority under which the crematory will be registered.

**D.** The application for registration shall be accompanied by a fee of $25. The certificate of registration issued by the Board shall be in the name of the funeral establishment or cemetery operator.

**E.** Upon request ofthe crematory authority and for an additional fee of $25, the Board also may issue a certificate of registration in the name of the crematory.

**F.** If the information provided pursuant to subsection (B) changes in any way, a new application and fee for registration shall be submitted to the Board within 30 days after the change.

**G.** If the owner of the crematory authority intends to close the crematory, the owner shall notify the Board at least 30 days prior to closing. If the crematory is closed unexpectedly, the owner shall advise the Board immediately.

**H.** A duplicate funeral establishment license or cemetery certificate of authority and the certificate of registration shall be prominently displayed in the crematory.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-612. Crematory requirements**

**A.** A crematory shall be maintained in a clean and orderly manner. "Clean and orderly" means the following:
1. Absence of litter, dirt and debris inside a facility, except that which is contained in a covered receptacle no larger than 35 gallons.
2. Scrupulous maintenance of the cremation chamber so that, as far as practicable, visible residue of the cremation process is removed after each cremation.
3. Neat alignment of unused cremation containers, urns, boxes or other merchandise so that they do not impede passage through the facility or their placement in a separate storage area.

**B.** Unclaimed cremated remains shall be placed in an enclosed receptacle which shall be held temporarily in a secure place which is restricted to the crematory owners, operators, employees, and public officials in the disharge of their duties.

**C.** A receptacle containing unclaimed cremated remains shall be identified clearly and indelibly with the name and location of the crematory, the name of the deceased and the date of cremation. If the receptacle containing the cremated remains is a temporary cremation box, the identification shall be affixed permanently on the cremation box. If the receptacle is an urn, the identification shall be affixed securely but temporarily to the urn.

**D.** A crematory registered pursuant to R4-12-611 shall maintain the following on its premises:
1. A cremation chamber constructed to withstand temperatures high enough to reduce human remains to bone fragments and sufficiently safe so that employees, surrounding structures, other persons and property are not subjected to damage from excessive heat or harmful emissions.
2. A holding facility which preserves the dignity of the decedent as follows:
   a. Human remains which have not been embalmed shall be held at a temperature of 38 degrees Fahrenheit or below.
   b. Entrance to the holding facility while human remains are being held shall be limited to authorized employees of the crematory authority, a funeral director, embalmer, public officials in the discharge of their duties or other persons having the legal right to be present.
   c. Except at the request and in the presence of the authorizing agent, crematory personnel shall not open a container or casket containing human remains without the presence of a licensed funeral director or embalmer. If a container or casket is opened, the funeral director or embalmer shall prepare, execute and date a report stating the reason. The report shall be made part of the cremation record of the crematory authority.
   d. Each crematory authority shall adopt, and the responsible funeral director or cemetery operator shall enforce, personnel procedures which shall assure compliance with this paragraph.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-613. Cremation container or casket for cremation; requirements**

**A.** A funeral establishment which offers cremation services shall display, place on its general price list under "Direct Cremation", and make available to consumers who choose cremation services, a rigid, covered, alternative container which is constructed of material, such as cardboard, fiberboard or unfinished wood, that shall be entirely consumed or reduced to fine residue during the cremation process.

**B.** A funeral establishment also may offer for sale in connection with cremations a closed casket which meets the combustibility requirements in subsection (A).

**C.** Caskets or containers constructed of metal or of a substance which when subjected to the cremation process emits harmful fumes shall not be sold or used for cremation.

**D.** If the responsible funeral director determines that there is potential for leakage from the cremation container or casket prior to the cremation, the funeral establishment shall line the container or casket with material that will prevent such occurrence or shall encase the human remains in a leakproof body pouch prior to placing the human remains in the container or casket.

**E.** Body fluids removed from the decedent prior to cremation shall not be forwarded for cremation except by the explicit request of the authorizing agent and with the knowledge and consent of the crematory authority.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-614. Reserved**
**R4-12-615. Reserved**
**R4-12-616. Reserved**
**R4-12-617. Reserved**
**R4-12-618. Reserved**
**R4-12-619. Reserved**
**R4-12-620. Reserved**

**R4-12-621. Cremation requirements; prohibited practices**

**A.** A cremation chamber used for the cremation of human remains shall not be used for any other purpose without the express knowledge and consent of each authorizing agent.

**B.** Delivery of human remains to a crematory shall be made in a container meeting the requirements of R4-12-613.

**C.** No cremation shall occur except after completion of the requirements of A.A.C. Title 9, Chapter 19, compliance with A.R.S. § 11-599 and receipt of an authorization of cremation signed by the authorizing agent.

**D.** The following events shall occur only when the crematory authority has been provided with written instructions by an authorizing agent who is a spouse or kin of the decedent or decedents, as applicable. Such instructions shall be made part of the cremation record:
1. Removal of human remains from the delivery container or casket for the purpose of preserving the casket or container from the cremation process.
2. Simultaneous cremation of the remains of more than one person.

3. Knowingly and avoidably commingling the cremated remains of more than one person.

**E.** Unless otherwise instructed by the authorizing agent, the crematory shall encase the cremated remains in a temporary cremation box or an urn and release them within seven days to the funeral establishment which initiated the funeral services contract.

**F.** Cremated remains which are not returned in person shall be shipped by a service which assigns a number to the parcel or shipment and provides a receipt of delivery to enable misdirected cremated remains to be traced.

**G.** A funeral establishment shall not advertise as a crematory unless the funeral establishment is a registered crematory authority.

**H.** Any funeral establishment may offer and advertise cremation services.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-622. Unclaimed cremated remains; disposition**

**A.** Unclaimed cremated remains shall be disposed of only under the direction of a cemetery operator or a responsible funeral director. "Direction" includes written procedures or verbal instructions to any employee or subcontractor for the performance of this disposition.

**B.** Unclaimed cremated remains shall be interred or scattered in any manner not contrary to local, county, state or federal requirements or an infringement on the personal rights of another person.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-623. Reserved**
**R4-12-624. Reserved**
**R4-12-625. Reserved**
**R4-12-626. Reserved**
**R4-12-627. Reserved**
**R4-12-628. Reserved**
**R4-12-629. Reserved**
**R4-12-630. Reserved**

**R4-12-631. Crematory record of cremations; retention**

**A.** The crematory authority shall establish and maintain for a period of five years from cremation a record of each cremation which shall include the following:
1. Authorization of cremation and any other special instructions signed by the authorizing agent.
2. Copy of the completed and executed disposal/transit permit which authorizes the cremation.
3. Reports or records relevant to the cremation not contained on the chronological log described in subsection (B).

**B.** The crematory shall establish and maintain a permanent chronological log of cremations showing the following information:
1. Date the human remains were received.
2. Name of the decedent.
3. Name of the person or funeral establishment forwarding the human remains.
4. Type of receptacle in which the human remains were received such as cardboard, fiberboard or wooden container or wooden casket, etc.
5. Check list showing receipt of the following:
   a. Authorization of cremation.
   b. Disposal/transit permit authorizing the cremation.
6. Code indicator if there are reports in the decedent's file.
7. Time and date of the cremation.
8. Name and signature of the authorized crematory operator.
9. Disposition of the cremated remains including the following,
   a. Date the cremated remains were picked up, delivered or disposed of and a written record of the occurrence.
   b. Signature of the person who delivered, shipped or disposed of the cremated remains and the name of the person to whom delivered.
   c. Destination of shipment or place of disposition.
10. If the uncremated human remains are returned to a funeral establishment, the date and time of the return and the name of the person who picked up the human remains.
11. Column for referencing a subsequent log entry.

**C.** If the uncremated human remains are returned to the funeral establishment and subsequently delivered to the crematory, a new log entry shall be made.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-632. Cremation documentation by funeral establishments**

**A.** A funeral establishment which contracts for the cremation of human remains shall establish and maintain for at least five years from the last use a record of each contract which contains the following:
1.. Name of the decedent and the date of death.
2.. Dated copy of the funeral arrangement or cremation purchase agreement.
3. Copy of the authorization of cremation.
4. Copy of the notification to the authorizing agent of the disposition of the cremated remains.
5. If a certified letter is sent to the authorizing agent concerning unclaimed cremated remains, a copy of the letter with the certification number on it or the returned, unopened certified letter
6. Reports, instructions or other written information originating at the funeral establishment and pertaining to the cremation.

**B.** A funeral establishment also shall maintain a permanent record of each cremation which includes the following:
1. Name of the decedent and the date of death.
2. Name of the issuing authority and the identifying number of the disposal/transit permit.
3. Date and name of the crematory to which the human remains were delivered.
4. Date of cremation.
5. Type, date and place of disposition.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-633. Disposition of records**

**A.** If a funeral establishment or crematory is sold, the records described in R4-12-631 and R4-12-632 shall be delivered to and maintained by the new owners.

**B.** If a funeral establishment or crematory is closed, within seven days after closing the records shall be:
1. Delivered to the Board office in person or by certified delivery; or
2. Delivered to another funeral establishment or crematory. If this option is taken, the receiver of the records shall advise the Board of their new location by certified mail within seven days after receipt.

**Historical Note**
Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-634. Authorization of cremation; required information**

The funeral establishment or crematory shall require the authorizing agent to sign an authorization of cremation which meets the requirements of A.R.S. § 32-1393 and contains the following:

1. Name, address and telephone number of the funeral establishment or crematory.
2. Name, address and telephone number of the authorizing agent and his relationship to the decedent such as spouse, child, parent, personal representative, friend, organization, public fiduciary, etc.
3. Name of the decedent and the date and place of death.
4. Conditions under which the funeral establishment or crematory agrees to carry out the disposition of the cremated remains or the conditions under which the authorizing agent or the agent's representative will take possession of the cremated remains.

**Historical Note**

Adopted effective July 3, 1991 (Supp. 91-3).

**R4-12-635. Reserved**
**R4-12-636. Reserved**
**R4-12-637. Reserved**
**R4-12-638. Reserved**
**R4-12-639. Reserved**
**R4-12-640. Reserved**

**R4-12-641. Consumer disclosures**

If the cremation chamber in a registered crematory also is used to cremate other than deceased human remains, a conspicuous notice shall appear immediately above the line on which the authorizing agent signs the authorization of cremation. The notice shall inform the authorizing agent that the cremation chamber used for the cremation of deceased human remains also is used for the cremation of animals or the disposal of medical waste, as the case may be.

**Historical Note**

Adopted effective July 3, 1991 (Supp. 91-3).

Recodified

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 13. RECODIFIED**

*Title 4, Chapter 13, the rules of the Industrial Commission, has been recodified to Title 20, Chapter 5 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

Recodified

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 14. RECODIFIED

*Title 4, Chapter 14, the rules of the Department of Insurance, has been recodified to Title 20, Chapter 6 pursuant to R1-1-102 (Supp. 95-1).*

Recodified

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 15. RECODIFIED**

*Title 4, Chapter 15, the rules of the Department of Liquor Licenses and Control, has been recodified to Title 19, Chapter 1 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 16. BOARD OF MEDICAL EXAMINERS

(Authority: A.R.S. § 32-1401 et seq.)

### ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of Sections R4-16-101 through R4-16-106, adopted effective June 1, 1984.*

*Former Article 1, consisting of Sections R4-16-01 through R4-16-16, repealed effective June 1, 1984 (Supp. 84-3).*

Section

R4-16-101. Continuing Medical Education
R4-16-102. Rehearing, or Review of Board Decision
R4-16-103. Licensure by Endorsement
R4-16-104. Time-frames for License, Permit, or Registration
R4-16-105. Time-frames for License Renewal
R4-16-106. Renumbered
Table 1. Time-frames

### ARTICLE 2. DISPENSING OF DRUGS

*Article 2, consisting of Sections R4-16-201 through R4-16-205, adopted effective September 22, 1995 (Supp. 95-3).*

Section

R4-16-201. Registration and Renewal
R4-16-202. Packaging and Inventory; Exception
R4-16-203. Prescribing and Dispensing Requirements
R4-16-204. Recordkeeping and Reporting Shortages
R4-16-205. Inspections; Denial and Revocation

### ARTICLE 1. GENERAL PROVISIONS

#### R4-16-101. Continuing Medical Education

**A.** Every calendar year, each person holding an active license to practice medicine in this state shall complete 20 credit hours of the continuing medical education required by A.R.S. § 32-1434. One hour of credit will be allowed for each clock hour of participation in approved continuing medical education activities, unless otherwise designated in subsection (B) below.

**B.** Approved continuing medical education activities include the following:

1. Internship, residency, or fellowship in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of training. No other credit may be claimed during the time a physician is in full-time training in an accredited program. Less than full-time study may be claimed on a pro rata basis.
2. Education for an advanced degree in a medical or medically related field in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of study. Less than full-time study may be claimed on a pro rata basis.
3. Full-time research in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of research. Less than full-time study may be claimed on a pro rata basis.
4. Education certified as Category I by an organization accredited by the Accreditation Council on Continuing Medical Education.
5. Medical educational programs designed to provide necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine, provided by organizations or institutions that have not been accredited by the Accreditation Council on Continuing Medical Education.
6. Serving as an instructor of medical students, house staff, other physicians, or allied health professionals from a hospital or institution with a formal training program, where the instruction activities are such as will provide the licentiate with necessary understanding of current developments, skills, procedures, or treatment related to the practice of medicine.
7. Publication or presentation of a medical paper, report, book that is authored and published and deals with current developments, skills, procedures, or treatment related to the practice of medicine. Credits may be claimed only for materials presented. Credits may be claimed once as of the date of publication or presentation. One credit hour may be reported per hour of preparation, writing, and/or presentation.
8. Credit hours may be earned for any of the following activities which provide necessary understanding of current developments, skills, procedures, or treatment related to the practice of medicine:
   a. Completion of a medical education program based on self-instruction which utilized videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, and computers;
   b. Independent reading of scientific journals and books;
   c. Preparation for specialty Board certification or recertification examinations;
   d. Participation on a staff committee or quality of care and/or utilization review in a hospital or institution or government agency.

**C.** If a person holding an active license to practice medicine in this state fails to meet the foregoing requirements because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board, upon appropriate written application, may grant an extension of time to complete same on an individual basis.

**D.** Each year, with the application for renewal of an active license to practice medicine in this state, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, that he or she has met the stipulated continuing medical education requirements. In addition, the Board may randomly require physicians submitting such a certification to demonstrate, prior to renewal of license, satisfaction of the continuing medical education requirements stated in his or her certification.

**Historical Note**

Former Rule 12. Former Section R4-16-01 repealed, new Section R4-16-101 adopted effective June 1, 1984 (Supp. 84-3). Section repealed, new Section renumbered from R4-16-103 effective September 22, 1995 (Supp. 95-3).

#### R4-16-102. Rehearing or Review of Board Decision

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered

in such case may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board or its hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If, in a particular decision, the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Board, such statutory provisions shall govern.

**Historical Note**

Former Rule 16. Former Section R4-16-02 repealed, new Section R4-16-102 adopted effective June 1, 1984 (Supp. 84-3). Section repealed, new Section renumbered from R4-16-106 effective September 22, 1995 (Supp. 95-3).

**R4-16-103. Licensure by Endorsement**

**A.** An applicant for licensure by endorsement may request from the Board, in writing, an extension beyond the 7-year time period provided by A.R.S. § 32-1426(B)(4) for passage of 1 of the combinations of examinations specified in that subsection. An applicant shall submit the request to the Board together with evidence that:

1. The applicant meets all requirements for licensure and for taking the United States Medical Licensing Examination,
2. The combination of examinations cannot be passed in the time required by law, and
3. The applicant is:
   a. A full-time student in an approved school of medicine;
   b. A participant in an approved hospital internship, residency, or clinical fellowship program; or
   c. A full-time student in a recognized degree program concurrently or consecutively with medical school or postgraduate training.

**B.** A requested extension shall be granted by the Board upon the Board determining that an applicant has submitted evidence which satisfies the requirements of subsection (A).

**C.** An applicant may be granted an extension of up to 10 years from the date of the successful completion of the 1st part of the combination of examinations.

**D.** An applicant who is denied an extension may request a hearing to contest the denial by filing a written notice with the Board within 15 days of receipt of notice of the Board's action. A hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

**E.** For purposes of this Section, a "recognized degree program" means an education program that is offered by a college or university approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or the Western Association of Schools and Colleges; or accredited by the United States Department of Education, the Council on Postsecondary Accreditation, the Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Medical Association.

**Historical Note**

Former Rule 17; Amended effective August 19, 1977 (Supp. 77-4). Former Section R4-16-03 repealed, new Section R4-16-103 adopted effective June 1, 1984 (Supp. 84-3). Section R4-16-103 renumbered to R4-16-101 effective September 22, 1995 (Supp. 95-3). New Section adopted effective May 20, 1997 (Supp. 97-2).

**R4-16-104. Time-frames for Licenses, Permits and Registrations**

**A.** For each type of license, permit, or registration issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1.

**B.** For each type of license, permit, or registration issued by the Board, the administrative completeness review time-frame

described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application and all required documents and information.

1. If the required application is not administratively complete, the Board shall send to the applicant, a deficiency notice.
   a. The notice shall state each deficiency and the information needed to complete the application and documents.
   b. Within the time provided in Table 1 for response to a deficiency notice, beginning on the date of mailing of a deficiency notice, an applicant shall submit to the Board the missing documents and information specified in the notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing documentation and information.
   c. Under A.R.S. § 32-1427(E), an applicant for an initial license by examination or endorsement who disagrees with the deficiency notice may request a hearing before the Board at its next regular meeting if there is time at that meeting to hear the matter. The board shall not delay a requested hearing beyond 1 regularly scheduled meeting. At any hearing granted under this subsection, the applicant shall have the burden of proof to demonstrate that the alleged deficiencies do not exist.
   d. Under A.R.S. § 32-1427(F), if an applicant for initial license by examination or endorsement does not submit the missing documents and information indicated in the deficiency notice within the time-frame specified in subsection (B)(1)(b), the Board shall deem the application withdrawn.
2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
3. If the application and submitted documents and information do not contain all of the components required by statute and rule, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.

**C.** For each type of license, permit, or registration issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed at Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.

1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information. The applicant shall submit to the Board the additional information identified by the comprehensive written request within the time provided in Table 1, beginning on the date of mailing of the comprehensive written request for additional information. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the additional information.
2. The Board shall issue a written notice of denial of license, permit, or registration if the Board determines that the applicant does not meet all of the substantive criteria required by statute and rule for a license, permit, or registration.
3. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1.
4. If the applicant meets all of the substantive criteria required by statute and rule for license, permit, or registration, the Board shall issue a license, permit, or registration to the applicant.

**Historical Note**

Former Rule 18. Former Section R4-16-04 repealed, new Section R4-16-104 adopted effective June 1, 1984 (Supp. 84-3). Section repealed effective September 22, 1995 (Supp. 95-3). New Section adopted effective January 20, 1998 (Supp. 98-1).

**R4-16-105. Time-frames for License Renewal**

**A.** For renewal of licensure, the overall time-frame described in A.R.S. § 41- 1072(2) is 90 calendar days.

**B.** For renewal of licensure, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is 90 calendar days and begins on the date the Board receives the renewal application.

1. If the required application is not administratively complete, the Board shall send to the applicant a deficiency notice. The notice shall state each deficiency and the documents and information needed to complete the renewal application.
2. The 90-day time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the needed documents and information.
3. If an applicant does not submit a complete renewal application before May 1, the applicant's license expires, except that the license of a physician who does not renew the license and who has been advised in writing that an investigation is pending at the time the license is due to expire does not expire until the investigation is resolved. The license of a physician for whom an investigation is pending is suspended on the date it would otherwise expire and the physician shall not practice in this state until the investigation is resolved.
4. If the submitted application is administratively complete, the Board shall send a written notice of renewal to the applicant.

**Historical Note**

Former Rule 19. Former Section R4-16-05 repealed, new Section R4-16-105 adopted effective June 1, 1984 (Supp. 84-3). Section repealed effective September 22, 1995 (Supp. 95-3). New Section adopted effective January 20, 1998 (Supp. 98-1).

**R4-16-106. Renumbered**

**Historical Note**

Former Rule 21. Former Section R4-16-06 repealed, new Section R4-16-106 adopted effective June 1, 1984 (Supp. 84-3). Section R4-16-106 renumbered to R4-16-102 effective September 22, 1995 (Supp. 95-3).

**Table 1. Time-frames**

**Time-frames (in calendar days)**

| Type of License | Overall Time-Frame | Administrative Review Time-Frame | Time to Respond to Deficiency Notice | Substantive Review Time-Frame | Time to Respond to Request for Additional Information |
|---|---|---|---|---|---|
| Initial License by Examination | 240 | 120 | 365 | 120 | 90 |
| Initial License by Endorsement | 240 | 120 | 365 | 120 | 90 |
| Locum Tenens or Pro Bono Registration | 120 | 60 | 30 | 60 | 30 |
| Temporary License | 60 | 30 | 30 | 30 | 30 |
| Teaching License | 40 | 20 | 30 | 20 | 30 |
| Educational Teaching Permit | 20 | 10 | 10 | 10 | 10 |
| Training Permit | 40 | 20 | 30 | 20 | 30 |
| Short Term Training Permit | 40 | 20 | 30 | 20 | 30 |
| One-year Training Permit | 40 | 20 | 30 | 20 | 30 |
| Registration to Dispense Controlled Substances and Prescription-only Drugs and Devices | 150 | 45 | 30 | 105 | 30 |

**Historical Note**
Table 1 adopted effective January 20, 1998 (Supp. 98-1).

## ARTICLE 2. DISPENSING OF DRUGS

### R4-16-201. Registration and Renewal

**A.** A physician who wishes to dispense controlled substances and prescription-only drugs and devices shall be currently licensed to practice medicine in the state of Arizona and shall provide to the Board the following:
1. A completed form for registration, furnished by the Board, which includes the following information:
   a. The physician's name, license number, and field of practice;
   b. A listing of the types of drugs and devices the physician desires to dispense, including prescription-only and controlled substances; and
   c. The location or locations where the physician desires to dispense.
2. A copy of the physician's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the physician desires to dispense controlled substances.
3. The statutorily required fee.

**B.** A physician shall renew a registration to dispense drugs and devices by complying with the requirements set forth in subsection (A) on or before June 30 of each year. When a physician has made timely and complete application for the renewal of a registration, the physician may continue to dispense until the application has been approved or denied by the Board.

**C.** If the completed annual renewal form, all required documentation, and the correct fee are not received in the Board's office on or before June 30, the physician shall not dispense drugs and devices until newly registered. The physician shall register by filing for initial registration pursuant to subsection (A) and shall not dispense drugs and devices until receipt of a new registration.

**Historical Note**
Adopted effective September 22, 1995 (Supp. 95-3).

### R4-16-202. Packaging and Inventory; Exception

**A.** A physician shall dispense all drugs in prepackaged containers or in light-resistant containers with a consumer safety cap, unless a patient or a patient's representative requests a non-safety cap.

**B.** All drugs dispensed shall be labeled with the following information:
1. The physician's name, address, and telephone number;
2. The date the drug is dispensed and its expiration date;
3. The patient's name; and
4. The name, form, name of the manufacturer and strength of the drug, the quantity dispensed, directions for its use, and any cautionary statement necessary for the safe and effective use of the drug.

**C.** A physician shall secure all controlled substances in a locked cabinet or room and shall control access to the cabinet or room by a written procedure which shall include, at a minimum, designation of the persons who have access to the cabinet or room and procedures for recording requests for access to drugs. This written procedure shall be made available on demand to the Board or its authorized representatives for inspection or copying. Prescription-only medications shall be stored so as not to be accessible to patients.

**D.** Drugs not requiring refrigeration shall be maintained in an area where the temperature does not exceed 85°F.

**E.** A physician shall maintain an ongoing dispensing log for all controlled substances and the prescription-only medications nalbuphine hydrochloride (Nubain) and butorphanol tartrate (Stadol) dispensed by the physician which includes separate inventory sheets for each controlled substance, nalbuphine hydrochloride, and butorphanol tartrate. The heading of a dispensing log shall include the following information:
1. The date the drug is dispensed;
2. The patient's name;
3. The name, form, name of the manufacturer, and strength of the drug;
4. The number of dosage units dispensed;
5. A running total of medication dispensed; and
6. The signature of the physician, or the person authorized by the physician who dispensed the medication, written next to each entry.

**F.** The dispensing log required in subsection (E) may be maintained on computer provided that the log is quickly accessible through either on-screen viewing or printing of a copy.

**G.** This Section shall not apply to prepackaged, manufacturer samples of drugs, unless otherwise provided by federal law.

**Historical Note**
Adopted effective September 22, 1995 (Supp. 95-3).

**R4-16-203. Prescribing and Dispensing Requirements**

**A.** A physician shall record on the patient's medical record the name, form, and strength of the drug or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, the medical reasons for dispensing the drug or device, and the number of refills authorized.

**B.** Prior to delivery to the patient, a physician shall review the prepared drugs and devices to ensure their compliance with the prescription and, additionally, ensure that the patient has been informed of the name of the drug or device, directions for its use, precautions, and storage requirements.

**C.** A physician shall purchase all dispensed drugs and devices from a manufacturer or distributor approved by the United States Food and Drug Administration, or a pharmacy holding a current, valid permit for the Arizona Board of Pharmacy.

**D.** The person who prepares drugs and devices for dispensing shall countersign and date the original prescription form for the drugs and devices.

**E.** For purposes of this Article, "dispense" means the delivery of a drug or device to a patient for use outside the physician's office.

**Historical Note**
Adopted effective September 22, 1995 (Supp. 95-3).

**R4-16-204. Recordkeeping and Reporting Shortages**

**A.** All original prescription orders for drugs dispensed from a physician's office shall be dated, consecutively numbered in the order in which they were originally dispensed, and filed separately from the patient medical records. Original prescription orders for Schedule II drugs or other controlled substances shall be maintained separately from other prescription orders.

**B.** A physician shall maintain drug purchase orders and invoices for controlled substances, nalbuphine hydrochloride, and butorphanol tartrate which are received, and original prescription orders for all drugs for a period of three years from the date of the order. Dispensing logs and destruction records shall also be maintained for three years.

**C.** A physician who determines that drugs have been illegally removed from the physician's office, or that a drug shortage exists in controlled substances maintained for dispensing, shall immediately notify a local law enforcement agency and thereafter, provide that agency with a report in writing, with copies to the Drug Enforcement Administration and the Board within seven days of the discovery.

**D.** For purposes of this Section, "Schedule II drugs or other substances" means the controlled substances identified, defined, or listed in A.R.S. § 36-2513 and the following hallucinogenic substances:

1. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration-approved drug product,
2. Nabilone.

**Historical Note**
Adopted effective September 22, 1995 (Supp. 95-3).

**R4-16-205. Inspections; Denial and Revocation**

**A.** A physician shall cooperate with and allow access by the Board or its authorized representatives to the physician's office and records during periodic inspections of dispensing practices by the Board. Failure to cooperate or allow access shall be grounds for revocation of a physician's registration to dispense or denial of renewal of registration.

**B.** Failure to comply with A.R.S. § 32-1491 or this Article shall constitute grounds for denial or revocation of registration.

**C.** A physician's registration to dispense drugs and devices shall be revoked by the Board upon occurrence of the following:

1. Suspension, revocation, or cancellation of the physician's license;
2. Placement of the physician's license on inactive status;
3. Failure to timely renew the physician's license; or
4. Restriction of the physician's ability to prescribe or administer medication, including loss or expiration of a physician's Drug Enforcement Administration Certificate of Registration.

**D.** A physician denied registration may request a hearing to appeal the decision by filing the request, in writing, with the Board, not later than 10 days after receipt of the notice denying the registration.

**Historical Note**
Adopted effective September 22, 1995 (Supp. 95-3).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 17. JOINT BOARD ON THE REGULATION OF PHYSICIAN'S ASSISTANTS

(Authority: A.R.S. § 32-2504)

*Laws 1984, Ch. 102, changed the name of the Joint Board of Medical Examiners and Osteopathic Examiners in Medicine and Surgery to Joint Board on the Regulation of Physician's Assistants.*

*Chapter 17 consisting of Article 1, Section R4-17-101; Article 2, Sections R4-17-201 through R4-17-204; Article 3, Sections R4-17-301 through R4-17-304; Article 4, Sections R4-17-401 and R4-17-402 adopted effective July 8, 1986.*

*Former Chapter 17 consisting of Article 1, Section R4-17-01; Article 2, Sections R4-17-02 through R4-17-06; Article 3, Sections R4-17-07 through R4-17-12; Article 4, Sections R4-17-13 through R4-17-17; Article 5, Sections R4-17-18 through R4-17-22; and Article 6, Section R4-17-23 repealed effective July 8, 1985.*

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Section
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R4-17-402. Termination of Supervision
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## ARTICLE 1. GENERAL PROVISIONS

### R4-17-101. Definitions

For the purposes of A.R.S. Title 32, Chapter 25 and this Chapter:

1. "ABMS/AOA" means the American Board of Medical Specialties/American Osteopathic Association.
2. "ACCME" means the Accreditation Council for Continuing Medical Education.
3. "Active practice of medicine" means a physician working a minimum of 1,000 hours per year in a clinical area with direct patient contact or clinical research.
4. "AMA" means the American Medical Association.
5. "Application" means, for purposes of R4-17-102 only, forms designated as applications and the notification of supervision form, and all documents and additional information the Board requires to be submitted with an application or notification of supervision form.
6. "ASAPA" means the Arizona State Association of Physician Assistants.
7. "Board official" means the Board program administrator or the executive director, deputy director, or an investigator of the Board of Medical Examiners.
8. "CAAHEP" means the Commission on the Accreditation of Allied Health Education Programs.
9. "CAHEA" means the Committee on Allied Health Education and Accreditation.
10. "Category I continuing medical education" means an activity certified as Category I by an institution or organization accredited for continuing medical education by ACCME, the AMA, the American Academy of Physician Assistants, or the American Osteopathic Association.
11. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.
12. "Dispense" means to issue 1 or more doses of medication in a suitable container with a label that satisfies all applicable labeling requirements of the Arizona Board of Pharmacy and of R4-17-302 for subsequent administration to, or use by, a patient or patients.
13. "Full day" means not less than 8 hours.
14. "NCCPA" means the National Commission on the Certification of Physician Assistants.
15. "PANCE" means the Physician Assistant National Certifying Examination.
16 "Prescribe" means to issue:
    a. A signed, written order to a pharmacist for drugs or medical devices; or
    b. An order transmitted to a pharmacist by word of mouth, telephone, or other means of communication.
17. "Service" means personal delivery or mailing by certified mail to a physician assistant, supervising physician, supervising physician's agent, or applicant affected by a decision of the Board at the physician assistant's, supervising physician's, supervising physician's agent, or applicant's last known residence or place of business.
18. "State fiscal year" means from July 1 of 1 calendar year to June 30 of the next calendar year.
20. *"Supervision" means a physician's opportunity or ability to provide or exercise control and direction over the services of a physician assistant. Supervision does not require a physician's constant physical presence if the supervising physician or the supervising physician's agent is or can be easily in contact with the physician assistant by radio, telephone or telecommunication.*

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Amended effective April 22, 1998 (Supp. 98-2).

### R4-17-102. Time-frames for Certifications and Approvals

**A.** For each type of certification, renewal of certification, or approval issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.

**B.** For each type of certification, renewal of certification, or approval issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the Board receives an application.
    1. If the application is not administratively complete, the Board shall send a deficiency notice to the applicant.
        a. The deficiency notice shall state each deficiency and the information needed to complete the application.
        b. Within the time provided in Table 1 for response to the deficiency notice, the applicant shall submit to the Board the missing information specified in the deficiency notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information.
        c. If the applicant does not submit the missing information within the time to respond to the deficiency notice set forth in Table 1, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
    2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.

**C.** For each type of certification, renewal of certification, or approval issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
    1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information. The applicant shall submit the additional information within the time provided in Table 1 for response to a comprehensive written request for additional information. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the request until the Board receives the information.
    2. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1.
    3. The Board shall issue a written notice of denial of certification, renewal of certification, or approval if the Board determines that the applicant does not meet all of the substantive criteria required by statute or this Chapter for certification, renewal of certification, or approval.
    4. If the applicant meets all of the substantive criteria required by statute and this Chapter for certification, renewal of certification, or approval the Board shall issue the certification, renewal of certification, or approval to the applicant.

**D.** In computing any period of time prescribed in this Section, the day of the act, event, or default shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday. The computation shall include intermediate Saturdays,

Sundays, and holidays. The time period for an applicant to respond to a deficiency notice or request for additional information shall commence on the date of personal service or the date of mailing.

**Historical Note**
Adopted effective April 22, 1998 (Supp. 98-2).

**Table 1. Time-frames (in days)**

| Type of License | Overall Time-frame | Administrative Review Time-frame | Time to Respond to Deficiency Notice | Substantive Review Time-frame | Time to Respond to Request for Additional Information |
|---|---|---|---|---|---|
| Temporary Certification R4-17-203 | 120 | 30 | 365 | 90 | 90 |
| Certification R4-17-204 | 120 | 30 | 365 | 90 | 270 |
| Renewal of Certification R4-17-206 | 30 | 30 | Not later than Sept. 30 of each year | Not applicable | Not applicable |
| Approval of Delegation of Authority for Schedule II or Schedule III controlled substances R4-17-301 | 120 | 30 | 60 | 90 | 30 |
| Approval of Notification of Supervision R4-17-303 | 120 | 30 | 60 | 90 | 30 |

**Historical Note**
Adopted effective April 22, 1998 (Supp. 98-2).

## ARTICLE 2. PHYSICIAN ASSISTANT CERTIFICATION

**R4-17-201. Physician Assistant Student Training Registration Exemption**

**A.** A physician assistant student who wishes an exemption from regular certification while in the course of an approved physician assistant training program in accordance with A.R.S. § 32-2521(B)(3)(a) shall provide the following information to the Board at least 10 days before beginning the clinical phase of the training program, on an application form provided by the Board:
1. Physician assistant student's full name, current complete address, and date of birth;
2. Consistent with the Board's statutory authority, such other information as the Board may deem necessary to fully evaluate the student's application; and
3. A notarized sworn statement by the student verifying the truthfulness of the information provided.

**B.** In addition to the requirements of subsection (A), a physician assistant student applying for an exemption from regular certification shall have the physician assistant program dean or director execute and directly submit to the Board a notarized physician assistant program certification on a form provided by the Board that certifies the following:
1. The student is currently engaged in a physician assistant training program;
2. The name of the program;
3. The date the program was approved for physician assistant training by CAAHEP; and
4. The student's training commencement date and anticipated date of completion.

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-201 renumbered to R4-17-202; new Section adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-202. Certifying Examination**

**A.** An applicant for certification as a physician assistant shall pass the PANCE.

**B.** An applicant who presents a certificate issued by the NCCPA that shows the applicant passed either the PANCE or the NCCPA recertification examination within the 6-year period preceding presentation of the certificate to the Board shall be deemed to have met the requirement of A.R.S. § 32-2521(A)(2).

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section R4-17-202 renumbered from R4-17-201 and amended effective April 22, 1998 (Supp. 98-2).

**R4-17-203. Temporary Certification of a Physician Assistant**

**A.** An applicant for temporary certification as a physician assistant shall submit the following information on an application form furnished by the Board:
1. Applicant's full name and social security number;
2. Applicant's mailing and office addresses;
3. Applicant's home and office phone numbers;
4. Applicant's birth place and date of birth;
5. Names of the states or provinces in which the applicant has been granted a certification, registration, or license as a physician assistant, including certificate number, date issued, and current status of the certification;
6. Whether the applicant has had an application for certification, registration, or licensure to perform health care

tasks denied or rejected by another state or province licensing board, and if so, an explanation;

7. Whether a health care provider has taken an action against or placed a restriction or limitation upon the applicant, or whether the applicant has been placed on probation or academic probation while the applicant was participating in a training program, and if so, an explanation;
8. Whether the applicant has been charged with a violation of a statute, rule, or regulation of any domestic or foreign governmental agency, and if so, an explanation;
9. Whether the applicant has been found guilty or entered into a plea of no contest to a felony, or misdemeanor involving moral turpitude in any state, and if so, an explanation;
10. Whether an action has been initiated against the applicant by or through any medical board or association, and if so, an explanation;
11. Whether the applicant has been placed on probation or had a certification to perform health care tasks revoked, suspended, limited, restricted, voluntarily surrendered, or canceled during an investigation or instead of disciplinary action, or entered into a consent agreement or stipulation, and if so, an explanation;
12. Whether the applicant has had hospital privileges revoked, denied, suspended, or restricted, and if so, an explanation;
13. Whether the applicant has been named as a defendant in a malpractice matter that resulted in a settlement or judgment against the applicant in excess of $20,000, and if so, an explanation;
14. Whether the applicant has been convicted of Medicare or Medicaid fraud or received sanctions, including restriction, suspension, or removal from practice, imposed by an agency of the federal government, and if so, an explanation;
15. Whether the applicant has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency, and if so, an explanation;
16. Whether the applicant has a chronic ailment communicable to others, and if so, an explanation;
17. Whether the applicant has a medical condition that impairs or limits the applicant's ability to safely practice a health care task within the scope of practice of a physician assistant, and if so, an explanation;
18. Whether the applicant, within the last 10 years, has been diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation;
19. Whether the applicant has, since attaining the age of 18 or within the last 10 years, whichever period is shorter, been admitted to a hospital or other facility for the treatment of bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation;
20. Whether the applicant has taken a leave of absence, other than for pregnancy, during the applicant's physician assistant training program, preceptorship training, or other practice, and if so, an explanation;
21. Applicant's whereabouts and nature of practice since graduation from physician assistant training to present, indicating the exact month, date, and year for each;
22. Consistent with the Board's statutory authority, such other information as the Board may deem necessary to fully evaluate the applicant; and
23. A records or documentation release and a sworn statement by the applicant verifying the truthfulness of the information provided by the applicant and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules.

**B.** In addition to the application form, an applicant for temporary certification shall submit the following:

1. Certified photocopy of the applicant's birth certificate or the applicant's passport;
2. Certified evidence of legal name change if the applicant's legal name is different from that shown on the document submitted in accordance with subsection (B)(1);
3. Photocopy of any certificate of release from the U.S. military or public health service or, if applicable, a letter from any commanding officer setting forth the dates of active duty, assignments, and anticipated date of release from active duty;
4. Photocopy of the applicant's diploma awarded upon successful completion of a physician assistant training program or a letter from the program that provides the date of the applicant's successful completion;
5. A form provided by the Board, completed by the applicant, that lists all current or past employment with medical agencies or supervising physicians within the 5 years preceding the date of application or since graduation from a physician assistant program, if less than 5 years, including the agency or physician name, address, and date of employment;
6. An affidavit completed and subscribed under oath by the applicant that certifies the applicant has received a copy of, read, and will comply with the laws and rules governing the performance of health care tasks by physician assistants in Arizona; and
7. The required fee.

**C.** In addition to the requirements of subsection (A) and (B), an applicant for temporary certification shall have the following directly submitted to the Board:

1. Letter verifying the applicant's registration for the NCCPA certifying examination from the NCCPA;
2. All of the forms included with the application which are to be completed by persons other than the applicant, including the disciplinary investigation form for the Federation of State Medical Boards, the physician assistant training program certification, and the verification of certification/licensure/registration, completed by the appropriate parties; and,
3. Medical agency of employment/supervising physician form provided by the Board and completed by the applicant's supervising physicians for the 5 years preceding the date of application.

**D.** Prior to being granted a temporary certification by the Board, an applicant for a temporary certification shall enter into a written agreement with the Board in which the applicant agrees to perform health care tasks only in settings where the supervising physician practices medicine at the same geographic location at all times. The temporary certification shall terminate 6 months from the date of issuance, upon the issuance of a permanent certificate, or immediately upon the physician assistant failing the NCCPA certification examination, whichever occurs 1st.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-204. Certification of Physician Assistant**

**A.** An applicant for certification as a physician assistant shall submit an application on a form furnished by the Board that provides the information required by R4-17-203(A).

**B.** In addition to the application, an applicant for certification shall submit the documents and information required by R4-17-203(B):

**C.** In addition to the requirements of subsections (A) and (B), the applicant shall have the following directly submitted to the Board:

1. A copy of the applicant's certificate of successful completion of the NCCPA examination and the applicant's examination score provided by the NCCPA;
2. A form provided by the Board, completed and signed by the Coordinator of the Disciplinary Data Bank, The Federation of State Medical Boards, that includes the applicant's full name and address, birth date, physician assistant training program name and location, and date of the applicant's degree or graduation for purposes of a disciplinary search.
3. A form provided by the Board, completed, signed, and authenticated by seal or notarization by the director or administrator of the physician assistant program that granted the applicant a physician assistant degree, that includes the applicant's full name, type of degree, name of program, date the applicant's degree was granted, date of the applicant's matriculation, and a 2 1/2" by 3" passport type photo of the applicant taken within 60 days of the date of application and endorsed across the front by the applicant's signature. The program shall also provide the following information:
   a. Whether the applicant was required to repeat any segment of training;
   b. Whether any action was taken against or restriction, limitation, including probation or academic probation, was placed upon the applicant while the applicant was participating in the training program;
   c. Whether the applicant was counseled regarding performance or behavior in the training program;
   d. Whether the applicant took a leave of absence, other than for pregnancy, during the applicant's training program or preceptorship;
   e. Whether the student has a chronic ailment communicable to others;
   f. Whether the applicant has a medical condition that in any way impairs or limits the applicant's ability to safely practice any type of health care tasks within the scope of practice for physician assistants;
   g. Whether, within the last 10 years, the applicant was diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder;
   h. Whether the applicant, since attaining age 18 or within the last 10 years, whichever period is shorter, was admitted to a hospital or other facility for the treatment of bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder; and
   i. Whether the student's final evaluations in every category rated at least satisfactory. If not, the program shall attach a photocopy of the evaluation and a written explanation.
4. A verification of certification/licensure/registration, on a form provided by the Board, completed, signed, and authenticated by seal or notarization by the board of each state in which the applicant holds or has held certification, licensure, or registration as a physician assistant. The verification shall provide the name of the state, the applicant's name, the program from which the applicant graduated, the applicant's certification or registration number and its date of issuance, any endorsement, and whether the certification, license, or registration is current. The state board shall also provide the following information:
   a. Whether the applicant was placed on probation or the applicant's certificate/license/registration was revoked, suspended, limited, restricted, voluntarily surrendered, or canceled during an investigation or, instead of disciplinary action, if the applicant entered into a consent agreement or stipulation;
   b. Whether the applicant has a chronic ailment communicable to others;
   c. Whether the applicant has a medical condition that in any way impairs or limits the physician assistant's ability to safely practice any type of health care tasks within the scope of practice for physician assistants;
   d. Whether, within the last 10 years, the applicant was diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia or any other psychotic disorder; and
   e. Whether the applicant, since attaining age 18 or within the last 10 years, whichever period is shorter, was admitted to a hospital or other facility for the treatment of bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder.
5. A medical agency of employment/supervising physician form provided by the Board, completed, signed, and authenticated by seal or notarization by all medical agencies or supervising physicians where the applicant is currently employed or was employed in the last 5 years. The form shall provide the name of the medical agency or supervising physician, date of the applicant's employment, names, locations, and date of each hospital, office, or clinic where the physician is or was assigned. The medical agency or employing/supervising physician shall also provide the following information:
   a. Whether the applicant was placed on probation or academic probation or an action, restriction, or limitation was taken against the applicant while the applicant was in the agency's or physician's employment;
   b. Whether the applicant was counseled regarding performance or behavior while in the agency's or physician's employment;
   c. Whether the applicant took a leave of absence, other than for pregnancy, while in the agency's or physician's employment;
   d. Whether, to the agency's or physician's knowledge, the applicant had a chronic ailment communicable to others;
   e. Whether, to the agency's or physician's knowledge, the applicant had a medical condition that in any way impaired or limited the applicant's ability to safely practice any type of health care tasks within the scope of practice for physician assistants;
   f. Whether, to the agency's or physician's knowledge, within the last 10 years, the applicant was diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder; and
   g. Whether, to the agency's or physician's knowledge, the applicant, since attaining age 18 or within the last 10 years, whichever period is shorter, was admitted to a hospital or other facility for the treatment of bi-polar disor-

der, schizophrenia, paranoia, or any other psychotic disorder.

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-205. Continuing Education**

**A.** During each state fiscal year, a physician assistant shall complete the 20 credit hours of continuing medical education required by A.R.S. § 32-2523. One hour of credit shall be allowed for each clock hour of participation in approved continuing medical education activities, unless otherwise designated in subsection (B).

**B.** Approved continuing medical education activities include the following:
1. Education for an advanced degree in a medical or medically-related field at a teaching institution approved by the AMA, the Association of American Medical Colleges, American Osteopathic Association, or American Academy of Physician Assistants. One credit hour may be claimed for each full day of study. Less than full-day study shall be claimed on a pro-rata basis.
2. Research at a teaching institution approved by the AMA, Association of American Medical Colleges, American Osteopathic Association, or CAAHEP. One credit hour may be claimed for each full day of research. Less than full day research shall be claimed on a pro-rata basis.
3. Education certified as Category I by an organization accredited by ACCME, CAAHEP, the AMA, the American Academy of Physician Assistants, and the American Osteopathic Association.
4. Medical educational programs designed to provide necessary understanding of current developments, skills, procedures, or treatments related to the performance of health care tasks, provided by organizations or institutions that have not been accredited by ACCME, CAAHEP, AMA, the American Academy of Physician Assistants, and the American Osteopathic Association.
5. Serving as an instructor of physician assistant students, house staff, other physician assistants, or allied health professionals from a hospital or institution with a formal training program, where the instructional activities will provide the participants with necessary understanding of current developments, skills, procedures, or treatments related to the performance of health care tasks. One credit hour may be claimed for each full day of instruction without regard to the number of times the instructional activities have been taught. Less than full-day instruction shall be claimed on a pro-rata basis.
6. Publication or presentation of a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the performance of health care tasks. Credit hours shall be claimed only once for materials presented. Credit hours shall be claimed as of the date of publication or presentation. One credit hour may be reported for each hour of preparation, writing, and presentation.
7. Credit hours may be claimed on the basis of 1 credit hour for each full day of an activity for any of the following activities that provide necessary understanding of current developments, skills, procedures, or treatments related to the performance of health care tasks:
   a. Completion of a physician assistant education program based on self-instruction using videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
   b. Independent reading of scientific journals and books;
   c. Preparation for NCCPA certification or recertification examinations; or,
   d. Participation on a staff committee, quality of care, or utilization review in a hospital, institution, or government agency.

**C.** If a physician assistant fails to meet the requirements of this Section due to illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstance, the Board may grant, on an individual basis, an extension of time to complete the continuing education upon receipt, at least 30 days before expiration of the physician assistant's current certification, of a written request from the physician assistant that details the reasons for the extension request.

**Historical Note**
Adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-206. Renewal of Certification**

**A.** To renew certification, a physician assistant shall submit an affidavit of completion of continuing education on a form provided by the Board that provides the following information regarding the physician assistant, and the continuing medical education completed by the physician assistant and events affecting the physician assistant during the previous year:
1. Physician assistant's Arizona certificate number;
2. Physician assistant's social security number;
3. Physician assistant's DEA number, if the physician assistant has 1, the date it was issued, and the date it expires;
4. Physician assistant's full name;
5. Physician assistant's office and home addresses;
6. Physician assistant's office and home phone numbers;
7. Physician assistant's medical directory/mailing addresses;
8. Physician assistant's current supervising physician and the physician's address;
9. The physician assistant's specialty field of practice;
10. Whether the physician assistant maintains current NCCPA certification;
11. Whether the physician assistant has been named as a defendant in a malpractice matter that resulted in a settlement or judgment against the physician assistant in excess of $20,000, and if so, an explanation;
12. Whether the physician assistant has been convicted of Medicare or Medicaid fraud or was sanctioned, disciplined, or entered into an agreement with a state or federal agency concerning a denial, limitation, restriction, suspension, or revocation of the physician assistant's certification, or rehabilitation or removal from practice and if so, an explanation;
13. Whether the physician assistant's ability to prescribe, dispense, or administer medications has been limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency, and if so, an explanation;
14. Whether the physician assistant has a chronic ailment communicable to others, and if so, an explanation;
15. Whether the physician assistant has a medical condition that impairs or limits the physician assistant's ability to safely perform any type of health care tasks within the scope of practice for physician assistants, and if so, an explanation;

16. Whether the physician assistant was diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation;
17. Whether the physician assistant was admitted to a hospital or other facility for the treatment of bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation;
18. Whether the physician assistant has taken a leave of absence during the physician assistant's practice other than for pregnancy, and if so, an explanation;
19. Whether the physician assistant has been treated for use or misuse of any chemical substance, and if so, an explanation;
20. Consistent with the Board's statutory authority, such other information as the Board may deem necessary to fully evaluate the physician assistant; and
21. Dated and sworn statement by the physician assistant verifying that during the past certificate year, July 1 through June 30, the physician assistant completed a minimum of 20 hours of Category I continuing medical education in accordance with R4-17-205.

**B.** Prior to renewal of certification, the Board may randomly select a number of affidavits of completion of continuing education to verify the accuracy of their contents and the acceptability of the programs attended. Physician assistants whose affidavits have been selected shall submit any additional information requested by the Board to assist in the verification.

**C.** For purposes of this Section, "ability to safely perform any type of health care tasks within the scope of practice for physician assistants" means:
1. The cognitive capacity to make appropriate clinical diagnoses and exercise reasoned medical judgments and to learn and keep abreast of medical developments,
2. The ability to communicate those judgments and medical information to patients and other health care providers with or without the use of aids or devices such as a voice amplifier, and
3. The physical capability to perform medical tasks such as physical examination and minor surgical procedures with or without the use of aids or devices such as corrective lenses or hearing aids.

**D.** For purposes of this Section, "medical condition" means physiological, mental, or psychological conditions or disorders; for example, orthopedic, visual, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional or mental illness; specific learning disabilities; HIV disease; tuberculosis; drug addiction; and alcoholism.

**Historical Note**
Adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-207. Denial of Extension to Complete Continuing Education, Exemption from Registration, Temporary Certification, Certification, Recertification, or Cancellation of Certification**

A physician assistant, physician assistant student, or applicant for certification as a physician assistant who is denied an extension to complete continuing education, exemption from registration, temporary certification, certification, recertification, or cancellation of certification may request a hearing to contest the matter by filing a written notice with the Board within 15 days of receipt of notice of the Board's action. A hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 and Article 10.

**Historical Note**
Adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-208. Change of Address**

A physician assistant shall, in writing, inform the Board of each change in residence, office address, or telephone number within 30 days of its occurrence.

**Historical Note**
Adopted effective April 22, 1998 (Supp. 98-2).

## ARTICLE 3. SCOPE OF PRACTICE

**R4-17-301. Delegation of Authority for Schedule II or Schedule III Controlled Substances**

**A.** A supervising physician shall obtain Board approval to delegate authority to a physician assistant to prescribe, dispense, or administer Schedule II or III controlled substances. The supervising physician and the physician assistant shall submit an application on a form provided by the Board, that provides the following information:
1. Full name of the supervising physician, the physician's Arizona license number and date of issuance, the physician's work address and phone number, the physician's field of practice, board certification, and ABMS/AOA certification number, if applicable;
2. Whether the supervising physician's medical license has been revoked, placed on probation, restricted, or suspended either by agreement or otherwise in any state, and if so, an explanation;
3. Whether the supervising physician's Drug Enforcement Administration or state prescriptive permit has ever been denied, restricted, suspended, lost, or revoked, and if so, an explanation;
4. Whether the supervising physician maintains hospital privileges and whether the privileges have ever been denied, revoked, suspended, or limited, and if so, an explanation;
5. Whether the supervising physician supervises any other physician assistants and, if so, the names of the physician assistants supervised;
6. Full name of the physician assistant, the physician assistant's Arizona certification number, work address, and work telephone number;
7. Whether, at the time of the application, the supervising physician is subject to disciplinary action in any other state or country for an act or conduct that constitutes grounds for disciplinary action, and if so, an explanation;
8. Whether the physician assistant has ever had a physician assistant certification refused, suspended, or revoked by another state or country for reasons that relate to the physician assistant's ability to engage skillfully in the health care tasks of a physician assistant, and if so, an explanation;
9. Whether the physician assistant's Drug Enforcement Administration registration or state prescriptive permit has ever been denied, restricted, suspended, lost, or revoked, and if so, an explanation;
10. Whether the physician assistant maintains hospital privileges and whether the privileges have ever been denied, revoked, suspended, or limited, and if so, an explanation;
11. Whether the supervising physician is delegating authority to prescribe, dispense, and administer Schedule II or III controlled substances, or both;
12. Consistent with the Board's statutory authority, such other information as the Board may deem necessary to fully evaluate the supervising physician and the physician assistant; and
13. Statement signed by both the supervising physician and physician assistant certifying that both have read and will abide by the law and rules governing the practice of a

physician assistant, including prescribing, dispensing, and administering drugs, that the supervising physician accepts responsibility for supervising the physician assistant and that the physician assistant may not prescribe, dispense, or administer drugs until the supervising physician receives approval of the application.

**B.** The Board shall approve an application to delegate authority to prescribe, dispense, or administer Schedule II or Schedule III controlled substances if the information submitted pursuant to subsection (A) and evidence produced by the physician assistant shows:

1. The physician assistant has the training and experience in the therapeutic use of controlled substances as prescribed by the federal Controlled Substances Act, 21 U.S.C. § 801 et seq., and the laws governing the dispensing of Schedule II and III controlled substances in Arizona, A.R.S. § 36-2501 et seq.;
2. The physician assistant's professional record in performing health care tasks contains no evidence of:
    i. An advisory or disciplinary action for prescribing, dispensing, or administering a Schedule II or III controlled substance within the past year; or
    ii. A restriction imposed by the federal Drug Enforcement Administration; and,
3. A supervising physician and the supervising physician's agents are present or can be easily in contact with the physician assistant by radio, telephone, or other telecommunication.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-301 renumbered to R4-17-302; new Section R4-17-301 adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-302. Drug Labels**

All drugs dispensed by a physician assistant to whom the authority to dispense has been delegated by a supervising physician shall be labeled to show the following information:

1. Name and address of the dispensing physician assistant;
2. Name of the supervising physician;
3. Name of the supervising physician's agent supervising the prescribing of the drug, if applicable;
4. Name of patient;
5. Date dispensed;
6. Serial number of the prescription;
7. Name of the drug and directions for use; and,
8. Cautionary statements, if any, contained in the prescription.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section renumbered from R4-17-301 and amended effective April 22, 1998 (Supp. 98-2).

**R4-17-303. Notification of Supervision**

**A.** A physician assistant and supervising physician shall submit a notification of supervision on a form provided by the Board that provides the following information in addition to that required by A.R.S. § 32-2534:

1. The supervising physician's name, Arizona license number and issuance date, work address, telephone number, fax number, if applicable, field of practice, board certification, and if applicable, ABMS/AOA certification number and the date it was issued;
2. Whether the supervising physician's medical license has ever been revoked, placed on probation, restricted in any way, or suspended either by agreement or otherwise in any state, and if so, an explanation;
3. Whether the supervising physician's Drug Enforcement Administration registration or state prescriptive permit has ever been denied, restricted, suspended, lost, or revoked, and if so, an explanation;
4. Whether the supervising physician maintains hospital privileges and whether the hospital privileges have ever been denied, revoked, suspended, or limited in any way, and if so, an explanation;
5. Whether the supervising physician supervises any other physician assistants, and if so, the names of the physician assistants supervised;
6. Full name of the physician assistant, the physician assistant's Arizona certification number, work address, telephone number, and fax number, if applicable;
7. Whether the physician assistant has ever had a physician assistant certification, registration, or license refused, suspended, or revoked by another state or country for reasons that relate to the physician assistant's ability to engage skillfully in the health care tasks of a physician assistant, and if so, an explanation;
8. Whether the physician assistant's Drug Enforcement Administration registration or State prescriptive permit has ever been denied, restricted, suspended, lost, or revoked, and if so, an explanation;
9. Whether the physician assistant maintains hospital privileges, whether the privileges have ever been denied, revoked, suspended or limited in any way, and if so, an explanation;
10. Number of days and hours per week that the physician assistant expects to work under the supervision of the supervising physician;
11. Any other work addresses and phone numbers, including another supervising physician's name, if applicable, for the physician assistant;
12. Full names, Arizona license numbers, work addresses, and telephone numbers for the supervising physician's agents;
13. List of the health care tasks delegated to the physician assistant by the supervising physician;
14. Whether the physician assistant maintains a special permit or certification to take x-rays from the Medical Radiological Technology Board of Examiners;
15. Indication of the prescribing, dispensing, and administration authority delegated to the physician assistant by the supervising physician;
16. Certification, signed by the supervising physician, that assures that:
    a. The supervising physician, the physician's agent, and the physician assistant are familiar with the statutes and rules regarding physician assistants;
    b. The supervising physician accepts responsibility for supervising the physician assistant; and
    c. The physician assistant may not perform any health care task until the supervising physician receives written approval of the notification of supervision;
17. Whether the physician assistant position is a full or part-time position, at a geographically separated site, or a request for transfer in supervision; and
18. Such other information as the Board deems necessary to fully evaluate the supervising physician and physician assistant.

**B.** The Board shall approve a physician to supervise a physician assistant only if the physician is engaged in the active practice of medicine.

**C.** If a physician assistant is supervised by more than 1 supervising physician, the physician assistant shall file a separate notification of supervision pursuant to subsection (A) for approval of the supervisory arrangement with each supervising physician.

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section renumbered to R4-17-304; new Section R4-17-303 adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-304. Reports**

**A.** As part of an investigation by the Board or of an order of probation, the Board may require a supervising physician to submit weekly reports on the performance of a physician assistant supervised by the physician. The supervising physician's agent shall submit these reports during any period that the supervising physician is unavailable due to vacation, illness, or continuing medical education.

**B.** Within 15 days of termination of supervision of a physician assistant, the supervising physician shall report to the Board the reasons for and circumstances surrounding the termination.

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-304 renumbered to R4-17-305; new Section R4-17-304 renumbered from R4-17-303 and amended effective April 22, 1998 (Supp. 98-2).

**R4-17-305. Supervision**

**A.** A supervising physician shall delegate health care tasks to a physician assistant if the supervising physician has training in those tasks and the supervising physician performs those tasks.

**B.** A physician assistant shall meet in person with the supervising physician at least once each week to discuss patient management. A physician assistant and supervising physician shall have additional meetings if the Board determines after reviewing the notification of supervision, that additional meetings are necessary. The additional meetings specified on the notification of supervision may be conducted by telephone or radio rather than in person.

**Historical Note**
New Section R4-17-305 renumbered from R4-17-304 and amended effective April 22, 1998 (Supp. 98-2).

## ARTICLE 4. REGULATION

**R4-17-401. Civil Penalties**

**A.** A physician assistant who violates A.R.S. § 32-2531(F) or (G) shall be subject to a civil penalty of $50 for each violation.

**B.** Upon determining that a physician assistant has violated A.R.S. § 32-2531(F) or (G), a Board official shall issue a written citation to the physician assistant that sets forth the following information:
1. The name of the physician assistant,
2. The date and location at which the alleged violation occurred,
3. The particular facts alleged to constitute a violation and the statutory provision alleged to have been violated,
4. The physician assistant's right to request a hearing to contest the imposition of the civil penalty by filing a written request for hearing with the Board within 15 days of receipt of the citation, and
5. The name of the Board official issuing the citation.

**C.** The citation in subsection (B) shall be served upon the physician assistant personally or by certified mail. A copy of the citation shall be simultaneously transmitted to the physician assistant's supervising physician.

**D.** A physician assistant or the physician assistant's supervising physician may file a written request for hearing in accordance with R4-17-402. Unless appealed by the physician assistant or the physician assistant's supervising physician, the physician assistant shall pay the civil penalty within 30 days of the date the citation is served upon the physician assistant.

**E.** A physician assistant who fails to pay a civil penalty within 30 days of service, or upon receipt of a final order of the Board that determines the physician assistant committed the violation and affirms the imposition of the civil penalty, may be subject to further disciplinary action by the Board.

**F.** A citation is a public record and a copy shall be placed in the certification file of the physician assistant.

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-401 renumbered to R4-17-402; new Section R4-17-401 adopted effective April 22, 1998 (Supp. 98-2).

**R4-17-402. Termination of Supervision**

**A.** Termination of a physician assistant's supervision by a supervising physician shall not result in suspension or revocation of a physician assistant's certificate.

**B.** The Board shall immediately terminate a physician assistant's notification of supervision upon the suspension, revocation, or expiration of the physician assistant's certificate.

**C.** The Board shall immediately terminate a physician assistant's supervision by a supervising physician upon receipt by the Board of a summary suspension order, or a final order of the Board of Medical Examiners or the Board of Osteopathic Examiners that restricts, suspends, or revokes the supervising physician's license to practice medicine in Arizona.

**D.** The Board shall immediately remove a supervising physician's agent's name from the physician assistant's notification of supervision upon receipt by the Board of a summary suspension order or final order of the Board of Medical Examiners or the Board of Osteopathic Examiners that restricts, suspends, or revokes a supervising physician's agent's license to practice medicine in Arizona.

**E.** A physician assistant whose supervision by a supervising physician is terminated, or a supervising physician's agent whose name is removed from the physician assistant's notification of supervision by the Board in accordance with this Section, may request a hearing to contest the matter by filing a written notice with the Board within 15 days of receipt of notice of the Board's action. A hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 and Article 10.

**Historical Note**
Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-402 renumbered to R4-17-403; new Section R4-17-402 renumbered from R4-17-401 and amended effective April 22, 1998 (Supp. 98-2).

**R4-17-403. Rehearing**

**A.** A motion for rehearing shall be filed as follows:
1. Except as provided in subsection (B), any party in a contested case who is aggrieved by a decision of the Board may file a written motion for rehearing of the decision, specifying generally the grounds upon which the motion is based.
2. A motion for rehearing shall be served and filed no later than 15 days after service of the decision of the Board.
3. For purposes of this Section, "service" means personal delivery or mailing by certified mail to the party affected at the party's last known residence or place of business.

4. For purposes of this Section, the terms "contested case" and "party" shall have the same meaning as in A.R.S. § 41-1001.

**B.** If the Board makes specific findings that it is necessary for a particular decision to take immediate effect to protect the public health and safety, or that a rehearing of the decision is impracticable or contrary to the public interest, the decision may be issued as a final decision without opportunity for rehearing and shall be a final administrative decision for purposes of judicial review.

**C.** A written response to a motion for rehearing may be served and filed within 10 days after service of the motion by another party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**D.** A rehearing of a decision may be granted for any of the following causes materially affecting the rights of the moving party:

1. Irregularity in the administrative proceedings by the Board, its hearing officer, or the prevailing party, or any ruling or abuse of discretion, that deprives the moving party of a fair hearing.
2. Misconduct of the Board, its hearing officer, or the prevailing party.
3. Accident or surprise that could have not been prevented by ordinary prudence.
4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence, or other errors of law that occurred at the hearing.
7. The decision is the result of a passion or prejudice.
8. The decision or findings of fact are not justified by the evidence or are contrary to law.

**E.** A rehearing may be granted to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (D). The Board may take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and affirm, modify, or reverse the original decision.

**F.** A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is found erroneous, if separable. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted.

**G.** Not later than 15 days after a decision is rendered, the Board of its own initiative may order a rehearing for any reason that it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a timely served motion for a rehearing, for a reason not stated in the motion. In either case, the Board shall specify in the order the grounds for the rehearing.

**H.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. The opposing party has 10 days after service to serve opposing affidavits. This period may be extended for as many as 20 days either by the Board for good cause shown, or by the parties by written stipulation. The Board may permit reply affidavits.

**Historical Note**

New Section R4-17-403 renumbered from R4-17-402 and amended effective April 22, 1998 (Supp. 98-2).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS

(Authority: A.R.S. § 32-1501 et seq.)

***Editor's Note: This Chapter has been reprinted due to an error in publishing text that was thought to be adopted and certified but in fact was rejected by the Attorney General on December 29, 1995 (Supp. 95-4). Text removed includes amendments made to R4-18-101 and adoption of Article 2, consisting of Sections R4-18-201 through R4-18-205. Removal of this text reflects the latest effective rules on file with the Office of the Secretary of State last modified Supp. 88-4 (reprinted Supp. 96-4).***

***Laws 1982, 6th S.S., Chs. 1 and 4 provided for a name change of the Naturopathic Board of Examiners to Naturopathic Physicians Board of Examiners.***

### ARTICLE 1. GENERAL PROVISIONS

*Article 1 consisting of Sections R4-18-101, R4-18-102, R4-18-104, R4-18-106 through R4-18-111, R4-18-116 and R4-18-117 adopted effective December 31, 1984.*

*Former Article 1 consisting of Sections R4-18-01 through R4-18-07 repealed effective December 31, 1984.*

Section

R4-18-101. Definitions
R4-18-102. Board meetings; elections
R4-18-103. Reserved
R4-18-104. Examination procedures
R4-18-105. Reserved
R4-18-106. Examination subjects required for licensing under A.R.S. § 32-1523
R4-18-107. Fees
R4-18-108. Titles, use of abbreviations
R4-18-109. Continuing education
R4-18-110. Display of licenses; notice of change of status
R4-18-111. Notice of civil and criminal actions
R4-18-112. Reserved
R4-18-113. Reserved
R4-18-114. Reserved
R4-18-115. Reserved
R4-18-116. Hearing procedures
R4-18-117. Rehearing or review of decision

### ARTICLE 2. DELETED

*Article 2 consisting of Sections R4-18-201 through R4-18-205 has been deleted due to an error in publishing text that was thought to be adopted and certified but in fact was rejected by the Attorney General on December 29, 1995 (Supp. 95-4). Removal of this text reflects the latest effective rules on file with the Office of the Secretary of State last modified Supp. 88-4 (reprinted Supp. 96-4).*

### ARTICLE 1. GENERAL PROVISIONS

**R4-18-101. Definitions**

For purposes of Title 32, Chapter 14 of the Arizona Revised Statutes and these regulations, unless the context requires a different meaning or unless inconsistent with the manifest intention of the board:

1. "Abnormalities of the human mind and body" means diseases, injuries, ailments, or infirmities and other conditions of the human mind and body, ordinarily justifying professional assistance from a Naturopath physician.
2. "Diagnosis" means the determination of the nature of a person's condition and includes physical, clinical and laboratory examinations, and the employment of x-rays for diagnostic purposes.
3. "Hygienic" means all forms of hygiene and the use of local and topical antiseptics and nonpoisonous, extracted, compounded, or concentrated substances obtained from an animal, a plant, or a mineral origin and utilized for aseptic and therapeutic purposes by a doctor of naturopathic medicine.
4. "Laws and regulations relating to public health" means any applicable state or federal law, relating to public health and includes but is not limited to the requirements for the registration of birth certifications, reporting of violent wounds and injuries and child abuse as required by law.
5. "Nonsurgical" means a system of treating without surgical invasion of the human body but does not preclude the use of acupuncture, electrical currents or the repair and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in superficial structures, and the use of standard clinical procedures in connection therewith.
6. "Physiotherapy" means the treatment of disease by use of all natural forces, including but not limited to electrotherapy, hydrotherapy, aerotherapy, mechanotherapy, massage and therapeutic exercise.
7. "Preceptorship" means a clinical course of study wherein a student of naturopathic medicine works in a naturopathic clinic under the supervision of a doctor of naturopathic medicine.
8. "Sanitary" means the use of all forms of bacteriostatic procedures, including but not limited to the use of topical antiseptics.
9. "System of treating" means the total management of a disease or other condition of the human body, including its prevention diagnosis, alleviation, treatment and cure.
10. "Rebates" means requesting, listing, accepting or receiving any compensation or commission for prescribing or recommending any diagnostic or treatment procedure; or offering, giving or promising, either directly or indirectly, any gift in return for the procurement of a patient or patients for any diagnostic or treatment procedure.

**Historical Note**

Adopted effective December 31, 1984 (Supp. 84-6).
Amended effective December 29, 1995 (Supp. 95-4).
Amended Section corrected Supp. 96-4 to reflect adopted Section on file with the Office of the Secretary of State effective December 31, 1984 (Supp. 84-6).

**R4-18-102. Board meetings; elections**

**A.** The Board shall hold its statutorily required regular meetings in January and July of each year. Such other meetings of the Board, as may be required for the conduct of its business, shall be held from time to time as the Board determines necessary.

**B.** The Board shall hold its annual election of the officers at the January Board meeting.

**Historical Note**

Adopted effective December 31, 1984 (Supp. 84-6).

**R4-18-103. Reserved**

**R4-18-104. Examination procedures**

**A.** Prior to the commencement of written examination, each applicant shall be given an examination number which shall be the only identifying mark placed on the examination papers. Each page of the examination shall be marked with the identifying number and no applicant's name shall appear on any page of the examination.

**B.** The pages of the examination shall be numbered consecutively at the top of each page. Only one side of a page may be used in answering examination questions.

**C.** Prior to the examination, applicants shall be informed of the time limit allowed for each section of the examination. No credit will be received for any work done by the applicant after the time limit.

**D.** In the event doubt exists as to the interpretation of a question, inquiries by the applicant shall be directed to a Board member only.

**E.** Any applicant using a book, paper or device to assist him or receiving assistance or giving assistance to another applicant, shall forfeit his right to continue the examination and shall forfeit his application fee.

**F.** At the close of the examination, each applicant shall return his answer sheets and deliver them, together with the examination questions, to a member of the Board or a duly appointed proctor.

**G.** Subsequent to review of the applicant's answers to the examination, results of the examinations will be forwarded in writing to each applicant.

**H.** The Board may administer the Naturopathic Physicians Licensing Exam (NPLEX) in lieu of all or part of an examination prepared by the Board.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).
Amended by adding a new subsection (H) effective June 18, 1987 (Supp. 87-2).

**R4-18-105. Reserved**

**R4-18-106. Examination subjects required for licensing under A.R.S. § 32-1523**

The two subject areas of examination shall be:

1. Oral examination in the subject of naturopathic jurisprudence, including applicable federal and state laws, rules and regulations.
2. Oral examination in the subject of practical clinical skills of naturopathic medicine, including but not limited to:
   a. Physical diagnosis;
   b. Medical emergencies; and
   c. Office procedures.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).

**R4-18-107. Fees**

Fees authorized are established as follows:

1. For application for a license to practice naturopathy, $300.
2. For application for a license by reciprocity, $200.
3. For annual license registration, $300.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).
Amended as an emergency effective December 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Emergency expired. Amended and adopted as a permanent rule effective June 18, 1987 (Supp. 87-2).
Amended paragraph (3) effective November 10, 1988 (Supp. 88-4).

**R4-18-108. Titles, use of abbreviations**

**A.** A doctor of naturopathic medicine licensed in this state may use the designations "Doctor of Naturopathic Medicine", "Doctor of Naturopathy", "Naturopath", and "Naturopathic Physician".

**B.** A doctor of naturopathic medicine licensed in this state may use the abbreviation "N.M.D.", "N.D." and "D.N.".

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).

**R4-18-109. Continuing education**

**A.** Continuing education consisting of 15 classroom hours directly relating to the practice of naturopathic medicine shall be required annually.

**B.** The following courses and classes qualify for continuing education credit if directly related to the practice of naturopathic medicine:

1. Continuing education courses and classes offered under the direct supervision of a state or district association of naturopathic physicians, provided that the state or district in which the association is organized is one that licenses naturopathic physicians.
2. Continuing education courses and classes offered by the Board-approved schools of naturopathic medicine.
3. Continuing education courses and classes offered by or approved by the American Medical Association or American Osteopathic Association.
4. Any other continuing education courses or classes approved by the Board. Board approval shall be based upon the course content and requirement that the courses or classes sought to be approved have a level of instruction comparable to continuing education courses or classes offered by state and district associations or Board-approved schools of naturopathic medicine.

**C.** The licensee shall provide to the Board proof (verified under oath by licensee) of continuing education as follows:

1. Dates of continuing education,
2. Name of institution,
3. Subject matter,
4. Actual clock hours of instruction time.

**D.** The requirements of continuing education described in this rule shall not apply in the calendar year in which this rule becomes effective or to licensees during the calendar year of their first naturopathic license issued by the Board.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).

**R4-18-110. Display of licenses; notice of change of status**

**A.** Each person licensed by the Board shall at all times display the license issued to him or her by the Board in a conspicuous place in his or her office or place of professional practice.

**B.** Licensees shall notify the Board of any change in the information provided to the Board concerning license application or its renewal, including changes in name, address and place of practice.

**C.** All notices required under this rule shall be in writing and made within 30 days of change of status.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6)

**R4-18-111. Notice of civil and criminal actions**

**A.** Every licensee shall, within ten days of receipt, notify the Board of any notice, subpoena, summons, or receipt of com-

plaint, whether civil or criminal, arising directly or indirectly out of the licensee's conduct of his professional practice.

**B.** Notice to the Board shall consist of either a photocopy or facsimile copy of such notice or other service or may be in letter form advising the Board of the nature of the cause of action, setting forth any allegations made by the plaintiff, and giving the name and address of the plaintiff and his attorney of record, and giving the date, time and place where appearance is required.

**C.** Notice to the Board shall be by certified or registered mail.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).

**R4-18-112. Reserved**

**R4-18-113. Reserved**

**R4-18-114. Reserved**

**R4-18-115. Reserved**

**R4-18-116. Hearing procedures**
Hearings shall be conducted in accordance with the provisions of Title 41, Chapter 6 of the Arizona Revised Statutes.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).

**R4-18-117. Rehearing or review of decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issue raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any applicant for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Board, such statutory provisions shall govern.

**Historical Note**
Adopted effective December 31, 1984 (Supp. 84-6).

**ARTICLE 2. DELETED**

*Article 2 consisting of Sections R4-18-201 through R4-18-205 has been deleted due to an error in publishing text that was thought to be adopted and certified but in fact was rejected by the Attorney General on December 29, 1995 (Supp. 95-4). Removal of this text reflects the latest effective rules on file with the Office of the Secretary of State last modified Supp. 88-4 (reprinted Supp. 96-4).*

# TITLE 4. PROFESSIONS AND OCCUPATIONS

# CHAPTER 19. BOARD OF NURSING

(Authority: A.R.S. § 32-1602 et seq.)

## ARTICLE 1. DEFINITIONS

*New Article 1, consisting of R4-19-101, adopted effective July 19, 1995 (Supp. 95-3).*

*Article 1, consisting of R4-19-101 through R4-19-102, repealed effective July 19, 1995 (Supp. 95-3).*

Section
R4-19-101. Definitions
R4-19-102. Time-frames for Licensure, Certification, and Approvals
Table 1. Time-frames

## ARTICLE 2. ARIZONA NURSING PROGRAMS

*Article 2, consisting of R4-19-201 through R4-19-214, adopted effective July 19, 1995 (Supp. 95-3).*

Section
R4-19-201. Organization and Administration
R4-19-202. Resources, Facilities, Services and Records
R4-19-203. Administrator; Qualifications and Duties
R4-19-204 Faculty; Personnel Policies; Qualifications and Duties
R4-19-205. Students; Policies and Admissions
R4-19-206. Curriculum
R4-19-207. Application for Initial Approval
R4-19-208. Application for Full Approval
R4-19-209. Curriculum Changes for Board-approved Programs
R4-19-210. Board-approved Nursing Programs; Continuing Approval
R4-19-211. Rescission of Approval
R4-19-212. Nationally Accredited Nursing Programs; Continuing Approval
R4-19-213. Voluntary Termination of a Nursing Program
R4-19-214. Approval of Reentry Update Programs

## ARTICLE 3. LICENSURE

*Article 3, consisting of R4-19-301 through R4-19-308, adopted effective July 19, 1995 (Supp. 95-3).*

Section
R4-19-301. Licensure by Examination
R4-19-302. Licensure by Endorsement
R4-19-303. Temporary License
R4-19-304. Biennial License Renewal
R4-19-305. Inactive or Expired License
R4-19-306. Application for a Duplicate License
R4-19-307. Change of Name or Address
R4-19-308. School Nurse Certification Requirements
R4-19-309. Repealed

## ARTICLE 4. REGULATION

*Article 4, consisting of R4-19-401 through R4-19-404, adopted effective July 19, 1995 (Supp. 95-3).*

Section
R4-19-401. Scope of Practice for a Practical Nurse
R4-19-402. Scope of Practice for a Professional Nurse
R4-19-403. Competency to Practice Nursing
R4-19-404. Reinstatement or Issuance of License
R4-19-405. Repealed

## ARTICLE 5. EXTENDED AND ADVANCED NURSING PRACTICE

Section
R4-19-501. Specialty Areas of Registered Nurse Practitioners
R4-19-502. Requirements for Courses of Study for Registered Nurse Practitioners
R4-19-503. Application for Approval of Course of Study for Registered Nurse Practitioners; Approval by Board
R4-19-504. Requirements for Registered Nurse Practitioner Certification
R4-19-505. Scope of Practice of the Registered Nurse Practitioner
R4-19-506. Use of Title of Registered Nurse Practitioner
R4-19-507. Prescribing and Dispensing Authority
R4-19-508. Dispensing of Prepackaged Labeled Medications
R4-19-509. Inactive Prescribing and Dispensing Authority
R4-19-510. Certification of Professional Nurse
R4-19-511. Requirements for Clinical Nurse Specialist Certification
R4-19-512. Scope of Practice of the Clinical Nurse Specialist

## ARTICLE 6. RULES OF PRACTICE AND PROCEDURE

*Article 6, consisting of R4-19-601 through R4-19-615, adopted effective October 10, 1996 (Supp. 96-4).*

Section
R4-19-601. Definitions
R4-19-602. Initiation of a Hearing
R4-19-603. Denial of Request for Hearing
R4-19-604. Representation
R4-19-605. Notice of Hearing
R4-19-606. Filing; Computation of Time; Extension of Time
R4-19-607. Record of Hearings
R4-19-608. Service Requirements
R4-19-609. Subpoenas
R4-19-610. Procedure at Hearing
R4-19-611. Evidence
R4-19-612. Recommended Decision
R4-19-613. Board's Decision
R4-19-614. Rehearing or Review of Decision
R4-19-615. Effectiveness of Orders

## ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

*Article 7, consisting of R4-19-701 through R4-19-706, adopted effective October 10, 1996 (Supp. 96-4).*

Section
R4-19-701. Agency Record; Directory of Substantive Policy Statements
R4-19-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business or Consumer Impact
R4-19-703. Public Comments
R4-19-704. Oral Proceedings
R4-19-705. Petition for Delayed Effective Date
R4-19-706. Written Criticism of Rule

## ARTICLE 1. DEFINITIONS

**R4-19-101. Definitions**

In addition to the definitions in A.R.S. § 32-1601, in this Chapter, unless the context otherwise requires:

1. "Active practice" means a minimum of 1,000 hours per year of work in a clinical area with direct patient contact, excluding the hours of clinical experience received during a nurse practitioner program; or, for registered nurse practitioner faculty, 400 hours per year of work in a clinical area with direct patient contact.
2. "Administrator" means the nurse educator with the administrative responsibility and authority for the direction of a nursing program.
3. "Approved national nursing accrediting agency" means the National League of Nursing or the National Association for Practical Nurse Education and Service.
4. "Certificate or Diploma in Practical Nursing" means the document awarded to a graduate of an educational program in practical nursing.
5. "Collaborate" means to establish a relationship for consultation or referral with 1 or more physicians who have an active, unrestricted license.
6. "Contact hour" means an equivalent of 50 minutes of participation in regular or continuing education activities relating to nursing practice.
7. "Continuing education activities" means college courses, institutes, seminars, lectures, conferences, workshops, and various forms of mediated instruction or programmed learning courses related to nursing practice.
8. "DEA" means the federal Drug Enforcement Administration.
9. "Endorsement" means the procedure for granting an Arizona license to an applicant who is already licensed as a nurse in another state of the United States.
10. "Full approval" means the status granted in writing by the Board when a nursing program, upon graduation of its 1st class, demonstrates ability to provide and maintain a program in accordance with the standards set forth in the law and these rules.
11. "Good standing" means the license of a nurse, either practical or professional, is current and valid, the nurse is not presently subject to any disciplinary action, consent order, or settlement agreement, and no disciplinary action, consent order, or settlement agreement is pending against the nurse.
12. "Initial approval" means the permission, granted in writing by the Board, to an educational institution to establish a nursing program, following a determination by the Board that the program meets the standards set forth in the law and these rules.
13. "Mediated instruction" means teaching transmitted through intermediate mechanisms such as audio tape, video tape, and telephonic transmission.
14. "NCLEX" means the National Council Licensure Examination.
15. "Nursing process" means the problem-solving techniques that require technical and scientific knowledge and judgmental and decision-making skills in order to assess, plan, implement, and evaluate a plan of care.
16. "Nursing program" means a formal course of instruction designed to prepare its graduates for licensure as professional or practical nurses.
17. "Parent institution" means the educational institution in which a nursing program is conducted.
18. "Pharmacology" means the science that deals with the study of drugs in all their aspects.
19. "Physician" means a person licensed pursuant to A.R.S. Title 32, Articles 7, 8, 11, 13, 14, 17, or 29, or by a state medical board in the United States.
20. "Prepackaged labeled drug" means a prescription drug prewrapped in a unit-of-use container by a pharmacist or manufacturer in a quantity ordinarily prescribed by a registered nurse practitioner and properly labeled for storage and subsequent dispensing by the registered nurse practitioner.
21. "PRN" means to give as needed.
22. "Reentry update program" means a formal course of instruction designed to provide a review and update of nursing theory and practice to professional or practical nurses preparing to re-enter nursing practice.
23. "Regionally accredited" means an educational institution is accredited by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or the Western Association of Schools and Colleges.
24. "SBTPE" means the State Board Test Pool Examination.
25. "Self-study" means a written self-evaluation conducted by a nursing program to assess the standards set forth in R4-19-201 through R4-19-206.
26. "School of practical nursing" means a nursing program that is preparing its graduates for practical nursing.
27. "School of professional nursing" means a nursing program that is preparing its graduates for professional nursing.
28. "Supervision" means the direction, periodic consultation, and assessment provided by a professional nurse to a person to whom a nursing task or activity regarding patient care is delegated after the professional nurse assesses the patient.
29. "Unit-of-use packaging" means an individual dosage container in which a prescription drug is prepackaged by a pharmacist, licensed manufacturer, or repackager of medications.

**Historical Note**

Former Glossary of Terms; Amended effective Nov. 17, 1978 (Supp. 78-6). Former Section R4-19-01 repealed, new Section R4-19-01 adopted effective February 20, 1980 (Supp. 80-1). Amended paragraphs (1) and (7), added paragraphs (9) through (25) effective July 16, 1984 (Supp. 84-4). Former Section R4-19-01 renumbered as Section R4-19-101 (Supp. 86-1). Amended effective November 18, 1994 (Supp. 94-4). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended effective December 22, 1995 (Supp. 95-4). Amended effective November 25, 1996 (Supp. 96-4).

**R4-19-102. Time-frames for Licensure, Certifications, and Approvals**

**A.** In this Section:
1. "Applicant" means a person or entity seeking licensure, certification, approval to prescribe and dispense drugs, or approval of a nursing assistant program or a nursing program.
2. "Application Packet" means a Board approved application form and the documentation necessary to establish an applicant's qualifications for licensure, certification, or approval.

**B.** In computing the time-frames set forth in this Section, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or official state holiday, in which event the period runs until the end of

the next day which is not a Saturday, Sunday, or official state holiday.

**C.** For each type of licensure, certification, or approval granted by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frames set forth in Table 1. The overall time-frame and the substantive review time-frame described in A.R.S. § 41-1072(3) may not be extended by more than 25% of the overall time-frame.

**D.** For each type of licensure, certification, or approval granted by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins to run when the Board receives an application packet.

1. If the application packet is not complete, the Board shall send a deficiency notice to the applicant. The time for the applicant to respond to a deficiency notice begins to run on the postmark date of the deficiency notice.
   a. The deficiency notice shall list each deficiency.
   b. The applicant shall submit to the Board the information or the documentation listed in the deficiency notice within the time period specified in Table 1 for responding to a deficiency notice. The time-frame for the Board to complete the administrative review is suspended until the Board receives the missing information or documentation.
   c. If the applicant fails to provide the information or the documentation listed in the deficiency notice within the time period specified in Table 1, the Board shall deem the application packet withdrawn. The Board shall send the applicant a notice of withdrawal and return the application packet to the applicant.
2. If the application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
3. The Board considers an application packet complete if it grants a license, certificate, or approval during the administrative completeness time-frame. The Board shall not issue a separate written notice of administrative completeness.

**E.** For each type of licensure, certification, or approval granted by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins to run on the postmark date of the notice of administrative completeness.

1. During the substantive review time-frame, an applicant may withdraw an application packet unless the Board has evidence of unprofessional conduct by the applicant as defined in A.R.S. § 32-1601 that has not been reported in any national disciplinary data bank.
2. The Board may investigate an applicant who discloses prior unprofessional conduct defined in A.R.S. § 32-1601 and may require the applicant to provide additional information or documentation as prescribed in subsection (E)(3).
3. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The applicant shall submit the additional information or documentation within the time period specified in Table 1. The time-frame for the Board to complete the substantive review of the application packet is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
4. The Board shall issue by mail a written order of denial of licensure, certification, or approval to an applicant if it determines that the applicant has engaged in unprofessional conduct as defined in A.R.S. § 32-1601 and licensure, certification, or approval is not in the best interest of the public.
5. The written order of denial shall meet the requirements of A.R.S.§ 41-1076. The applicant may request a hearing by filing a written request with the Board within 10 days of the postmark date of the Board's order of denial. The Board shall conduct hearings in accordance with A.R.S. Title 41, Chapter 6, Articles 6 and 10 and 4 A.A.C. 19, Article 6.
6. If the applicant fails to provide the information or documentation identified in the comprehensive written request within the time specified in Table 1, the Board shall consider the application withdrawn unless:
   a. The applicant mails a written request for denial to the Board within 10 days of the postmark date of the notice of withdrawal, or
   b. Based on the information the applicant has submitted, the Board determines that the applicant has committed an act of unprofessional conduct, as defined in A.R.S. § 32-1601, and determines that a formal denial is necessary. If the Board considers the application withdrawn, the Board shall send a notice of withdrawal to the applicant and return the application packet.
7. The Board shall grant licensure, conditional licensure, certification, or approval to a qualified applicant:
   a. Who meets the substantive criteria for licensure, certification, or approval required by statute or rule; and
   b. Whose licensure, certification, or approval is in the best interest of the public.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-02 renumbered and amended as Section R4-19-102 effective February 21, 1986 (Supp. 86-1). Section repealed effective July 19, 1995 (Supp. 95-3). New Section adopted April 20, 1998 (Supp. 98-2).

**Table 1. Time-frames**

Time-frames (in days)

| Type of License, Certificate, or Program Approval | Applicable Section | Overall Time-frame | Administrative Completeness Time-frame | Time To Respond to Deficiency Notice | Substantive Review Time-frame | Time to Respond to Comprehensive Written Request |
|---|---|---|---|---|---|---|
| Initial Approval of Nursing Programs | R4-19-207 | 150 | 60 | 180 | 90 | 120 |
| Full Approval of Nursing Programs | R4-19-208 | 150 | 60 | 180 | 90 | 120 |
| Approval of Reentry Update Programs | R4-19-214 | 150 | 60 | 180 | 90 | 120 |
| Licensure by Exam | R4-19-301 | 150 | 30 | 180 | 120 | 120 |
| Licensure by Endorsement | R4-19-302 | 150 | 30 | 180 | 120 | 120 |
| Temporary License | R4-19-303 | 60 | 30 | 60 | 30 | 90 |
| Biennial License Renewal | R4-19-304 | 120 | 30 | 180 | 90 | 120 |
| School Nurse Certification | R4-19-308 | 150 | 30 | 180 | 120 | 120 |
| Reinstatement of License | R4-19-404 | 150 | 30 | 180 | 120 | 120 |
| Nurse Practitioner Program Approval | R4-19-503 | 150 | 60 | 180 | 90 | 120 |
| Nurse Practitioner Certification | R4-19-504 | 150 | 30 | 180 | 120 | 120 |
| Prescribing and Dispensing Approval | R4-19-507 | 150 | 30 | 180 | 120 | 120 |
| Clinical Nurse Specialist Certification | R4-19-511 | 150 | 30 | 180 | 120 | 120 |
| Approval of Certified Nursing Assistant Training Programs | R4-19-804 | 120 | 30 | 180 | 90 | 120 |
| Renewal of Approval of Certified Nursing Assistant Training Programs | R4-19-805 | 120 | 30 | 180 | 90 | 120 |
| Certification by Examination | R4-19-807 | 150 | 30 | 180 | 120 | 120 |
| Certification by Endorsement | R4-19-808 | 150 | 30 | 180 | 120 | 120 |
| Annual Recertification | R4-19-809 | 120 | 30 | 180 | 90 | 120 |
| Reinstatement or Issuance of a Certified Nursing Assistant Certificate | R4-19-815 | 150 | 30 | 180 | 120 | 120 |

**Historical Note**
Table 1 adopted effective April 20, 1998 (Supp. 98-2).

## ARTICLE 2. ARIZONA NURSING PROGRAMS

### R4-19-201. Organization and Administration

**A.** The parent institution of a nursing program shall be regionally accredited.

**B.** A nursing program shall have a written statement of philosophy and objectives, consistent with the parent institution, which serves as a basis for curriculum structure.
1. The statement shall take into consideration the individual differences of students, including their cultural and ethnic background, learning styles, goals, and support systems.
2. The statement shall express the fundamental beliefs and basic educational principles to which the faculty subscribe. The statement shall include the faculty's beliefs in relation to:
   a. Nursing;
   b. Nursing education;
   c. The teaching and learning process, including the role of the faculty and students in this process; and
   d. The role of the graduate within the totality of nursing practice.

**C.** A nursing program shall be an integral part of the parent institution and shall have comparable status with other academic units of the parent institution.

**D.** The nursing program shall maintain an organizational chart which identifies the relationships, lines of authority, and channels of communication within the program, between the program, and the parent institution.

**E.** The nursing program shall have a written agreement between the program and each clinical facility at which clinical experi-

ence is provided to the students which defines the rights and responsibilities of each party, including agreements on the role and authority of the governing bodies of both the clinical facility and the nursing program.

**F.** The nursing program shall assure student participation in determining academic policies and procedures, curriculum planning, and evaluation of faculty effectiveness through student membership on policy and evaluation committees and through policy statements and evaluation procedures.

**G.** The nursing program shall have written policies and procedures which are consistent with those of the parent institution and shall provide a regular schedule for their review.

**H.** The nursing program shall have a written plan for the systematic evaluation of the total program. The plan shall include the methodology, frequency of evaluation, assignment of responsibility, and evaluative criteria. The following areas shall be evaluated:

1. Organization and administration of the program;
2. Philosophy and objectives;
3. Curriculum;
4. Education facilities, resources, and services;
5. Clinical resources;
6. Students' achievement;
7. Graduates' performance on the licensing examination;
8. Graduates' nursing competence;
9. The performance of the faculty;
10. Protection of patient safety; and
11. The methods and instruments used for evaluative purposes.

**Historical Note**

Former Section I, Part I; Amended effective January 20, 1975 (Supp. 75-1). Former Section R4-19-11 repealed, new Section R4-19-11 adopted effective February 20, 1980 (Supp. 80-1). Amended effective July 16, 1984 (Supp. 84-4). Former Section R4-19-11 renumbered as Section R4-19-201 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-202. Resources, Facilities, Services, and Records**

**A.** The parent institution shall provide financial and administrative support and resources to the nursing program, including the following:

1. Physical facilities for the nursing program;
2. A library and instructional materials; and
3. Secretarial, clerical, and other support personnel services.

**B.** The facilities provided for the program shall meet the requirements of the nursing program in relation to the size of the faculty and the number of students.

1. The administrator shall have a private office;
2. Faculty offices shall be conveniently located and of such number and size to provide the faculty with the ability to work uninterrupted and have privacy for conferences with students;
3. There shall be space for clerical staff, records, files, and equipment;
4. Classrooms, laboratories, and conference rooms shall be provided in such number, size, and type to meet the needs of the number of students and the educational purposes for which the rooms are used;
5. There shall be secretarial and clerical support personnel to assist the administrator and faculty;
6. There shall be a library which shall have holdings or access to holdings which are current, at the level of content of the curriculum, and of such number to meet the needs of the students and faculty.
   a. There shall be provision made for regular additions to and deletions from the library collection.
   b. The library facilities and policies of operation shall promote effective use in its environment, accessibility, and hours of operation.

**C.** The nursing program shall maintain current and accurate records of the following:

1. Records of the students;
2 Faculty records;
3. Administrative records, including minutes of faculty meetings, annual reports of the program, and school bulletins;
4. The current curriculum, including philosophy, objectives, and course outlines; and,
5. Agreements with other agencies which provide learning experiences for the students.

**Historical Note**

Former Section I, Part II; Former Section R4-19-12 repealed, new Section R4-19-12 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-12 repealed, new Section R4-19-12 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-12 renumbered as Section R4-19-202 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-203. Administrator; Qualifications and Duties**

**A.** A nursing program shall appoint an administrator who shall hold a graduate degree with a major in nursing and shall have a current Arizona professional nursing license.

**B.** The administrator shall be responsible for:

1. Maintaining relationships with administrative authorities and other academic and support units of the parent institution;
2. Providing leadership for faculty and staff;
3. Developing, implementing, and evaluating the program of learning;
4. Preparing and administering the budget;
5. Screening and recommending candidates for faculty appointment, retention, and promotion;
6. Developing and maintaining relationships with local, state, regional, and national health and professional organizations and regulatory agencies;
7. Ensuring that written agreements for use of clinical facilities are mutually developed by the parent institution and health care providers;
8. Ensuring that written agreements with health care providers allow faculty members the control and freedom to select learning experiences for students;
9. Ensuring that written agreements with health care providers contain termination clauses which provide sufficient time for enrolled students to complete the course upon termination of the agreement; and,
10. Ensuring patient safety.

**C.** The administrator of the nursing program shall not teach more than three contact hours per week.

**Historical Note**

Former Section I, Part III; Former Section R4-19-13 repealed, new Section R4-19-13 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-13 repealed, new Section R4-19-13 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-13 renumbered as Section R4-19-203 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-204. Faculty; Personnel Policies; Qualifications and Duties**

**A.** The nursing program shall implement personnel policies for full- and part-time nursing faculty members which shall conform with those for other faculty members of the parent institution. Any differences in policy shall be explained in writing.

**B.** The nursing program shall have written policies concerning the teaching load for faculty. The number of faculty shall be determined by the following factors:
1. The number and level of students enrolled,
2. The curriculum plan,
3. Activities and responsibilities required of the faculty, and
4. The number and geographic locations of clinical laboratory facilities.

**C.** The ratio of students to nursing faculty while involved in the direct care of patients shall be no more than ten to one.

**D.** Each professional nursing program faculty member shall have:
1. A graduate degree with a major in nursing,
2. Current licensure as a professional nurse in the state of Arizona,
3. At least two years' experience as a professional nurse providing direct patient care, and
4. Completion of at least two years' experience teaching courses related to nursing or nursing education.

**E.** Each practical nursing program faculty member shall have:
1. A minimum of a baccalaureate degree with a major in nursing,
2. Current licensure as a professional nurse in the state of Arizona,
3. At least one years' experience as a professional nurse providing direct patient care, and
4. Completion of at least one years' experience teaching courses related to nursing or nursing education.

**F.** The nursing faculty shall participate in the following:
1. Developing, implementing, and evaluating the program of learning;
2. Developing standards for the admission, progression, and graduation of students;
3. Supervising students in all clinical experiences;
4. Advising students; and,
5. Professional scholarly activities.

**G.** The program shall recruit, appoint, and promote faculty without discrimination as to age, race, sex, national origin, or marital status.

**Historical Note**

Former Section I, Part IV; Former Section R4-19-14 repealed, new Section R4-19-14 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-14 repealed, new Section R4-19-14 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-14 renumbered as Section R4-19-204 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-205. Students; Policies and Admissions**

**A.** The nursing program shall admit students to the program based upon the number of faculty, available educational facilities and resources, and the availability of clinical learning experiences for the students.

**B.** Students shall be admitted without discrimination as to age, race, religion, sex, national origin, or marital status.

**C.** The program shall establish written policies for admission, readmission, transfer, advanced placement, promotion, graduation, withdrawal, or dismissal.
1. The policies shall be consistent with those for students in the parent institution.
2. The policies shall be provided to program applicants.

**D.** A program shall establish written policies for student rights, responsibilities, grievances, health, safety, and welfare.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-15 repealed, new Section R4-19-15 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-15 renumbered as Section R4-19-205 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-206. Curriculum**

**A.** A nursing program for professional nurses shall implement a curriculum which provides student instruction in the areas set forth in the *Guidelines of NCLEX-RN Item Writers*, National Council of State Boards of Nursing, Inc., 676 North St. Clair Street, Suite 550, Chicago, Illinois 60611, 1988, and no later editions, which is incorporated by reference and on file with the Secretary of State.

**B.** A nursing program for licensed practical nurses shall implement a curriculum which provides student instruction in the areas set forth in the *Guidelines for NCLEX-PN Item Writers*, National Council of State Boards of Nursing, Inc., 676 North St. Clair Street, Suite 550, Chicago, Illinois 60611, 1990, and no later editions, which is incorporated by reference and on file with the Secretary of State.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-16 repealed, former Section R4-19-17 renumbered and amended as Section R4-19-16 effective July 16, 1984 (Supp. 84-4). Former Section R4-19-16 renumbered as R4-19-206 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-207. Application for Initial Approval**

**A.** A parent institution seeking to establish a nursing program shall make application to the Board for initial approval. The initial application for approval shall include the following information:
1. Name and address of the applicant institution;
2. Purpose and classification of nursing program;
3. Evidence of compliance or plan for complying with R4-19-201 through R4-19-206;
4. A feasibility study and results indicating the following:
   a. Need for the program in the community,
   b. Need for graduates of the proposed program,
   c. Availability of students,
   d. Impact on existing nursing programs in a 50-mile radius of the proposed program,
   e. Potential for qualified faculty,
   f. Financial commitment to support the initial and continuing program,
   g. Adequacy of the clinical practicum and academic resources,
   h. Community support of the scope and philosophy of the program, and
   i. A timetable for development of the program and the intended date of the first class beginning;
5. Listing of resources available to fund the program and a projected budget for operation;
6. Number and qualifications of proposed faculty and staff;
7. Anticipated student population;
8. Description of available physical facilities and description of proposed facilities with dates of availability; and

9. Listing of available and suitable clinical facilities within the geographic area, including facility type; size, by number of beds; and type of patients.

**B.** Representatives of the parent institution shall meet with the Board for review of the application.

**C.** Upon the Board determining that the application is complete and the requirements of subsection (A) have been met, an applicant for initial approval shall, not less than three months prior to the proposed admission of students, do the following:
1. Appoint an administrator;
2. Appoint administrative staff;
3. Appoint nursing faculty for the first year of operation;
4. Submit final program plans, including curriculum, to the Board;
5. Submit to a survey of the educational and clinical facilities by authorized representatives of the Board to determine compliance with R4-19-201 through R4-19-206 and this subsection.

**D.** The Board shall grant initial approval to a nursing program upon receipt of the written survey report to the Board from its authorized representatives and a determination by the Board that the program has complied with subsections (A) through (C).

**E.** The initial approval for a nursing program shall expire 18 months from the date of the grant of initial approval if a class of nursing students is not admitted by the nursing program within that period of time.

**Historical Note**
Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-17 renumbered and amended as Section R4-19-16 effective July 16, 1984 (Supp. 84-4). Former Section R4-19-17 renumbered as R4-19-207 (Supp. 86-1). New Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-208. Application for Full Approval**

**A.** A nursing program seeking full approval shall submit a completed application on a form provided by the Board. The application shall provide the following information:
1. The name and address of the applicant institution,
2. The date the nursing program graduated its first class of students, and
3. Evidence that the program is in compliance with R4-19-201 through R4-19-206 and evidence that the results received by its graduates on the NCLEX average a passing rate of 80% or better.

**B.** Upon receipt of an application for full approval, the Board or its authorized representatives shall survey the educational and clinical facilities to determine compliance with this Section. The Board shall grant full approval to a nursing program upon receipt of the written survey report to the Board from its authorized representatives and a determination by the Board that the program has complied with the requirements of this Section.

**C.** A nursing program shall apply for full approval within a two-year period after graduating its first class or its initial approval may be rescinded by the Board following notice and an opportunity for hearing.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-209. Curriculum Changes for Board-approved Programs**

**A.** An administrator shall notify the Board prior to implementing the following changes in curriculum or alterations of a current curriculum:
1. A change in philosophy, goals, or objectives which alter present curriculum;
2. An increase or decrease in the length of the program; or
3. A reorganization of the curriculum.

**B.** The following materials shall be submitted with the request for curriculum changes:
1. The rationale for proposed change and the anticipated effect on faculty, students, resources, and facilities;
2. A presentation of the difference between the current curriculum and the proposed curriculum change;
3. A timetable for implementation of the change; and
4. The methods of evaluation which shall be used to determine the effect of the change.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-210. Board-approved Nursing Programs; Continuing Approval**

**A.** A nursing program which is approved by the Board but which is not accredited by an approved national nursing accrediting agency shall annually submit to the Board the following reports and records:
1. A copy of the current college catalog and a report completed by October 31 which shall contain the following information:
   a. Changes in philosophy, goals, and objectives since the last annual report;
   b. Faculty complement and qualifications of new faculty;
   c. Changes in curriculum since the last annual report;
   d. Student enrollment, anticipated number of graduates for the academic year; and,
   e. Changes in resources and clinical facilities being used since the last annual report.
2. A list of students who have completed all the requirements for graduation, except the successful completion of courses in which they are currently enrolled. The list shall be submitted to the Board not less than three months prior to graduation.

**B.** The nursing program shall submit to a visit and evaluation every four years by the Board or designated Board representatives to determine whether the program continues to be in compliance with the requirements of this Article. The administrator shall submit, not less than 30 days before the visit, the following:
1. One copy of the self study report and one copy of the college catalog to each of the site visitors, and
2. Nine copies of the self-study report to the Board.

**C.** Between survey visits, if the Board has reasonable cause to believe that a nursing program is not in compliance with this Article, the Board may require a nursing program to submit a summary report addressing the areas of Board concern or submit to a visit by Board representatives to determine continuing compliance with the requirements of this Article.

**D.** The administrator shall report in writing to the Board, within 30 days, when a nursing program is transferred from one institution to another. The report submitted to the Board shall contain the following information:
1. Feasibility study substantiating need for change;
2. Administration and organizational plans;
3. Anticipated effect on students, faculty, and resources; and
4. Plans for filing of an application for initial approval by the Board of the nursing program by the institution to which the program was transferred.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-211. Rescission of Approval**

**A.** The Board shall immediately, upon determining that a nursing program is not in compliance with R4-19-201 through R4-19-206, R4-19-209, or R4-19-210, provide to the administrator a written notice of deficiencies which also establishes a reasonable period of time, based upon the number and severity of deficiencies, to correct the deficiencies. No period for correction shall exceed 18 months.
1. The administrator shall, within 10 days from the date of receipt of the notice of deficiencies, file a plan of correction with the Board.
2. The administrator may, within 10 days from date of receipt of the notice of deficiencies, submit a written request for a hearing before the Board to appeal the Board's determination of deficiencies.
3. If the Board's determination is not appealed or is upheld upon appeal, the program shall be subject to periodic evaluations by the Board during the period of correction to determine if the deficiencies have been corrected.

**B.** The Board shall, following a Board-conducted survey and report, rescind the approval of a nursing program, if the nursing program fails to comply with R4-19-201 through R4-19-206, R4-19-209, or R4-19-210, within the time period set by the Board in the notice of deficiencies served upon the program.
1. The Board shall serve the administrator with a written notice of proposed rescission of approval which shall detail the reasons for the rescission. The administrator shall have 10 days to submit a written request for a hearing before the Board to show cause why approval should not be rescinded.
2. If, following hearing, the Board determines that approval shall be rescinded, the nursing program shall immediately cease operation and be removed from the official approved-status listing. A nursing program which has been ordered to cease operations shall assist currently enrolled students in transferring to another approved nursing program.

**C.** In addition to the cause set forth in subsection (A), the Board may rescind approval of a nursing program for any of the following causes:
1. For a program which has been served with a notice of deficiencies within the preceding three years which were thereafter timely corrected, subsequent noncompliance with the minimum standards in R4-19-201 through R4-19-206, or failure to comply with R4-19-209 or R4-19-210;
2. Willful failure to comply with R4-19-209 or R4-19-210; or
3. Failure to comply with orders of or stipulations with the Board within the time period determined by the Board.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-212. Nationally Accredited Nursing Programs; Continuing Approval**

**A.** A nursing program which is approved by the Board and which is accredited by an approved national nursing accrediting agency shall submit to the Board evidence of initial accreditation and thereafter shall submit evidence of continuing accreditation status after each successive reaccreditation review.
1. A reaccreditation review shall require a joint visit by a representative of the Board with the national accrediting team. The nursing program administrator shall notify the Board of the scheduled review at least 90 days before the review to allow the Board representative time to schedule the visit.
2. The administrator shall submit to the Board ten copies of the self-study which was prepared for the reaccreditation review and provided to the approved national nursing accrediting agency.
3. A report by the Board representative shall be submitted to the Board for review.

**B.** In addition to the information required in subsection (A), the administrator shall submit the following to the Board:
1. A copy of all reports supplied to the national accrediting agency at the time of filing with such agency;
2. A copy of the current school catalog;
3. Any report from the national accrediting agency citing deficiencies or recommendations shall be submitted to the Board at the time such report is received by the nursing program.
4. A list of the students who have completed all the requirements for graduation except the successful completion of the courses in which they are currently enrolled. The list shall be submitted to the Board not less than three months prior to graduation.

**C.** The administrator shall submit an annual report which shall contain student and graduate enrollments for the year. The report shall be submitted by October 31 of each calendar year.

**D.** Unless otherwise notified by the Board following receipt and review of the documents required by subsections (A) through (C), a nursing program shall have continuing full-approval status.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-213. Voluntary Termination of a Nursing Program**

**A.** The administrator of a nursing program shall submit written notification to the Board when a decision has been made to voluntarily terminate a nursing program. The administrator shall, at the same time, submit a written plan for terminating the nursing program.

**B.** The administrator shall assure that the nursing program is maintained, including the nursing faculty, until the last student is transferred or has completed the nursing program.

**C.** After the termination of a nursing program, the administrator shall provide to the Board a written notification of the permanent location and availability of all program records.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-214. Approval of Reentry Update Programs**

**A.** A person who desires Board approval of a reentry update program for nurses whose licenses have been inactive or expired for five or more years shall apply to the Board on a form furnished by the Board which provides the following information:
1. The name, address, and telephone number of the applicant;
2. The proposed starting date for the program;
3. The name and curriculum vitae of the instructor;
4. A complete course outline;
5. A statement detailing the facilities, staff, and resources that the applicant shall utilize to conduct the reentry update program.
6. Evidence of compliance with the requirements of subsection (B).

**B.** A reentry update program shall provide the following:
1. A program curriculum which consists of a minimum of 40 hours of theory and 112 hours of supervised clinical

practice for a licensed practical nurse, and a minimum of 60 hours of theory and 160 hours of supervised clinical practice for a professional nurse, including:
a. A comprehensive review of basic nursing care concepts, nursing process, principles, and skills;
b. Medical and surgical nursing;
c. Update of new nursing care concepts and skills;
d. Planned and supervised clinical practice experience consistent with course theory and course objectives; and
e. Program and participant evaluation.
2. Written notification to the Board, within five days of completion of the program by a participant, of the following:
a. Name of the participant and whether the participant has successfully completed or failed the program,
b. The license or permit number for the participant, and
c. Date of completion for the participant.

**C.** The Board shall approve a reentry update program which meets the requirements of this Section for a term of two years.

**D.** The program sponsor shall apply for reapproval in accordance with subsection (A) not later than 90 days prior to the expiration of the current approval.

**E.** A program which is denied approval or reapproval may file a written request for hearing with the Board not later than 10 days following receipt of the notice denying approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**
Adopted effective July 19, 1995 (Supp. 95-3).

## ARTICLE 3. LICENSURE

### R4-19-301. Licensure by Examination

**A.** An applicant for licensure by examination shall submit all of the following information to the Board not later than 60 days prior to the date the applicant wishes to take the examination.
1. A completed application on a form furnished by the Board which provides the following information:
a. A passport photograph not over two years old;
b. The applicant's full name and any former names used by the applicant;
c. The applicant's current address and telephone number;
d. The applicant's place and date of birth;
e. The applicant's sex and ethnic category;
f. The applicant's social security number, at the applicant's discretion;
g. The applicant's education, including the names of the schools, graduation dates, and degrees received;
h. If otherwise licensed as a registered or practical nurse, the state or country where the applicant is licensed;
i. Whether the applicant has taken the SBTPE, NCLEX-RN, or NCLEX-PN in the United States, including dates and examination results;
j. Whether the applicant has previously filed a nursing application in Arizona;
k. A listing of all states and countries in which the applicant is or has been licensed as a nurse and the license numbers;
l. Whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any professional licensing agency, and an explanation of the circumstances and a completed questionnaire provided by the Board which requests the facts surrounding the matter if such occurred;
m. Whether the applicant has ever been arrested, pled guilty to or been convicted of a felony, misdemeanor, or undesignated offense, and an explanation and a completed questionnaire provided by the Board which requests the facts surrounding the matter if such has occurred;
n. Whether the applicant has ever been arrested for a traffic-related violation resulting in a fine of $150.00 or greater, and an explanation and a completed questionnaire provided by the Board which requests the facts surrounding the matter if such has occurred;
o. Whether the applicant has ever been named in a civil/malpractice case relating to employment as a nurse, and an explanation and a completed questionnaire provided by the Board which requests the facts surrounding the matter if such has occurred;
p. The applicant's current employer, including address, type of position, and dates of employment;
q. A sworn statement under oath by the applicant verifying the truthfulness of the information provided by the applicant;
2. A copy of the application for licensure by examination sent to the National Council of State Boards of Nursing; and,
3. The statutorily required fees.

**B.** An applicant shall submit to the Board, within ten working days prior to the date of examination, a certificate signed by the Administrator showing that the applicant has successfully completed a nursing program.

**C.** An applicant who holds a Diploma or Associate degree in Nursing or a Baccalaureate degree in Nursing shall be eligible to take the licensure examination for professional nursing.

**D.** An applicant who holds a Certificate or a Diploma in Practical Nursing from an approved nursing program shall be eligible to take the licensure examination for practical nursing.

**E.** An applicant, who is a graduate of a foreign nursing program, shall be eligible to take the licensure examination upon submitting proof that the applicant is licensed or registered and in good standing in another country, or the applicant provides official document which evidences successful completion of a foreign program of nursing. A certificate issued by the Commission on Graduates of Foreign Nursing Schools may be submitted as evidence of the educational qualifications required in subsection (B).

**F.** To be eligible for licensing, an applicant for professional nurse licensure shall obtain one of the following:
1. A passing score on the NCLEX-RN;
2. A score of 1600 on the NCLEX-RN, if the examination was taken prior to July 1988; or
3. A score of not less than 350 on each part of the SBTPE for professional nurses.

**G.** To be eligible for licensing, an applicant for practical nurse licensure shall obtain one of the following:
1. A passing score on the NCLEX-PN,
2. A score of not less than 350 on the NCLEX-PN, if the examination was taken prior to October 1988, or
3. A score of not less than 350 on the SBTPE for practical nurses.

**H.** An applicant who fails the initial examination shall be allowed to retake the examination three additional times within a one-year period from the date of the initial examination.

**I.** An applicant who fails the examination four times or who does not pass the examination within the time period specified in subsection (H) shall complete a reentry update program designed by an approved nursing program before being permitted to retake the examination. Upon completion of the pro-

gram, the applicant shall request that the administrator of the nursing program submit documentation of satisfactory completion of the program by the applicant to the Board not later than one month prior to the date of reexamination for which the applicant has applied.

**J.** The Board may deny licensure of an applicant if the Board determines that it has reasonable cause to believe that cheating, fraud, deception, or improper conduct occurred on the part of the applicant during examination or in connection with the application. The applicant shall be notified, in writing, of the intended action of the Board and shall have 10 days from the date of receipt of this notice to file a request for hearing with the Board. Hearings shall be conducted in accordance with A.R.S. Title 32, Article 3, and A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**

Former Section II, Part I; Amended effective January 20, 1975 (Supp. 75-1). Amended effective December 7, 1976 (Supp. 76-5). Former Section R4-19-24 repealed, new Section R4-19-24 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-24 repealed, new Section R4-19-24 adopted effective May 9, 1984 (Supp. 84-3). Former Section R4-19-24 renumbered as Section R4-19-301 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-302. Licensure by Endorsement**

**A.** An applicant for licensure by endorsement shall submit all of the information required to be submitted in R4-19-301(A).

**B.** To be eligible for licensure by endorsement, an applicant for professional nurse licensure by endorsement shall be qualified pursuant to A.R.S. § 32-1632 and shall have a passing examination score in accordance with R4-19-301(F).

**C.** To be eligible for licensure by endorsement, an applicant for practical nurse licensure by endorsement shall be qualified pursuant to A.R.S. § 32-1637 and shall have a passing examination score in accordance with R4-19-301(G).

**D.** An applicant shall request that the state issuing original licensure submit to the Board, on a form provided by the Board, verified evidence of the applicant's graduation from a program of nursing which is approved by the state where the program is administered, SBTPE or NCLEX results, and current licensure status. The applicant shall pay all required fees for official endorsement. No licensure by endorsement shall be issued in the absence of receipt of this documentation.

**E.** An application for licensure by endorsement shall be completed within six months or it shall lapse. Upon lapsing, a new application shall be required.

**F.** An applicant denied licensure by endorsement may request a hearing to appeal the decision by filing the request, in writing, with the Board, not later than 10 days after receipt of the notice denying the license.

**Historical Note**

Former Section II, Part II; Amended effective December 7, 1976 (Supp. 76-5). Former Section R4-19-25 repealed, new Section R4-19-25 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-25 repealed, new Section R4-19-25 adopted effective May 9, 1984 (Supp. 84-3). Former Section R4-19-25 renumbered and amended as Section R4-19-302 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-303. Temporary License**

**A.** Subject to subsection (B), the Board shall issue a temporary license to an applicant desiring to practice nursing pending licensure if the applicant lacks a state criminal history as verified by a report issued by the Arizona Department of Public Safety and the applicant:

1. Is qualified under:
   a. A.R.S. § 32-1635 and § 32-1640; and
   b. R4-19-301 and R4-19-302; and
2. If seeking licensure by endorsement, has filed an application for licensure by endorsement and submitted documents or an official statement from another state board of nursing verifying that the applicant has a current license in good standing; or
3. If seeking renewal of a license that has been inactive or expired for 5 or more years, has filed an application and enrolled in a reentry update program.

**B.** An applicant who discloses a pending disciplinary charge, criminal conviction, chemical dependency, pending investigation or disciplinary action by a regulatory agency, or malpractice claim is not eligible for a temporary license without prior Board approval.

**C.** Unless extended for good cause under subsection (D), a temporary license is valid for a maximum of 6 months.

**D.** A temporary licensee may apply and the Board or the Executive Director shall grant an extension for good cause. Good cause means reasons beyond the control of the temporary licensee such as unanticipated delays in obtaining information required for licensure.

**Historical Note**

Former Section II, Part III; Former Section R4-19-26 repealed, new Section R4-19-26 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-26 renumbered and amended as Section R4-19-27, new Section R4-19-26 adopted effective May 9, 1984 (Supp. 84-3). Former Section R4-19-27 renumbered as Section R4-19-303 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1802, effective May 18, 1999 (Supp. 99-2).

**R4-19-304. Biennial License Renewal**

**A.** A licensee shall submit an application for license renewal on a form provided by the Board in accordance with A.R.S. § 32-1642, together with all statutorily mandated fees, on or before the licensee's date of birth. The applicant shall provide the following information, signed and under oath, on the application:

1. The applicant's full name and current address;
2. Other names practiced under by the applicant, highest degree held, employment status, principal field of employment, employer's name and city of operation, type of nursing position held, and major clinical or teaching area in nursing;
3. Whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed on applicant's license in any state or jurisdiction since last license renewal, and an explanation of the circumstances surrounding the matter if such occurred;
4. Whether the applicant has ever been arrested, pled guilty to or been convicted of a felony, misdemeanor, or undesignated offense, and an explanation of the circumstances surrounding the matter if such has occurred;
5. Whether the applicant has ever been arrested for a traffic-related violation resulting in a fine of $150.00 or greater, and an explanation of the circumstances surrounding the matter if such has occurred; and
6. Whether the applicant has ever been named in a civil/malpractice case relating to employment as a nurse, and

an explanation of the circumstances surrounding the matter if such has occurred;

**B.** A licensee who submits a renewal application with the correct fee to the Board after the expiration of the license shall be assessed a penalty fee in accordance with A.R.S. § 32-1643(A)(5).

**C.** A licensee born in an even-numbered year shall renew a license in an even-numbered year. A licensee born in an odd-numbered year shall renew a license in an odd-numbered year.

**D.** A licensee whose license has been inactive or expired for five or more years shall submit, with the renewal application, evidence of competency in nursing which shall include:

1. Employment as a professional nurse or licensed practical nurse in another state or foreign country within the previous five-year period, or
2. Satisfactory completion of a Board-approved reentry update program which includes both theory and clinical practice within the past year, or
3. Satisfactory completion of a minimum of 30 contact hours of continuing education activities in nursing during the past two years.

**E.** A licensee who fails to apply for a renewal license before expiration of a valid license shall not practice nursing until a renewal license is issued.

**Historical Note**

Former Section II, Part IV; Amended effective January 20, 1975 (Supp. 75-1). Former Section R4-19-27 repealed, new Section R4-19-27 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-27 renumbered and amended as Section R4-19-28. Former Section R4-19-26 renumbered and amended as Section R4-19-27 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-27 renumbered and amended as Section R4-19-304 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-305. Inactive or Expired License**

**A.** A licensee in good standing may request transfer to inactive status, in writing to the Board, or by indicating transfer to inactive status on a license renewal application. The licensee shall submit the statutorily mandated fees with such request or application.

**B.** The Board shall send a notice to the licensee confirming inactive status in writing or denying the request. If denied, the licensee shall have 10 days from the date of receipt of the notice to file a request for hearing with the Board, appealing the denial. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**

Former Section II, Part V; Repealed effective January 20, 1975 (Supp. 75-1). New Section R4-19-28 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-28 renumbered and amended as Section R4-19-29. Former Section R4-19-27 renumbered and amended as Section R4-19-28 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-28 renumbered and repealed as Section R4-19-305 effective February 21, 1986 (Supp. 86-1). New Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-306. Application for a Duplicate License**

**A.** A licensee shall report to the Board, in writing, a lost or stolen license within five business days of the loss.

**B.** A licensee shall file a renewal application for a duplicate license and a notarized statement explaining and verifying the loss or theft of the license.

**C.** A licensee shall cooperate fully with any Board investigation or in testifying concerning any loss of a license.

**Historical Note**

Former Section II, Part VI; Amended effective January 20, 1975 (Supp. 75-1). Amended effective December 7, 1976 (Supp. 76-5). Former Section R4-19-29 repealed, new Section R4-19-29 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-29 renumbered and amended as Section R4-19-30 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-28 renumbered and amended as Section R4-19-29 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-29 renumbered as Section R4-19-306 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-307. Change of Name or Address**

**A.** A licensee shall notify the Board, in writing, within 30 days, when the name of the licensee has been legally changed. A copy of the official document evidencing the name change shall also be submitted.

**B.** A licensee shall notify the Board within 30 days of any address change.

**Historical Note**

Former Section II, Part VII; Former Section R4-19-30 renumbered and amended as Section R4-19-45, new Section R4-19-30 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-30 renumbered and amended as Section R4-19-31. Former Section R4-19-29 renumbered and amended as R4-19-30 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-29 renumbered and amended as Section R4-19-307 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-308. School Nurse Certification Requirements**

**A.** Scope and applicability.

1. This Section establishes the requirements for school nurse certification.
2. This Section applies to all professional nurses seeking initial and renewal of school nurse certification.
3. School nurse certifications issued by the Department of Education are valid and remain valid until expiration. Upon expiration of a Department of Education certificate, a professional nurse who wishes to maintain school nurse certification shall seek initial certification under this Section.

**B.** Application requirements. An applicant for initial school nurse certification shall:

1. Hold a current license in good standing to practice as a professional nurse in Arizona, and,
2. Submit to the Board a verified application on a form furnished by the Board that provides the following information:
   a. The applicant's full name and any former names used by the applicant;
   b. The applicant's current mailing address and phone number;
   c. The applicant's professional nurse license number;
   d. The applicant's social security number;
   e. A description of the applicant's educational background, including the number and location of schools attended, the number of years attended, the date of graduation, the type of degree or certificate

awarded, and if applicable, a statement that the applicant has satisfied the educational requirements specified in subsection (D);

f. The applicant's current employer, including address, type of position, and dates of employment;

g. Whether the applicant has taken and passed a national certification examination, the name of the certifying organization, specialty area, certification number, and date of certification, if applicable;

h. Whether the applicant has ever had a nursing license denied, suspended, or revoked, and an explanation of the license denial, suspension or revocation, if any;

i. Whether a disciplinary action, consent order, or settlement agreement has been imposed on the applicant, and an explanation of the disciplinary action, consent order, or settlement agreement, if any;

j. Whether the applicant has ever been convicted of a felony, and the date of absolute discharge of the sentence for all felony convictions, if applicable; and

k. A sworn statement under oath by the applicant verifying the truthfulness of the information provided by the applicant.

**C.** Certification and renewal terms.

1. Initial certification and 1st renewal of certification shall be valid for 3 years.
2. Subsequent renewals of certification shall be valid for 6 years.
3. An applicant holding a school nurse certificate issued by the Department of Education or by another state shall provide proof of completion of the educational requirements of subsection (D)(1), (2), or (3) for the certification or renewal period applicable to the applicant.

**D.** Educational requirements.

1. Prior to application for the 1st renewal of certification a professional nurse shall provide proof of completion of all of the following educational requirements:
   a. Three semester hours in school nurse practice course work,
   b. Three semester hours in physical assessment of the school-aged child course work, and
   c. Three semester hours in nursing care of the child with developmental disabilities.
2. Prior to application for 2nd renewal of certification a professional nurse shall provide proof of completion of all of the following educational requirements:
   a. Three semester hours in community health;
   b. Three semester hours in management concepts; and
   c. Three semester hours of upper division course work in any of the following: counseling, health promotion, nutrition, legal-ethical or interpersonal communication, and group process.
3. Prior to all subsequent applications for renewal of certification, a professional nurse shall provide proof of completion of 1 of the following:
   a. Six semester hours of upper division or graduate credit from a regionally accredited institution, as defined in R4-19-101(23); or
   b. Ninety contact hours of continuing education related to nursing practice.
4. Notwithstanding subsections (C)(3) and (D)(1):
   a. Professional nurses applying for initial certification or 1st renewal of certification through the Board, who have completed the educational requirements in (D)(1), shall provide proof of completion of the educational requirements in (D)(1) and (D)(2); and
   b. Professional nurses applying for initial certification, 1st renewal, or subsequent renewals of certification through the Board, who have completed the educational requirements in (D)(2), shall provide proof of completion of the educational requirements of (D)(3).

**Historical Note**

Former Section II, Part VII; Former Section R4-19-31 repealed, new Section R4-19-31 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-31 renumbered and amended as Section R4-19-32. Former Section R4-19-30 renumbered and amended as Section R4-19-31 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-31 renumbered as Section R4-19-308 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended effective December 3, 1998 (Supp. 98-4).

**R4-19-309. Repealed**

**Historical Note**

Former Section II, Part IX; Repealed effective February 20, 1980 (Supp. 80-1). Former Section R4-19-31 renumbered and amended as Section R4-19-32 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-32 renumbered as Section R4-19-309 (Supp. 86-1). Repealed effective July 19, 1995 (Supp. 95-3).

## ARTICLE 4. REGULATION

**R4-19-401. Scope of Practice for a Practical Nurse**

**A.** A licensed practical nurse shall provide nursing care only under the supervision of a professional nurse or licensed physician.

**B.** The scope of practice for a licensed practical nurse shall include planning, implementation, documentation, and evaluation of the following:

1. Providing for the emotional and physical comfort of patients;
2. Observing, recording and reporting the condition of the patients including signs and symptoms which may be indicative of change in the patient's condition to the nurse's immediate supervisor;
3. Performing those nursing activities for which the licensed practical nurse has been prepared through basic education and those additional skills which are obtained through approved continued education programs.
4. Assisting with the rehabilitation of patients in accordance with the patient's care plan.

**Historical Note**

Former Section III, Part II; Amended effective February 20, 1980 (Supp. 80-1). Former Section R4-19-42 renumbered as Section R4-19-401 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-402. Scope of Practice for a Professional Nurse**

**A.** The scope of practice for a professional nurse shall include the following:

1. Performing those nursing activities for which the professional nurse has been prepared through basic education and additional skills which are obtained through approved continuing education programs;
2. Providing the nursing supervision in the planning for and provision of nursing care to patients and the directing and evaluating of nursing care provided by other licensed nurses and other personnel;

3. Providing patient education, both individualized and to the public;
4. Assessing the patient's needs, planning for, implementing, evaluating, and documenting the nursing care being provided to each patient.

**B.** A professional nurse shall be responsible both for the nursing care directly provided by the nurse and the care provided by others who are under the professional nurse's supervision.

**Historical Note**
Former Section III, Part I; Amended effective February 20, 1980 (Supp. 80-1). Former Section R4-19-43 renumbered as Section R4-19-402 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-403. Competency to Practice Nursing**

For purposes of A.R.S. § 32-1601(11)(d), a practice that is or might be harmful or dangerous to the health of a patient or the public includes the following:

1. A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice;
2. Intentionally or negligently causing physical or emotional injury;
3. Abandoning or neglecting a patient requiring immediate nursing care without making reasonable arrangement for continuation of such care;
4. Removing a patient's life support system without appropriate medical or legal authorization;
5. Failing to maintain for each patient a record which accurately reflects the nursing care and treatment provided to a patient;
6. Failing to take appropriate action to safeguard a patient's welfare or to follow policies and procedures of the nurse's employer designed to safeguard the patient;
7. Failing to report to the Board a licensed nurse whose work history includes conduct, or a pattern of conduct, which leads to actual or potential adverse patient consequences threatening public health and safety;
8. Failing to take action in a health care setting to protect a patient whose safety or welfare is at risk from incompetent health care practice, or to report such practice to employment or licensing authorities;
9. Assuming patient care responsibilities for which the nurse lacks the education to perform or for which the nurse has failed to maintain nursing competence;
10. Failing to supervise persons to whom nursing functions have been delegated;
11. Removing, without authorization, narcotics, drugs, supplies, equipment, or medical records from any health care facility, school, institution, or other work place location;
12. A pattern of use or being under the influence of alcoholic beverages, medications, or other substances to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location;
13. Obtaining, possessing, administering, or using any narcotic, controlled substance, or illegal drugs in violation of any federal or state criminal law, or in violation of the policy of any health care facility, school, institution, or other work location at which the nurse practices;
14. Falsifying or making materially incorrect, inconsistent, or unintelligible entries in any patient records or in the records of any health care facility, school, institution, or other work place location, pertaining to the obtaining, possessing, or administration of any controlled substance as defined in the federal Controlled Substance Act, 21 U.S.C. 801 et seq., or Arizona's Uniform Controlled Substance Act, A.R.S. Title 36, Chapter 27;
15. Engaging in fraud, misrepresentation, or deceit in writing the licensing examination or on an application for licensure or a renewal of license;
16. Impersonating professional and licensed practical nurses;
17. Permitting or allowing another person to use the nurse's license for any purpose;
18. Advertising of the practice of nursing in which untruthful or misleading statements are made;
19. Prescribing controlled substances to members of the registered nurse practitioner's immediate family or for oneself;
20. Providing any controlled substance or prescription-only drug for other than accepted therapeutic purposes;
21. Prescribing controlled substances by a registered nurse practitioner, including amphetamines and similar class II drugs, in the treatment of exogenous obesity, for a period in excess of 30 days within a 12-month period for an individual; or the non-therapeutic use of injectable amphetamines;
22. Delegating, by the registered nurse practitioner, the prescribing or dispensing of drugs to any other person;
23. Practicing nursing without a current license;
24. Failing to cooperate with the Board by:
    a. Not furnishing in writing a full and complete explanation covering the matter reported pursuant to A.R.S. § 32-1664, or
    b. Not responding to a subpoena issued by the Board;
25. Practicing in any other manner which gives the Board reasonable cause to believe that the health of a patient or the public may be harmed.

**Historical Note**
Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-44 repealed, new Section R4-19-44 adopted effective May 9, 1984 (Supp. 84-3). Amended by adding Paragraphs 18 through 22 effective July 16, 1984 (Supp. 84-4). Former Section R4-19-44 renumbered and amended as Section R4-19-403 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-404. Reinstatement or Issuance of License**

**A.** A nurse whose license to practice nursing has been suspended for a period of time shall be reinstated at termination of the period of suspension only upon submission to and acceptance by the Board of documentation which evidences that the conditions of the order have been met. The license for a nurse who fails to provide such documentation shall remain suspended until such submission and acceptance.

**B.** A nurse whose license to practice nursing has been denied or revoked in accordance with A.R.S. § 32-1663 may make application to the Board, after a period of five years subsequent to the date the license was revoked or last denied, for the issuance or reissuance of a license under the following terms and conditions:

1. An application shall be submitted in writing, verified under oath, and shall contain therein or have attached thereto substantial evidence that the basis for denial or revocation has been removed and that the issuance of license will no longer constitute a threat to the public health or safety. The Board may require physical, psychological, or psychiatric evaluations, reports, and affidavits. These conditions shall be met before an application is considered.

2. The Board shall consider the application and may designate a time for the applicant to appear at a regularly scheduled meeting of the Board so that evidence of qualification and competency to practice can be presented.
3. After reviewing the evidence and deliberating the matter, the Board may:
   a. Grant the applicant a temporary permit to complete a specified period of supervised practice. On completion of the supervised practice period, the Board shall consider the evaluation of the applicant's performance and shall approve or deny the application or extend the period of supervised practice.
   b. Deny the application. An applicant who is denied issuance or reissuance of a license shall have 10 days from the date of receipt of the notice of denial from the Board to file a request for hearing, in writing, with the Board. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**
Former Section R4-19-30 renumbered and amended as Section R4-19-45 effective February 20, 1980 (Supp. 80-1). Former Section R4-19-45 renumbered as Section R4-19-404 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3).

**R4-19-405. Repealed**

**Historical Note**
Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-46 renumbered and amended as Section R4-19-405 effective February 21, 1986 (Supp. 86-1). Repealed effective July 19, 1995 (Supp. 95-3).

## ARTICLE 5. EXTENDED AND ADVANCED NURSING PRACTICE

**R4-19-501. Specialty Areas of Registered Nurse Practitioners**
The Board shall grant approval of courses of study and certify the following specialty areas for registered nurse practitioners:
1. Nurse midwife;
2. Pediatric nurse associate/practitioner;
3. Family nurse practitioner;
4. Adult nurse practitioner;
5. Woman's health care nurse practitioner/obstetrical-gynecological nurse practitioner;
6. Neonatal nurse practitioner;
7. School nurse practitioner;
8. Psychiatric/mental health nurse practitioner; and
9. Geriatric nurse practitioner.

**Historical Note**
Former Section IV, Part I. Former Section R4-19-53 renumbered as Section R4-19-501 (Supp. 86-1). Former Section R4-19-501 renumbered to R4-19-502, new Section R4-19-501 adopted effective November 18, 1994 (Supp. 94-4). Amended effective November 25, 1996 (Supp. 96-4).

**R4-19-502. Requirements for Courses of Study for Registered Nurse Practitioners**
**A.** The Board shall approve a course of study for registered nurse practitioners in a specialty area only if the course of study complies with the following:
1. The course of study is offered by or affiliated with a college or university accredited by the North Central Association of Colleges and Schools.
2. The course of study is a formal educational program, beyond a diploma, associate degree, or baccalaureate degree in nursing, with a curriculum that is at least 9 months in length and includes theory and supervised clinical experience to prepare professional nurses to do the following:
   a. Assess the physical and psychosocial health status of individuals and families through health and developmental history taking and physical examination;
   b. Evaluate the assessment data to make prospective decisions with other health professionals;
   c. Institute and provide routine health care to patients;
   d. Provide counseling and health teaching to patients and their families; and
   e. Perform the acts described in R4-19-505.
3. The course of study has a preceptorship.

**B.** Each faculty member of a course of study for registered nurse practitioners shall meet the requirements established by an Arizona university or college for faculty membership and 1 of the following:
1. Current licensure as a professional nurse in Arizona, with a Master's Degree in a nursing or clinical specialty; or
2. Current licensure as a physician in Arizona.

**Historical Note**
Former Section IV, Part II; Amended effective February 20, 1980 (Supp. 80-1). Former Section R4-19-54 repealed, new Section R4-19-54 adopted effective July 20, 1981 (Supp. 81-4). Former Section R4-19-54 renumbered as Section R4-19-502 (Supp. 86-1). Section repealed, new Section R4-19-502 renumbered from R4-19-501 and Section heading amended effective November 18, 1994 (Supp. 94-4). Section repealed, new Section R4-19-502 adopted effective November 25, 1996 (Supp. 96-4).

**R4-19-503. Application for Approval of Course of Study for Registered Nurse Practitioners; Approval by Board**
**A.** An educational institution proposing to offer a course of study to prepare professional nurses for certification in a specialty area for extended and advanced nursing practice shall submit a completed application to the Board on a form provided by the Board. The application shall contain the following information:
1. Specialty area of the registered nurse practitioner course of study,
2. Name and address of the applicant institution,
3. Discussion of the background development of the course of study,
4. Statement of philosophy of the applicant institution,
5. Statement of the purpose for the extended and advanced nursing practice course,
6. Discussion of the community and state job market for registered nurse practitioners who complete the course of study,
7. Description of the goals and objectives of the course of study,
8. List of the core courses and any specialty courses included in the course of study and a description of each course,
9. Designation of a proposed time schedule for implementation of the course of study,
10. Designation of the total clock hours required of both instruction and supervised clinical practicum in the course of study,
11. Description of the budgetary provisions for the course of study,
12. List of the names and titles of persons responsible for the course of study,

13. List of the names and titles of the faculty, and
14. Evidence of compliance with R4-19-502.

**B.** An applicant shall submit the following additional information with the application for approval of the course of study:
1. Copies of any studies, historical data, or other evidence of need for the course of study; and
2. Qualifications of each faculty member.

**C.** The Board shall grant approval to a course of study to prepare professional nurses for certification in a specialty role for extended and advanced nursing practice if the course meets the requirements of this Article.

**D.** An educational institution that is denied approval of a course of study may request a hearing by filing a written request with the Board within 10 days of service of the Board's order denying its application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6 and 4 A.A.C. 19, Article 6.

**Historical Note**

Former Section IV, Part III; Amended effective Nov. 17, 1978 (Supp. 78-6). Amended effective February 20, 1980 (Supp. 80-1). Amended by adding subsection (F) effective July 20, 1981 (Supp. 81-4). Amended by adding subsection (G) effective September 15, 1982 (Supp. 82-5). Former Section R4-19-55 renumbered as Section R4-19-503 (Supp. 86-1). Former Section R4-19-503 repealed, new Section adopted effective November 18, 1994 (Supp. 94-4). Former Section R4-19-503 renumbered to Section R4-19-504; new Section R4-19-503 adopted effective November 25, 1996 (Supp. 86-1).

**R4-19-504. Requirements for Registered Nurse Practitioner Certification**

**A.** An applicant for certification as a registered nurse practitioner shall:
1. Hold a current license in good standing to practice as a professional nurse in Arizona; and
2. Submit to the Board:
   a. A notarized application furnished by the Board which provides the following information:
      i. The applicant's full name and any former names used by the applicant;
      ii. The applicant's current mailing address and telephone number;
      iii. The applicant's professional nurse license number;
      iv. A description of the applicant's educational background, including the name and location of schools attended, the number of years attended, the date of graduation, and the type of degree or certificate awarded;
      v. The specialty area for which the applicant wishes to be certified;
      vi. The applicant's current employer, including address, type of position, and dates of employment;
      vii. Whether the applicant has taken and passed a national certification examination, and the name of the certifying organization, specialty area, certification number, and date of certification;
      viii. Whether the applicant has ever had a nursing license denied, suspended, or revoked, and an explanation of any license denial, suspension, or revocation;
      ix. Whether a disciplinary action, consent order, or settlement agreement has been imposed upon the applicant, and an explanation of any disciplinary action, consent order, or settlement agreement; and
      x. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant.
   b. An official transcript and a copy of a certificate or official letter received from a course of study verifying completion of a registered nurse practitioner course of study in an approved registered nurse practitioner program, or a regionally accredited college or university, which was of at least 9 months in length and included theory and clinical experience to prepare the applicant as a registered nurse practitioner;
   c. If the course of study is not an approved program or provided by a regionally accredited college or university; an official transcript, a copy of a certificate, or official letter received from a registered nurse practitioner program which shows that the program was:
      i. At least 9 months in length, and
      ii. Included theory and clinical experience to prepare the applicant as a registered nurse practitioner, which program the Board determines to be substantially equivalent to an approved program.
   d. If a nurse midwife, evidence of current certification or recertification from the American College of Nurse Midwives or its Certification Council; and
   e. The prescribed fee.

**B.** An applicant for certification as a registered nurse practitioner on or after January 1, 2001, shall have a master of science degree in nursing or a masters degree in a health related area. The Board shall continue to certify a registered nurse practitioner that the Board certified before January 1, 2001, if the registered nurse practitioner maintains a current license in good standing to practice as a professional nurse in Arizona.

**C.** The Board shall issue a certificate to practice as a registered nurse practitioner in a specialty area to a professional nurse who meets the criteria set forth in this Section. An applicant who is denied a certificate may request a hearing by filing a written request with the Board within 10 days of service of the Board's order denying the application for certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 and 4 A.A.C. 19, Article 6.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-56 repealed, new Section R4-19-56 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-56 renumbered as Section R4-19-504 (Supp. 86-1). Former Section R4-19-504 renumbered to R4-19-505, new Section R4-19-504 adopted effective November 18, 1994 (Supp. 94-4). Former Section R4-19-504 renumbered to Section R4-10-505; new Section R4-19-504 renumbered from R4-19-503 and amended effective November 25, 1996 (Supp. 96-4). Amended effective January 10, 1997 (Supp. 97-1).

**R4-19-505. Scope of Practice of the Registered Nurse Practitioner**

**A.** In addition to the scope of practice permitted a professional nurse, a registered nurse practitioner may perform the following acts in collaboration with a physician:
1. Examine patients and establish medical diagnoses by client history, physical examination, and other criteria;

2. Admit patients into health care facilities;
3. Order, perform, and interpret laboratory, radiographic, and other diagnostic tests;
4. Identify, develop, implement, and evaluate a plan of care for a patient to promote, maintain, and restore health;
5. Prescribe and dispense medication when granted authority in accordance with R4-19-507; and
6. Refer to and consult with appropriate health care professionals.

**B.** Within 30 days of beginning new employment as a registered nurse practitioner or of a change in the identity of a collaborating physician, a registered nurse practitioner shall provide the name and address of the collaborating physician to the Board. The Board shall confirm the license status of the physician with the physician's licensing board.

**C.** Registered nurse practitioners shall practice in accordance with the standards of nursing specified in the following scope of practice statements, and no other editions, for the practitioner's specialty area. Each of these scope of practice statements is incorporated by reference and on file with the Board and the Office of the Secretary of State:

1. *The Scope of Practice of the Primary Health Care Nurse Practitioner*, 1985, pages 3, 4, and 6 through 9, American Nurses' Association, 2420 Pershing Road, Kansas City, MO 64108;
2. *Standards of Practice for the Primary Health Care Nurse Practitioner*, 1987, pages 4 through 9, American Nurses' Association, 2420 Pershing Road, Kansas City, MO 64108;
3. *Standards of Practice for PNP/As*, 1987, National Association of Pediatric Nurse Associates and Practitioners, 1101 Kings Highway North, Suite 206, Cherry Hill, N.J. 08034;
4. *Standards of Practice of Nurse-Midwifery*, 1993, pages 2 through 6, American College of Nurse-Midwives, 818 Connecticut Ave., N.W., Suite 900, Washington, D.C. 20006;
5. *Nurse Providers of Neonatal Care, Guidelines for Educational Development and Practice*, 1990, pages 4 and 5, NAACOG, 409 12th St., S.W., Washington, D.C. 20024-2191;
6. *The Obstetric-Gynecologic/Women's Health Nurse Practitioner, Role Definition, Competencies, and Educational Guidelines*, Third Edition, 1990, page 2, NAACOG, 409 12th St., S.W., Washington, D.C. 20024-2191;
7. *Standards for the Nursing Care of Women and Newborns*, Fourth Edition, pages 5 through 13, 15 through 25, 27 through 61, and 63 through 77, NAACOG, 409 12th St., S.W., Washington, D.C. 20024-2191;
8. *Neonatal Nurse Practitioners, Standards of Education and Practice*, 1992, page 2, National Association of Neonatal Nurses, 1304 Southpoint Blvd., Suite 280, Petaluma, CA 94954-6859;
9. *Statement on Psychiatric-Mental Health Clinical Nursing Practice and Standards of Psychiatric-Mental Health Clinical Nursing Practice*, 1994, pages 25 through 34, American Nurses Association, 600 Maryland Avenue, S.W., Suite 100 West, Washington, D.C. 20024-2571;
10. *Standards of School Nursing Practice*, 1983, pages 5 through 11, American Nurses' Association, 2420 Pershing Road, Kansas City, Missouri 64108;
11. *Standards of Practice*, 1993, American Academy of Nurse Practitioners, Capitol Station, LBJ Building, P.O. Box 12846, Austin, TX 78711;
12. *Scope of Practice for Nurse Practitioners*, 1993, American Academy of Nurse Practitioners, Capitol Station, LBJ Building, P.O. Box 12846, Austin, TX 78711; and
13. *Core Competencies for Basic Nurse-Midwifery Practice*, 1992, American College of Nurse Midwives, 818 Connecticut Ave., N.W., Suite 900, Washington, D.C. 20006.

**Historical Note**
Adopted effective February 25, 1987 (Supp. 87-1). Former Section R4-19-505 renumbered to R4-19-506, new Section R4-19-505 renumbered from R4-19-504 effective November 18, 1994 (Supp. 94-4). Former Section R4-19-505 repealed, new Section R4-19-505 renumbered from R4-19-504 and amended effective November 25, 1996 (Supp. 96-4).

**R4-19-506. Use of Title of Registered Nurse Practitioner**

A nurse shall not practice as a registered nurse practitioner in a specialty area or use any words or letters to indicate the nurse is a registered nurse practitioner unless certified as a registered nurse practitioner by the Board.

**Historical Note**
Section R4-19-506 renumbered from R4-19-505 effective November 18, 1994 (Supp. 94-4). Former Section R4-19-506 renumbered to R4-19-510, new Section R4-19-506 adopted effective November 25, 1996 (Supp. 96-4).

**R4-19-507. Prescribing and Dispensing Authority**

**A.** The Board shall authorize a registered nurse practitioner to prescribe and dispense medication only if the registered nurse practitioner satisfies the following requirements:

1. Is a professional nurse currently licensed in Arizona in good standing and authorized by the Board to practice within a specialty area identified in R4-19-501;
2. Has 1 year of documented active practice as a registered nurse practitioner immediately before applying for prescribing and dispensing authority;
3. Submits a completed, notarized application on a form provided by the Board. The applicant shall provide the following information:
   a. Name, address, and home phone number;
   b. Professional nurse license number;
   c. Nurse practitioner specialty;
   d. Certification number;
   e. Business address and phone number;
   f. Length of time that applicant has practiced as a registered nurse practitioner and whether full or part time;
   g. If a faculty member, the number of hours of direct patient contact during the year preceding the date of application;
   h. Name and address of a collaborating physician who prescribes and dispenses and whose license status has been confirmed by the Board with the physician's licensing board;
   i. Chronological listing of continuing education obtained by the applicant in pharmacology or clinical management of drug therapy or both in the last 2 years;
   j. Whether the applicant is going to apply for a DEA number to prescribe controlled substances;
   k. Authority for which the applicant is applying; and,
   l. Sworn statement by the applicant verifying the truthfulness of the information provided by the applicant.
4. Submits evidence of completion of a minimum of 45 contact hours of education in pharmacology or clinical man-

agement of drug therapy or both within 2 years immediately before the date of the application.

a. Six of the 45 contact hours shall have been obtained within 1 year immediately before the date of application. One-half (22 1/2 hours) of the required contact hours submitted for application for prescribing authority may be from mediated instruction and self study.
b. A registered nurse practitioner who leads, instructs, or lectures to groups of health professionals on pharmacy-related topics in continuing education activities sponsored by a national professional accrediting organization shall be granted contact hours for the time expended during the initial presentation, upon documentation to the Board.
c. A registered nurse practitioner whose primary responsibility is the education of health professionals shall not be granted contact hours for time expended on normal teaching duties within the learning institution.

**B.** Upon receipt of an application, the Board shall review the application and the related material and shall approve the application if the applicant meets the requirements of this Section. The authority to prescribe and dispense medication shall be valid through December 31 of the year in which the authority is granted. An applicant who is denied medication prescribing and dispensing authority may request a hearing by filing a written request with the Board within 10 days of service of the Board's order denying the application for prescribing and dispensing authority. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6, and 4 A.A.C. 19, Article 6.

**C.** A registered nurse practitioner who has been granted prescribing and dispensing authority may:

1. Prescribe medications, and medical devices and appliances.
2. Provide for refill of prescription-only medications for 1 year from the date of the prescription.

**D**. A registered nurse practitioner to whom the Board has granted prescribing and dispensing authority and who wishes to prescribe a controlled substance shall make application to the DEA and obtain a DEA registration number before prescribing a controlled substance. The registered nurse practitioner shall file the DEA registration number with the Board.

**E.** A registered nurse practitioner with a DEA registration number may prescribe a controlled substance scheduled as Class II, as defined in the Federal Controlled Substance Act, 21 U.S.C. § 801 et seq., or Arizona's Uniform Controlled Substance Act, A.R.S. Title 36, Chapter 27, but shall not permit refills of the prescription.

**F.** A registered nurse practitioner with a DEA registration number may prescribe a controlled substance scheduled as Class III or IV, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substances Act, and may provide for a maximum of 5 refills in 6 months.

**G.** A registered nurse practitioner with a DEA registration number may prescribe a controlled substance scheduled as Class V, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substance Act, and may provide for refills for a maximum of 1 year.

**H.** A registered nurse practitioner with prescribing and dispensing authority shall ensure that all prescription orders contain the following:

1. The name, address, phone number, and specialty area of the registered nurse practitioner;
2. The date the prescription is written;
3. The name and address of the patient;
4. The full name and strength, dosage form of a controlled substance when applicable, and directions for use;
5. Two signature lines for the prescriber. The right side of the prescription shall contain under the signature line the phrase "substitution permissible". The left side shall contain under the signature line, the phrase "dispense as written"; and
6. The DEA registration number, if applicable.

**I.** A registered nurse practitioner with prescribing and dispensing authority shall, each calendar year, obtain 10 contact hours of continuing education in pharmacology or pharmacology management or a combination of both.

1. A maximum of 5 of the required contact hours for renewal of prescribing and dispensing authority may be from mediated instruction and self study.
2. Registered nurse practitioners shall submit to the Board, before December 31 of each year, a notarized affidavit stating that they have obtained the required number of contact hours of continuing education and the annual renewal fee. Registered nurse practitioners who are granted prescribing and dispensing authority after October 31 shall not be required to obtain the 10 contact hours of continuing education for that year.
3. A registered nurse practitioner with prescribing and dispensing authority shall submit to the Board, at its request, documentation of the contact hours of continuing education taken by the registered nurse practitioner.
   a. A registered nurse practitioner who leads, instructs, or lectures to groups of health professionals on pharmacy-related topics in continuing education activities sponsored by a national professional accrediting organization shall be granted contact hours for the time expended during the initial presentation, upon documentation to the Board.
   b. A registered nurse practitioner whose primary responsibility is the education of health professionals shall not be granted contact hours for time expended on normal teaching duties within the learning institution.

**J.** Whenever there is a change in the identity of a collaborating physician who prescribes and dispenses, a registered nurse practitioner shall provide the Board with the name and address of the new collaborating physician who prescribes and dispenses within 30 days. The Board shall confirm the license status of the physician with the physician's licensing board.

**K.** A registered nurse practitioner with prescribing and dispensing authority shall apply for renewal of the authority on or before December 31 of each year. A registered nurse practitioner who fails to apply for renewal before expiration shall be considered delinquent but shall be permitted to renew the prescribing and dispensing authority by paying the expiration renewal fee and submitting the notarized affidavit required by subsection (I)(2). A registered nurse practitioner who fails to apply for renewal within 90 days of the expiration date shall apply for prescribing and dispensing authority in accordance with subsection (A).

**L**. The Board of Nursing shall annually send a list of registered nurse practitioners with prescribing and dispensing authority to the Board of Pharmacy, the Board of Medical Examiners, and the Board of Osteopathic Examiners in Medicine and Surgery.

**Historical Note**

Adopted effective November 25, 1996 (Supp. 96-4).

**R4-19-508. Dispensing of Prepackaged Labeled Medications**

**A.** A registered nurse practitioner with prescribing and dispensing authority shall dispense only to the registered nurse practitioner's patients and only for conditions being treated by the registered nurse practitioner.

**B.** Before dispensing a medication, a registered nurse practitioner with prescribing and dispensing authority shall provide to the patient a written prescription on which appears the following statement in bold type: "THIS PRESCRIPTION MAY BE FILLED BY THE RNP OR BY A PHARMACY OF YOUR CHOICE."

**C.** A registered nurse practitioner with prescribing and dispensing authority may dispense prepackaged labeled medications, controlled substances, and medical devices and appliances. Samples of medications packaged for individual use by licensed manufacturers or repackagers of medication may be dispensed without a prescription order.

**D.** A registered nurse practitioner with prescribing and dispensing authority shall dispense all medication prepackaged in a unit-of-use package labeled with the following information:
1. The dispensing registered nurse practitioner's name and address;
2. The date the medication is dispensed;
3. The patient's name;
4. The name and strength of the medication, manufacturer's name, quantity in the container, directions for its use, and any cautionary statements; and
5. The prescription order number.

**E.** In all outpatient settings and at the time of hospital discharge, a registered nurse practitioner with prescribing and dispensing authority shall personally provide to the patient or the patient's representative, directions for use, name of prescribed medication, and any special instructions, precautions, or storage requirements when any of the following occurs:
1. A new prescribed medication is dispensed to the patient or a new prescription number is assigned to a previously-dispensed medication;
2. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form, or directions for a prescription medication have been changed;
3. In the professional judgment of the registered nurse practitioner, these instructions are deemed warranted;
4. The patient or patient's representative requests instruction.

**F.** A registered nurse practitioner with prescribing and dispensing authority shall enter into the patient's medical record, the name and strength of the medication dispensed, the date the medication is dispensed, and the therapeutic reason for the medication.

**G.** A registered nurse practitioner with prescribing and dispensing authority shall obtain medication only from a physician, a pharmacist, a manufacturer, a wholesaler, a distributor, or a registered nurse practitioner with prescribing and dispensing authority.

**H.** A registered nurse practitioner with prescribing and dispensing authority shall keep all medication in a locked cabinet or room, control access to the cabinet or room by a written procedure, and maintain a current inventory of the contents of the cabinet or room.

**I.** A registered nurse practitioner with prescribing and dispensing authority shall preserve all original prescription orders dispensed for a minimum of 3 years. The registered nurse practitioner shall make the original prescription orders available at all times for inspection by the Board of Nursing, the Board of Pharmacy, and law enforcement officers in performance of their duties.

**J.** A registered nurse practitioner shall, if dispensing controlled substances, maintain inventories and records of the controlled substances as follows:
1. Inventories and records of all controlled substances listed in Schedule II, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substances Act, shall be maintained separately from all other records, and prescriptions for these substances shall be maintained in a separate prescription file; and
2. Inventories and records of controlled substances listed in Schedules III, IV, and V, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substances Act, shall be maintained either separately from all other records or in a form that the information required is readily retrievable from ordinary business records. Prescriptions for these substances shall be maintained either in a prescription file for controlled substances listed in Schedules III, IV, and V only or in a form that they are readily retrievable from other prescription records. Prescriptions shall be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower-right corner with the letter "C" no less than 1 inch high and filed either in the prescription file for controlled substances listed in Schedule II or in the usual consecutively-numbered prescription file for non-controlled substances.

**K.** A registered nurse practitioner with prescribing and dispensing authority shall record the following information on the back of each prescription order when the prescription order is refilled:
1. Date refilled,
2. Quantity dispensed, and
3. Registered nurse practitioner's name or identifiable initials. If the registered nurse practitioner merely initials and dates the back of the prescription order, the registered nurse practitioner shall be deemed to have dispensed a refill for the full amount of the original prescription order.

**L.** A registered nurse practitioner with prescribing and dispensing authority shall comply with all applicable laws and rules in prescribing, administering, and dispensing medications or controlled substances, including compliance with labeling requirements of A.R.S. Title 32, Chapter 18.

**M.** Under the supervision of a registered nurse practitioner with prescribing and dispensing authority, licensed or unlicensed personnel may assist the registered nurse practitioner in the following:
1. Receiving a request for refilling a prescription medication by prescription order number;
2. Accepting verbal refill authorization from the registered nurse practitioner and recording on the back of the original prescription form and in the patient's medical record the registered nurse practitioner's name, date of the refill, and name and quantity of medication; and
3. Typing and affixing labels for prescription medications.

**N.** A registered nurse practitioner shall not prescribe or dispense medications without being granted the authority to prescribe and dispense medications by the Board. A registered nurse practitioner who fails to timely renew the authority to prescribe or dispense medications shall not prescribe or dispense medications until renewal is approved by the Board. A registered nurse practitioner who violates this subsection shall be subject to a civil penalty which the Board may impose for each transaction. In addition, the Board may suspend the registered

nurse practitioner's prescribing and dispensing authority and impose other sanctions under A.R.S. § 32-1606(C).

**Historical Note**
Adopted effective November 25, 1996 (Supp. 96-4).

**R4-19-509. Inactive Prescribing and Dispensing Authority**

**A.** A registered nurse practitioner may request that the Board put the registered nurse practitioner's prescribing and dispensing authority on inactive status by notifying the Board in writing. A registered nurse practitioner shall not prescribe or dispense medications while the authority to do so is on inactive status.

**B.** To reactivate prescribing and dispensing authority, a registered nurse practitioner shall submit to the Board the renewal fee and documentation of 6 contact hours of continuing education in pharmacology or clinical management of drug therapy, or both, for each year on inactive status before 1997. For each year on inactive status from and after 1997, the registered nurse practitioner shall submit documentation of 10 contact hours of continuing education in pharmacology or clinical management of drug therapy, or both. The maximum number of contact hours required to reactivate prescribing and dispensing authority shall not exceed 45.

**Historical Note**
Adopted effective November 25, 1996 (Supp. 96-4).

**R4-19-510. Certification of Professional Nurse**

A professional nurse who has been certified by 1 of the following national nursing credentialing agencies shall be deemed to be certified for purposes of A.R.S. § 32-1601(3):

1. American Nurses Credentialing Center;
2. American College of Nurse Midwives or its Certification Council;
3. National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;
4. National Board of Pediatric Nurse Practitioners and Associates;
5. Council on Certification of Nurse Anesthetists;
6. American Association of Critical Care Nurses;
7. Board of Certification for Emergency Nursing;
8. Wound Ostomy and Continence Nursing Certification Board;
9. Board of Nephrology;
10. Certification Board of Infection Control;
11. American Board of Neuroscience Nursing;
12. American Board for Occupational Health Nurses, Inc.;
13. American Operating Room Nurses National Certification Board, Inc.;
14. Association of Rehabilitation Nurses;
15. American Board of Urologic Allied Health Professionals, Inc.;
16. Oncology Nursing Society;
17. Intravenous Nurses Society Certification Corporation;
18. American Society of Post Anesthesia Nurses;
19. American Society for Parenteral and Enteral Nutrition, Inc.;
20. Association of Diabetes Educators;
21. Certifying Council for Gastroenterology Clinicians, Inc.;
22. International Childbirth Education Association;
23. Addictions Nursing Certification Board;
24. National Certifying Board for Ophthalmic Registered Nurses;
25. Orthopedic Nurses Certification Board; and
26. American Academy of Nurse Practitioners.

**Historical Note**
Section renumbered from R4-19-506 and amended effective November 25, 1996 (Supp. 96-4).

**R4-19-511. Requirements for Clinical Nurse Specialist Certification**

**A.** An applicant for certification as a clinical nurse specialist shall:
1. Hold a current license in good standing to practice as a professional nurse in Arizona;
2. Have a master of science degree in nursing or a master's degree with specialization in a clinical area of nursing practice;
3. Have evidence of current certification by a national nursing credentialing agency in a clinical area of nursing practice;
4. Submit to the Board:
   a. A notarized application furnished by the Board which provides the following information:
      i. The applicant's full name and any former names used by the applicant;
      ii. The applicant's current home and business address and phone numbers;
      iii. The applicant's professional nurse license number;
      iv. A description of the applicant's educational background, including the name and location of schools attended, the number of years attended, the date of graduation, and the type of degrees or certificates awarded;
      v. The applicant's current employer, including address, type of position, and dates of employment;
      vi. A description of the applicant's national certification including the name of the national certification examination, name of the certifying organization, specialty area, certification number, and date of certification;
      vii. Whether the applicant has ever had a nursing license denied, suspended, or revoked, and an explanation of any license denial, suspension, or revocation;
      viii. Whether a disciplinary action, consent order, or settlement agreement has been imposed upon the applicant and an explanation of any disciplinary action, consent order, or settlement agreement; and
      ix. A sworn statement by the applicant verifying the truthfulness of the information by the applicant.
   b. An official transcript and a copy of a letter received from the education program verifying completion of the requirement in R4-19-511(A)(2).

**B.** The Board shall issue a certificate to practice as a clinical nurse specialist to a professional nurse who meets the criteria set forth in this Section. An applicant who is denied a certificate may request a hearing by filing a written request with the Board within 10 days of service of the Board's order denying the application for a certificate. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6, and 4 A.A.C. 19, Article 6.

**Historical Note**
Adopted effective November 25, 1996 (Supp. 96-4).

**R4-19-512. Scope of Practice of the Clinical Nurse Specialist**

In addition to the functions of the professional nurse, a clinical nurse specialist, being an expert in a specialty area of clinical nursing practice, may perform the following:

1. Comprehensive assessment, analysis, and evaluation of individuals, families, communities, or any combination

of individuals, families, and communities, with complex health needs within an area of specialization;
2. Direct patient care as an advanced clinician within the clinical nurse specialist's specialty area and develop, implement, and evaluate treatment plans within that specialty;
3. Consulting with the public and professionals in health care, business, and industry in the areas of research, case management, education, and administration; and,
4. Psychotherapy, by clinical nurse specialists with expertise in adult, or child and adolescent psychiatric and mental health nursing.

**Historical Note**
Adopted effective November 25, 1996 (Supp. 96-4).

## ARTICLE 6. RULES OF PRACTICE AND PROCEDURE

### R4-19-601. Definitions
In this Article, unless the context otherwise requires:
1. "Attorney General" means the Attorney General of the State of Arizona and the Attorney General's designees.
2. "Complaint" means a formal written charge, brought by the Board after investigation, inspection, or review to initiate formal proceedings.
3. "Administrative law judge" means an individual assigned by the Office of Administrative Hearings to conduct hearings or other proceedings.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-602. Initiation of a Hearing
**A.** A hearing shall be initiated in the manner provided by the statute or rule authorizing the hearing. When a hearing is initiated by a request for hearing served upon the Board, the request for hearing shall be in writing and shall clearly state:
1. The identity of the person requesting the hearing,
2. The specific actions of the Board which are the basis of the hearing request, and
3. The reasons necessitating a hearing.

**B.** A panel of Board members may conduct hearings or other proceedings or request that a matter be assigned to an administrative law judge.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-603. Denial of Request for Hearing
If the Board denies the request for hearing, the Board shall provide to the applicant a written copy of the decision stating the reasons for denial.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-604. Representation
Any party may participate in the hearing in person or through legal counsel. In those hearings conducted by a panel of Board members, a corporation shall be represented by an attorney. A party shall pay for its own legal representation.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-605. Notice of Hearing
**A.** The Board shall set the time and place of the hearing and give written notice to all parties.

**B.** The notice shall contain:
1. The date, time, location, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular Sections of the statutes and rules involved;
4. A short and plain statement of the matters asserted. If the Board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
5. The full name, address, and license number, if any, of the licensee, certificate holder, program, or applicant;
6. The name, mailing address, and telephone number of the Board's executive director or Board designee if the hearing is to be conducted by the Board;
7. A statement that a hearing will proceed without a party's presence if a party fails to attend or participate in the hearing;
8. The names and mailing addresses of persons to whom notice is being given, including the Attorney General representing the state at the hearing.

**C.** The notice may include any other matters that the Board considers desirable to expedite the proceedings.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-606. Filing; Computation of Time; Extension of Time
**A.** The Board shall maintain a docket of all proceedings and shall assign each proceeding a number.

**B.** All papers in any proceeding shall be filed in the office of the Board within the time limit, if any, for the filing. Papers may be transmitted by ordinary or express mail, or otherwise delivered, but must be timely received at the office of the Board. Service thereof shall be made concurrently on all parties to the proceeding. A document shall be considered to be filed on the date received by the Board, established by the date stamp of the office of the Board on the document's face.

**C.** Unless otherwise specifically provided in the rules or by an order of the Board, an original and 1 copy of all papers shall be filed.

**D.** In computing any period of time prescribed or allowed by this Article, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day which is neither Saturday, Sunday, nor a state holiday. The computation shall include intermediate Saturdays, Sundays, and state holidays. Whenever a notice or other paper is served by mail upon a party, 5 calendar days shall be added to the prescribed period.

**E.** For good cause shown, the panel of Board members, if the hearing is to be conducted by the Board, or the administrative law judge may grant continuances and extensions of time.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-607. Record of Hearings
The Board shall maintain a complete and separate record containing all documents and exhibits filed in connection with each hearing. Such record shall be made available upon request to the public during regular business hours.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

### R4-19-608. Service Requirements
**A.** The complaint and notice of hearing shall be served in accordance with A.R.S. § 32-1664. The original shall be filed with and retained by the Board and a copy shall be served on each

party. Service shall be complete at the time of personal service, or if service is made by publication, at the completion of publication.

**B.** Requirements for service of documents other than the complaint and notice of hearing shall be:
1. For notices of settlement conferences, decisions, or final orders of the Board, transmission either by personal service or by certified mail to the address of record;
2. For all other documents, either by personal service, or by certified or regular mail to the address of record;
3. When a party is represented by an attorney, service upon the attorney shall constitute service upon the party; or
4. Service shall be complete at the time of personal service or the date when certified or regular mail is placed in the mail, if served by mail.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-609. Subpoenas**

**A.** The Board may issue a subpoena pursuant to A.R.S. § 32-1664(I). The Office of Administrative Hearings may issue a subpoena pursuant to A.R.S. § 41-1092.02. The party requesting the subpoena shall be responsible for locating and serving the person or entity to whom it is directed.

**B.** A request for subpoena shall be in writing and filed with the Board, if the hearing is to be conducted by a panel of Board members, or filed with the Office of Administrative Hearings, if the hearing is being conducted by an administrative law judge, and served on each party at least 10 days prior to the date set for hearing. If good cause exists, a party may submit a request less than 10 days prior to the date set for hearing. The request shall include:
1. The identification of the person whose testimony is sought or a description of the document sought to be produced;
2. All addresses at which the subpoena shall be served;
3. The facts expected to be established by the person's testimony or documents subpoenaed with sufficient specificity to allow for a determination of relevancy to the issues in dispute; and
4. An explanation, when applicable, as to why the party was unable to submit the request 10 days prior to the date set for hearing.

**C.** If more than 2 subpoenas are requested to establish a single fact in dispute, the request for subpoena shall state the reason why each additional subpoena is not merely repetitive.

**D.** Any person served with a subpoena may file a motion to quash the subpoena within 10 days of the date of service of the subpoena, but in no event less than 24 hours before the hearing. The motion shall be filed with the Board, if the subpoena was issued by the Board, or filed with the Office of Administrative Hearings, if the subpoena was issued by that agency.

**E.** Any person may file a motion to quash if the evidence or testimony sought does not relate to any issue in dispute, if the subpoena does not describe with sufficient specificity the testimony or evidence sought to be produced, or for any other reason sufficient in law to show the subpoena is invalid. The ruling on the motion to quash shall state the grounds for the ruling. The motion to quash and any ruling thereon shall become part of the record.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-610. Procedure at Hearing**

At a hearing:
1. A panel of Board members or the administrative law judge shall regulate the course of the proceedings.
2. All parties shall have the opportunity to testify, respond, present evidence and argument, present witnesses, conduct examination and cross-examination, and submit rebuttal evidence.
3. Parties may stipulate to any facts that are not in dispute. Stipulations may be made in writing or orally by reading the stipulations into the record of the hearing. Stipulations shall be binding upon the parties unless the panel of Board members, if the matter is to be conducted by the Board, or the administrative law judge grants permission to withdraw the stipulation.
4. All or part of the hearing may be conducted by telephone, television, or other electronic means, provided that each party has an opportunity to participate in the entire proceeding as it takes place.
5. All hearings shall be open to public observation, except where closed pursuant to an express provision of law. A hearing conducted by telephone, television, or other electronic means shall be made available to members of the public by the opportunity during the hearing to hear the proceedings by speaker phone, monitor, or other electronic means. In addition, members of the public shall be allowed during regular office hours to hear or inspect the record of the Board and to inspect any transcript of the hearing obtained by the Board.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-611. Evidence**

**A.** All witnesses at a hearing shall testify under oath. All parties shall have the right to present such oral and documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The panel of Board members, if the hearing is to be conducted by the Board, or the administrative law judge, shall receive relevant, probative, and material evidence, rule upon offers of proof, and exclude all evidence determined to be irrelevant, immaterial, or unduly repetitious. The panel of Board members or the administrative law judge shall admit the kind of evidence on which reasonable, prudent people could rely, even if it would be inadmissible in a judicial proceeding.

**B.** A party submitting documentary evidence shall furnish the original to the Board or administrative law judge, and a copy to each party of record present; the panel of Board members, if the hearing is to be conducted by the Board, and the court reporter attending the hearing.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-612. Recommended Decision**

**A.** The panel of Board members or the administrative law judge shall render a recommended decision.

**B.** A recommended decision shall include separately stated findings of fact, conclusions of law, and the reasoning for the disciplinary action, if any.

**C.** Findings of fact shall be as required by A.R.S. § 41-1061(G). The experience, technical competence, or specialized knowledge of the panel of Board members or the administrative law judge may be utilized in evaluating evidence.

**D.** A recommended decision pursuant to this Section shall be rendered within 15 days after conclusion of the hearing or after submission of proposed findings by the parties, unless the Board waives or extends this period for good cause.

**E.** The recommended decision shall be delivered to the Board.

**F.** The Board shall transmit a copy of the recommended decision to each party. Each party may file a memorandum of objections to it. The memorandum shall detail reasons why the recommended decision is in error and shall include appropriate citations to the record, statutes, rules, or other authority.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-613. Board's Decision**

**A.** No later than 75 days following receipt of a recommended decision, the Board shall consider the recommended decision, together with any sufficient, timely exceptions filed.

**B.** The Board may adopt, reject, or amend the recommended findings of fact, conclusions of law, and disciplinary action, if any.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-614. Rehearing or Review of Decision**

**A.** Any party in a contested case before the Board who is aggrieved by a decision rendered in the case may file with the Board, within the time limits set in A.R.S. § 32-1665(A), a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed served when personally delivered or when mailed by certified mail to the party's address of record.

**B.** A motion for rehearing or review under this rule may be amended at any time before it is ruled upon by the Board. Any other party may file a response within 10 days after service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency, the administrative law judge or panel of Board members, the prevailing party, or any abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the panel of Board members, the administrative law judge, or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or exclusion of evidence or other errors of law occurring during the pendency of the proceeding or at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** Upon the Board's receipt of a motion for rehearing or review, the Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those specified matters.

**E.** Within the time limits of A.R.S. § 32-1665, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties and their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after such service, serve opposing affidavits.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-615. Effectiveness of Orders**

**A.** Except as provided in subsection (B), a decision shall be final upon expiration of the time for filing a request for rehearing or review or upon denial of such request, whichever is later. If a rehearing is granted, the decision shall be stayed until readopted or another order is issued.

**B.** If the Board makes specific findings that the immediate effectiveness of a decision is necessary for the immediate preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, the decision shall be effective when issued and any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

## ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

**R4-19-701. Agency Record; Directory of Substantive Policy Statements**

The official rulemaking record and directory of substantive policy statements is located in the office of the Board and may be reviewed any working day, Monday through Friday, from 8 a.m. until 5 p.m., except state holidays.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact**

A petition to adopt, amend, or repeal a rule, or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule, pursuant to A.R.S. § 41-1033, or to object to a rule in accordance with A.R.S. § 41-1056.01, shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the person submitting the petition.
2. For the adoption of a new rule, the specific language of the proposed rule.
3. For the amendment of a current rule, the citation for the applicable Arizona Administrative Code number and rule title. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined.
4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal.
5. The reasons the rule should be adopted, amended, or repealed, specifically stating in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. Additional sup-

porting information for the petition may be provided, including:
a. Any statistical data or other justification, with clear references to attached exhibits;
b. An identification of what persons or segment of the public would be affected and how they would be affected; and
c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public.
6. For a review of an existing agency practice or substantive policy statement alleged to constitute a rule, the reasons the existing agency practice or substantive policy statement constitutes a rule and the proposed action requested of the agency.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted on adoption of the rule; or
b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement on adoption of the rule and that actual impact imposes a significant burden on persons subject to the rule.
8. The signature of the person submitting the petition.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-703. Public Comments**
**A.** Any person may comment upon a rule proposed by the Board by submitting written comments on the proposed rule or upon any other matter noticed for public comment in the Arizona Administrative Register to the Board on or before the date of the close of record.
**B.** A written comment is considered to have been submitted on the date it is received by the Board, except if a comment is mailed, the date of receipt shall be the postmarked date.
**C.** All written comments received pursuant to A.R.S. § 41-1023 shall be considered by the Board.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-704. Oral Proceedings**
**A.** Requests for oral proceedings, as prescribed in A.R.S. § 41-1023(C), shall:
1. Be filed with the Board;
2. Include the name and current address of the person making the request; and
3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the notice was published.
**B.** The oral proceeding shall be recorded either by an electronic recording device or stenographically, and any resulting cassette tapes or transcripts, registers, and all written comments received shall become part of the official record.
**C.** The presiding officer shall utilize the following guidelines to conduct oral proceedings:
1. Voluntary registration of attendees.
2. Registration of persons intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, a notation of their position with regard to the proposed rule and the approximate length of time they wish to speak.
3. Opening of the record. The presiding officer shall open the proceeding by identifying the rules to be considered, the location, date, time, and purpose of the proceeding, and present the agenda.
4. A statement by Board representative. The statement shall explain the background and general content of the proposed rules.
5. A public oral comment period. Comments may be limited to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.
6. Closing remarks. The presiding officer shall announce the location where the written public comments are to be sent and the date and time of the close of record.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-705. Petition for Delayed Effective Date**
**A.** A written petition to delay the effective date of the rule, pursuant to A.R.S. § 41-1032, shall be filed with the Board. The petition shall contain:
1. The name and current address of the person submitting the petition;
2. Identification of the proposed rule;
3. The need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted, and the reasons why the public interest will not be harmed by the later date; and
4. The signature of the person submitting the petition.
**B.** The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

**R4-19-706. Written Criticism of Rule**
**A.** Any person may file a written criticism of an existing rule with the Board.
**B.** The criticism shall clearly identify the rule addressed and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise considered to be improper.
**C.** The Board shall acknowledge receipt of any criticism within 10 working days and shall place the criticism in the official record for review by the Board pursuant to A.R.S. § 41-1056.

**Historical Note**
Adopted effective October 10, 1996 (Supp. 96-4).

# TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

## CHAPTER 20. BOARD OF DISPENSING OPTICIANS

(Authority: A.R.S. § 32-1671 et seq.)

### ARTICLE 1. IN GENERAL

Section

R4-20-101. Definitions
R4-20-102. Application for a Dispensing Optician's License by Examination
R4-20-103. Approval to take dispensing optician examination
R4-20-104. Dispensing Optician Examinations
R4-20-105. Examination Procedures
R4-20-106. Scoring of Examination; Failure to Pass
R4-20-107. Application for a Dispensing Optician's License by Comity
R4-20-108. Repealed
R4-20-109. Renewal of Dispensing Optician's License
R4-20-110. Application for an Optical Establishment License
R4-20-111. Time-frames for License Approvals
R4-20-112. Fees
R4-20-113. Display of licenses, nontransferability
R4-20-114. Notice of change of status
R4-20-115. Renewal of Optical Establishment License
R4-20-116. Rehearing or Review of Decision
R4-20-117. Scope of practice
R4-20-118. Unprofessional Conduct
R4-20-119. Substandard Care
R4-20-120. Continuing Education; Hours Required; Reporting
R4-20-121. Continuing Education; Approval of Courses
Table 1. Time-frames (in Days)

### ARTICLE 1. IN GENERAL

**R4-20-101. Definitions**

The following definitions apply in this Chapter unless otherwise specified:

1. "Applicant" means an individual requesting an initial or renewal license from the Board.
2. "Application packet" means the forms and additional information the Board requires to be submitted by an applicant or on the applicant's behalf.
3. "Comity" means the procedure for granting an Arizona license to an applicant who is already licensed as a dispensing optician in another state of the United States.
4. "Days" means calendar days.
5. "Laboratory experience" means work directly involved in the process of producing optical devices and does not include work that is strictly clerical.
6. "License" means a written authorization issued by the Board to practice as a dispensing optician or operate an optical establishment in Arizona.
7. "Nationally recognized body on opticianry accreditation" means the Commission on Opticianry Accreditation.
8. "Optical devices" means eyeglasses, contact lenses, prosthetic eyes, low-vision aids, other eyewear, or eyewear appurtenances or parts.
9. "Optometrist" means a person currently licensed in the practice of the profession of optometry as defined in A.R.S. § 32-1701 in any state of the United States.
10. "Physician" means a doctor currently licensed to practice allopathic or osteopathic medicine in any state of the United States.
11. "Vision practitioner" means a physician licensed in Arizona.
12. "Work week" means the period of time beginning on Sunday at 12:00 a.m. and ending the following Saturday at 11:59 p.m.

**Historical Note**

Former Rule II. Amended effective December 14, 1979 (Supp. 79-6). Amended Subsections (A) and (D) effective April 2, 1981 (Supp. 81-2). Former Section R4-20-102 repealed, new Section R4-20-102 adopted effective October 24, 1983 (Supp. 83-5). Amended Subsection (B) effective August 29, 1985 (Supp. 85-4). Former Section R4-20-101 repealed, Section R4-20-102 amended and renumbered as Section R4-20-101 effective September 18, 1987 (Supp. 87-3). Amended by final rulemaking at 5 A.A.R. 418, effective January 15, 1999 (Supp. 99-1).

**R4-20-102. Application for a Dispensing Optician's License by Examination**

At least 45 days before an examination date, an applicant for a dispensing optician's license by examination shall submit to the Board an application packet that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
   a. The applicant's name, social security number, address, and telephone number;
   b. The name and address of the applicant's employer at the time of application;
   c. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(b), the name and address of each dispensing optician, physician, or optometrist for whom the applicant served as an apprentice for 3 of the 6 years immediately preceding the application date, and the 1st and last dates of each apprenticeship;
   d. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(c), the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, degree received, and the name and address of each dispensing optician for whom the applicant served as a dispensing optician apprentice for 1 of the 6 years immediately preceding the application date and the 1st and last dates of service. The applicant shall submit a photocopy of a diploma from the optical dispensing school;
   e. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(d), the name and address of each dispensing optician, physician, or optometrist for whom the applicant has worked for 3 of the 6 years immediately preceding the application date and the 1st and last dates of employment;
   f. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;
   g. A statement of whether the applicant has ever been denied an application or had a license suspended or revoked in any state; and
   h. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the applicant's high school diploma or general educational diploma issued in any state;
3. Verification of passing a national Board examination in opticianry as evidenced by an original notice of examina-

tion results or original certificate of successful passage issued by the professional examination service that prepared the examination;

4. A letter from each of 3 individuals who are not family members, have known the applicant for 2 years immediately preceding the date of the application, and support the applicant's licensure;
5. A letter from each ophthalmologist, optometrist, or dispensing optician licensed in any state who provided direct supervision to the applicant during the applicant's apprenticeship that contains:
   a. The individual's printed name, address, and telephone number; and
   b. A statement that the applicant has either served as an apprentice or been employed as a dispensing optician by the ophthalmologist, optometrist, or dispensing optician for the time required in subsections (A)(1)(c), (d), or (e). If the applicant served as an apprentice or was employed as a dispensing optician by more than 1 ophthalmologist, optometrist, or dispensing optician, the applicant shall submit a letter from each ophthalmologist, optometrist, or dispensing optician from whom the applicant is claiming experience.
6. A passport photograph of the applicant no larger than 1 1/2 x 2 inches and taken not more than 6 months before the date of application; and
7. The fee required in R4-20-112.

**Historical Note**

Former Rule III. Amended effective August 9, 1977 (Supp. 77-4). Amended effective August 7, 1978 (Supp. 78-4). Amended effective December 14, 1979 (Supp. 79-6). Former Section R4-20-103 repealed, new Section R4-20-103 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-103 amended and renumbered as Section R4-20-102 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Section R4-20-102 repealed, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-103. Approval to take dispensing optician examination**

**A.** An application to take the dispensing optician license examination shall be received by the Board 45 days prior to the date of the examination.

**B.** Applicants whose applications have been approved shall be notified prior to the date of the examination as to the time and place of the examination.

**C.** The Board may reduce or waive the 45-day requirement for any portion of the application if its nonavailability is outside the applicant's control.

**Historical Note**

Adopted effective August 9, 1977 (Supp. 77-4). Amended effective December 14, 1979 (Supp. 79-6). Amended Subsection (E) effective April 2, 1981 (Supp. 81-2). Former Section R4-20-104 repealed, new Section R4-20-104 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-104 amended and renumbered as Section R4-20-103 effective September 18, 1987 (Supp. 87-3). Amended September 13, 1989 (Supp. 89-3).

**R4-20-104. Dispensing Optician Examinations**

**A.** Examinations shall be given at least twice each year and not be more than eight months apart.

**B.** Subjects to be covered by the written examination are as follows:
   1. Ocular anatomy;
   2. Geometric optics and laboratory;
   3. Ophthalmic dispensing; and
   4. Contact lenses.

**C.** The practical examination shall include measurement of optical devices, interpupillary distance, segment heights, corneal curvature, and the identification of lens styles and tints. Only Board-supplied measuring equipment and optical devices shall be used in the practical examination.

**D.** Any person who obtained a passing score on an opticianry examination administered by the American Board of Opticianry within a six-year period prior to application date may substitute that examination for those portions of the written examination required by paragraphs (B)(1), (2), and (3), by submitting the original notice of test results or the original certificate which states that the individual passed the examination or by having the American Board of Opticianry submit directly to the Board a notice of test results or certificate of passing the examination.

**E.** Any person who has obtained a passing score on a contact lens examination administered by the National Contact Lens Examiners within a six-year period prior to application date may substitute that examination for the portion of the written examination required by paragraph (B)(4), by submitting the original notice of test results or the original certificate which states that the individual passed the examination or by having the National Contact Lens Examiners submit directly to the Board a notice of test results or certificate of passing the examination.

**Historical Note**

Adopted effective August 9, 1977 (Supp. 77-4). Former Section R4-20-105 repealed, new Section R4-20-105 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-105 amended and renumbered as Section R4-20-104 effective September 18, 1987 (Supp. 87-3). Amended September 13, 1989 (Supp. 89-3). Amended effective July 22, 1994 (Supp. 94-3).

**R4-20-105. Examination Procedures**

**A.** The Board's method of administering the written portion of an examination shall be for the applicant to apply to the American Board of Opticianry and National Contact Lens Examiners and successfully complete those examinations. Rules of the testing service shall apply.

**B.** For the practical examination, an applicant shall not bring books or notes into the examination room, communicate by any means with other applicants while the examination is in progress, unless expressly authorized by the presiding examiner, or leave the examination room without first securing the presiding examiner's permission. Violation of this Subsection shall terminate the applicant's right to continue the examination.

**C.** For the practical examination, no persons except applicants, Board members, employees of the Board or persons having the express permission of the Board shall be permitted in the examination room while the examination is in progress.

**D.** The examination papers are the property of the Board and shall not be returned to the applicant.

**Historical Note**

Adopted effective August 9, 1977 (Supp. 77-4). Former Section R4-20-106 repealed, new Section R4-20-106 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-106 amended and renumbered as Section R4-20-105 effective September 18, 1987 (Supp. 87-3).

Amended effective September 13, 1989 (Supp. 89-3).
Amended effective July 22, 1994 (Supp. 94-3).

**R4-20-106. Scoring of Examination; Failure to Pass**

**A.** To pass, a grade of 75% or more shall be achieved on the practical examination. For the written subjects, the applicant must meet the passing grade of 70% on the American Board of Opticianry examination and must meet the passing grade of 72% on the National Contact Lens Examiners examination.

**B.** Failure to pass an examination shall not preclude an applicant from participation in a subsequent examination.

**C.** An applicant who fails to pass the practical examination may retake the practical examination at either of the next two regularly scheduled examinations without the payment of any additional fee.

**D.** After the second failure of the practical examination, re-examination shall be permitted only after filing a second application and payment of the fee for re-application.

**Historical Note**

Adopted effective March 20, 1978 (Supp. 78-2). Amended effective August 7, 1978 (Supp. 78-4). Former Section R4-20-107 repealed, new Section R4-20-107 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-107 amended and renumbered as Section R4-20-106 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Amended effective July 22, 1994 (Supp. 94-3).

**R4-20-107. Application for a Dispensing Optician's License by Comity**

An applicant for a dispensing optician's license by comity shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
   a. The applicant's name, social security number, address, and telephone number;
   b. The applicant's dispensing optician license number and the state and date of licensure;
   c. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;
   d. A statement of whether the applicant has ever been denied an application or had a license suspended or revoked in any state; and
   e. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the unexpired license and a written statement, signed by an officer of the licensing Board that issued the license, that states the license is in good standing;
3. A photograph of the applicant no larger than 1 1/2 x 2 inches and taken not more than 6 months before the date of application; and
4. The fee required in R4-20-112.

**Historical Note**

Adopted effective August 7, 1978 (Supp. 78-4). Former Section R4-20-108 repealed, new Section R4-20-108 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-108 amended and renumbered as Section R4-20-107 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Section R4-20-107 repealed, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-108. Repealed**

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-109 amended and renumbered as Section R4-20-108 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Section R4-20-108 repealed by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-109. Renewal of Dispensing Optician's License**

No later than December 31 of each year, an applicant for renewal of a dispensing optician's license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board, signed and dated by the applicant, and notarized that contains:

1. The applicant's name, social security number, address, and telephone number;
2. The name, address, telephone number, and Arizona license number of the optical establishment at which the applicant is currently practicing as a dispensing optician; and
3. A statement that the information contained on the renewal application is true and correct.

**Historical Note**

Adopted effective April 2, 1981 (Supp. 81-2). Former Section R4-20-110 repealed, new Section R4-20-110 adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-110 amended and renumbered as Section R4-20-109 effective September 18, 1987 (Supp. 87-3). Section R4-20-109 repealed, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-110. Application for an Optical Establishment License**

An applicant for an optical establishment license shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
   a. The applicant's name, establishment name, establishment address, and telephone number. An application form shall be signed by the following:
      i. If a sole proprietorship, the individual owning the optical establishment;
      ii. If a corporation, each individual owning 20% or more of the voting stock in the corporation;
      iii. If a partnership, the managing partner and a general partner;
      iv. If a limited liability company, the designated manager, or if no manager is designated, any 2 members of the limited liability company;
   b. The hours the establishment will be open to the public for business;
   c. If applicable, the name, business address, and telephone number of each licensed optical establishment currently being operated by the applicant in Arizona;
   d. If a corporation, the name of the statutory agent, the corporation's officers, and the state of incorporation; and
   e. The name, business address, telephone number, and license number of each licensed dispensing optician who is scheduled to work at the establishment for 32 hours or more;
2. If a corporation, articles of incorporation; and
3. The fee required in R4-20-112.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-111 amended and renumbered as Section

R4-20-110 effective September 18, 1987 (Supp. 87-3).
Repealed effective September 13, 1989 (Supp. 89-3).
New Section R4-20-110 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-111. Time-frames for License Approvals**

**A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.

**B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.
1. The administrative completeness review time-frame begins:
   a. For approval to take a dispensing optician examination or for an optical establishment license, when the Board receives an application packet.
   b. For approval or denial of a license by examination or license by comity, when the applicant takes the dispensing optician examination.
2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

**C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
2. The Board shall send a written notice approving the applicant to take an examination or granting a license to an applicant who meets the qualifications in A.R.S. §§ 32-1681 through 32-1687.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-1681 through 32-1687.

**D.** The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
1. Supply the missing information under subsection (B)(2) or (C)(1); or
2. Take the dispensing optician examination.

**E.** An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.

**F.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day shall be considered the time-frame's last day.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-112 amended and renumbered as Section R4-20-111 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Section R4-20-111 repealed, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-112. Fees**

**A.** The following fees are applicable to dispensing optician licensure:
1. Original dispensing optician's application filing fee is $50.00;
2. An applicant for a dispensing optician's license who passes the examination shall pay a fee of $25.00 for a license for the remaining months of that calendar year.
3. An applicant for comity licensure issued under the provisions of A.R.S. § 32-1683(5)(a) whose application is received by the Board or postmarked:
   a. Prior to July 1 shall pay a fee of $50.00 for the remainder of the calendar year;
   b. On or after July 1 shall pay a fee of $25.00 for the remainder of the calendar year.
4. An applicant who has been notified of having passed the examination or of having been approved for comity licensure shall pay the specified license fee for original licensure within ten months following the date of the Board's notice or the applicant shall retake and pass the practical examination to become licensed.
5. The annual fee for renewal or reinstatement of a dispensing optician's license is:
   a. $70.00 for renewal applications received by the Board or postmarked by December 31 of the year preceding the license year;
   b. $85.00 for renewal applications postmarked January 1 through January 31 of the license year;
   c. $100.00 for renewal applications received by the Board or postmarked on or after February 1 of the license year;
   d. $100.00 for a reinstated license.

**B.** The following fees are applicable to optical establishment licensure.
1. Optical establishment license application fee is $25.00.
2. If the application is approved, the optical establishment license fee is $25.00.
3. The fee for annual renewal of an optical establishment license is:
   a. $60.00 if the renewal application is received by the Board or postmarked by June 30 of the preceding license year;
   b. $85.00 if the renewal application is received by the Board or postmarked July 1 through July 31 of the license year;
   c. $100.00 if the renewal application is received by the Board or postmarked on or after August 1 of the license year.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-113 amended and renumbered as Section R4-20-112 effective September 18, 1987 (Supp. 87-3). Amended effective April 22, 1988 (Supp. 88-2). Amended effective May 26, 1989 (Supp. 89-2).

**R4-20-113. Display of licenses, nontransferability**

**A.** All licenses, including temporary licenses, shall be displayed in public view. If a license has been renewed, the evidence of

renewal or copy thereof shall be displayed with the license in public view.

**B.** Optical establishment and dispensing optician licenses are not transferable.

**C.** Optical establishment licenses shall be returned to the Board upon transfer of ownership or going out of business.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-114 amended and renumbered as Section R4-20-113 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3).

**R4-20-114. Notice of change of status**

**A.** Optical establishment licensees and dispensing optician licensees shall notify the Board of any change in the information provided to the Board concerning license application or its renewal, including any changes in name, address, work location, establishment ownership and the name, address and home telephone number of dispensing opticians, optometrists or vision practitioners working at the establishment.

**B.** This notice shall be in writing and made within 30 days of change of status.

**C.** For purposes of this Section, a change of establishment ownership means:

1. The transfer of a controlling interest in the optical establishment business from one person to another;
2. The addition or termination of a general partner;
3. The transfer or agreement to transfer a block of twenty percent or more of the outstanding voting stock of a corporation or association or the transfer or agreement to transfer any amount of voting stock which would give the transferee control of a majority of its outstanding voting stock. For purposes of this Paragraph, "voting stock" includes any interest or system whereby the operation of a corporation is controlled by its owners or trustees.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-115 amended and renumbered as Section R4-20-114 effective September 18, 1987 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3).

**R4-20-115. Renewal of Optical Establishment License**

No later than June 30 of each year, an applicant for renewal of an optical establishment license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board that contains:

1. The name, address, and telephone number of the optical establishment;
2. The name and license number of each dispensing optician who is scheduled to work 32 hours or more each work week at the optical establishment; and
3. The applicant's signature and title.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-116 repealed and reserved as Section R4-20-115 effective September 18, 1987 (Supp. 87-3). Section R4-20-115 amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-20-116. Rehearing or Review of Decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this Subsection a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing or review under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the Board or its informal interviewing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing or interview;
2. Misconduct of the Board or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. Any order granting such a rehearing or review shall specify the grounds therefor.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits. That period may be extended for an additional period not exceeding twenty days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** For purposes of this Section the terms "contested case" and "party" have the same meaning as in A.R.S. § 41-1001.

**Historical Note**

Adopted effective October 24, 1983 (Supp. 83-5). Former Section R4-20-117 amended and renumbered as R4-20-

116 effective September 18, 1987 (Supp. 87-3).
Amended effective September 13, 1989 (Supp. 89-3).
Amended effective July 22, 1994 (Supp. 94-3).

**R4-20-117. Scope of practice**

The scope of practice of a dispensing optician includes those activities described in A.R.S. § 32-1671(3).

**Historical Note**

Adopted effective September 18, 1987 (Supp. 87-3).

**R4-20-118. Unprofessional Conduct**

In addition to actions specified in A.R.S. § 32-1696, unprofessional conduct in the practice of optical dispensing includes the following:

1. Substandard care.
2. Failing to maintain a copy of the customer's prescription or failing to prepare and maintain a record of the optical devices actually dispensed for a minimum period of three years. The record shall include the brand, style, and size of the frame, if any, and the style, material, and all other information necessary to accurately reproduce each lens. All such records shall be separate from Arizona state-licensed optometrists' or physicians' records.
3. Failing or refusing to make a copy of a record described in paragraph (2) promptly available to the customer, the customer's prescribing practitioner, or the Board or its investigator, when requested. Notwithstanding this provision, a dispensing optician need not make the record of contact lenses dispensed on a trial basis available to the customer until the trial period has ended or a period of 60 days has elapsed without the dispensing of a retrial lens.
4. Failing or refusing to take corrective action concerning the manufacture or fit of eyeglasses, contact lenses or other optical devices dispensed at the establishment by which the dispensing optician is employed if there is a substantial basis for the complaint.

**Historical Note**

Adopted effective September 18, 1987 (Supp. 87-3).
Amended effective July 22, 1994 (Supp. 94-3).

**R4-20-119. Substandard Care**

**A.** It is substandard care for a dispensing optician:

1. To dispense improperly manufactured eyeglasses or contact lenses which are the subject of a complaint filed with the Board under A.R.S. § 32-1691.01(B). If the complaint indicates that eyeglasses or contact lenses dispensed by a dispensing optician or other employee of an optical establishment may have been improperly manufactured, the Board shall be guided in its determination of the facts by referring to the standards specified in Subsection (B) with regard to the individual parameters listed in the standards and considering patient wear, care, and usage.
2. When interpreting written prescriptions, to fail to follow industry standards specified in Subsection (B) in determining lens powers due to differences in vertex distances, base curvatures, special lens requirements and facial fitting problems, or to fail to comply with special instructions of the vision practitioner or optometrist shown on the prescription without the full knowledge and consent of the customer, the vision practitioner or optometrist.
3. To fail to follow manufacturer's guidelines regarding usual and customary lens thickness of eyewear.
4. To intentionally or negligently injure a customer during the course of optical dispensing.
5. To fail to give the customer appropriate instructions on the care, handling and wearing of the optical devices.

**B.** The following standards published by the American National Standards Institute, Inc., are incorporated by reference herein and are on file in the Office of the Secretary of State:

1. ANSI Z80.1-1987, "Prescription Ophthalmic Lenses - Recommendations" and no further changes.
2. ANSI Z80.2-1989, "Rigid Contact Lenses - Requirements" and no further changes.
3. ANSI Z80.5-1979, "Requirements of Dress Ophthalmic Frames".
4. ANSI Z87.1-1989, "Practice for Occupational and Educational Eye and Face Protection" and no further changes.

**Historical Note**

Adopted effective September 18, 1987 (Supp. 87-3).
Amended effective July 22, 1994 (Supp. 94-3).

**R4-20-120. Continuing Education; Hours Required; Reporting**

**A.** Within every three-year period from the date of obtaining a license or renewing a license, subsequent to the effective date of this rule, a person licensed as a dispensing optician shall complete no fewer than 12 clock hours of approved continuing education.

**B.** Each licensee shall submit documentation to the Board verifying that the licensee has completed 12 clock hours or more of continuing education, as required, within each three-year subsequent period. Any false statement by licensee in the documentation shall be grounds for disciplinary action, including suspension or revocation of license. The documentation shall identify the courses and the number of credit hours completed and shall include the following:

1. If the course is from a school approved by the Commission on Opticianry Accreditation or college-accredited course, proof of course completion and the number of credits earned.
2. If the course is part of an event, a certificate of completion issued by the sponsor which identifies each part completed.
3. If the course is a home-study course, a certificate of completion issued by the sponsor and the number of credits earned.
4. For any other course, a certificate of completion issued by the sponsor or presenter and the number of credits earned.
5. If the licensee cannot obtain the above documentation, any other documents, affidavits, or testimony which provides assurance that the licensee has completed the requirements.

**C.** Of the 12 clock hours of continuing education, each licensee shall meet the minimum course requirements as follows:

1. Four clock hours of eyeglass fitting and dispensing;
2. Three clock hours of contact lens fitting and dispensing;
3. One clock hour of state and national opticianry standards.

**D.** Hours will be measured as follows: any single session covering not less than 2 hours and 40 minutes will be assigned three hours; any single session covering not less than 1 hour and 40 minutes will be assigned two hours; any single session covering not less than 50 minutes will be assigned one hour.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R4-20-121. Continuing Education; Approval of Courses**

**A.** American Board of Opticianry and National Contact Lens Examiners courses shall be approved for continuing education. Other individuals or organizations seeking credit for or approval of a continuing education course shall apply to the

Board 45 days prior to the date the course is offered. The application shall contain the following information on the course:

1. Title and description of course content for each course;
2. Time, date, and place;
3. Number of credit hours requested;
4. Name of the sponsor and presenter;
5. Brief curriculum vitae of the presenter.

**B.** Any excessive hours accrued during one reporting period may not be applied to any subsequent reporting period.

**Historical Note**
Adopted effective July 22, 1994 (Supp. 94-3).

**Table 1. Time-frames (in days)**

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Time-frame | Substantive Review Time-frame |
|---|---|---|---|---|
| Approval to Take a Dispensing Optician (R4-20-102) | A.R.S. § 32-1682 | 90 | 30 | 60 |
| License by Examination (R4-20-102) | A.R.S. § 32-1682<br>A.R.S. § 32-1684 | 60 | 30 | 30 |
| License by Comity (R4-20-107) | A.R.S. § 1683 | 90 | 30 | 60 |
| Optical Establishment License R4-20-110 | A.R.S. § 32-1684.01 | 30 | 10 | 20 |

**Historical Note**
Table adopted by final rulemaking at 5 A.A.R. 418, effective January 15, 1999 (Supp. 99-1).

# TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

# CHAPTER 21. BOARD OF OPTOMETRY

(Authority: A.R.S. § 32-1701 et seq.)

*All former rules renumbered. Refer to Historical Notes following each rule (Supp. 86-1).*

## ARTICLE 1. GENERAL PROVISIONS

Section
R4-21-101. Definitions
R4-21-102. Meetings
R4-21-103. Fees

## ARTICLE 2. LICENSING PROVISIONS

Section
R4-21-201. Licensure
R4-21-202. License Examination and Appeal
R4-21-203. Time-frames for Licensure, Renewal of License, TPA Certification, and Approval of Course of Study
R4-21-204. Renewal of License
R4-21-205. Board-approved Course of Study
R4-21-206. Issuance of TPA Certificate
R4-21-207. Submission of Fee; Issuance and Display of License; Surrender of License
R4-21-208. Continuing Education Requirements; Program Criteria and Procedures
R4-21-209. Discretionary Exemption
R4-21-210. Repealed
R4-21-211. Repealed
R4-21-212. Repealed
Table 1. Time-frames (in days)

## ARTICLE 3. REGULATORY PROVISIONS

Section
R4-21-301. Styles of Optometric Practice; Staff Responsibility
R4-21-302. False Advertising
R4-21-303. Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacements Agreements
R4-21-304. Vision Examination Standards; Records
R4-21-305. Prescription Standards; Release to Patients
R4-21-306. Low Vision Rehabilitation and Vision Therapy
R4-21-307. Subpoenas
R4-21-308. Rehearing or Review of Administrative Decision

## ARTICLE 4. PUBLIC PARTICIPATION PROCEDURES

*Article 4, consisting of Sections R4-21-401 thru R4-21-406, adopted effective November 5, 1998 (Supp. 98-4).*

Section
R4-21-401. Agency Record; Directory of Substantive Policy Statements
R4-21-402. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business or Consumer Impact
R4-21-403. Public Comments
R4-21-404. Oral Proceedings
R4-21-405. Petition for Delayed Effective Date
R4-21-406. Written Criticism of Rule

## ARTICLE 1. GENERAL PROVISIONS

### R4-21-101. Definitions

In this Chapter, unless otherwise specified, the following terms mean:

1. Accredited means that an educational institution is officially approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, Western Association of Schools and Colleges, or the American Optometric Association Council on Optometric Education.
2. Application means forms designated as applications and all documents and additional information the Board requires to be submitted with an application.
3. Board means the Arizona State Board of Optometry.
4. Incompetence means:
   a. Lack of professional skill or fidelity in performing the practice of optometry;
   b. Treatment in a manner contrary to accepted optometric practices; or
   c. Lack of physical or mental fitness to discharge professional duties.
5. Licensure by examination means an applicant has met the examination requirements of A.R.S. § 32-1724.
6. Licensure by reciprocity means an applicant has satisfied all of the requirements of A.R.S. § 32-1723.
7. Low vision rehabilitation means evaluation, diagnosis, management, and treatment, including the prescribing of corrective spectacles, contact lenses, prisms or filters; or the employment of any means for the adaptation of lenses.
8. National Board means the National Board of Examiners in Optometry.
9. National Board Exam means the optometry examination administered by the National Board. The Board may approve portions of the National Board exam for purposes of licensure.
10. Topical pharmaceutical agent or TPA means an externally-applied medication used to diagnose, treat, and manage disease of the eye and its adnexa.
11. TPA certificate holder means an optometrist who has met the requirements of A.R.S. § 32-1722(A)(3) and 32-1728.
12. Vision therapy means an individualized treatment program prescribed to improve or rehabilitate conditions such as strabismus or amblyopia. Vision therapy is designed to help individuals learn, relearn, or reinforce specific vision skills, including eye movement control, focusing control, eye coordination, and the teamwork of the 2 eyes. It may include prescribing of corrective spectacles, contact lenses, prisms or filters, or the employment of any means for the adaptation of lenses.

**Historical Note**

Former Rule Section 1. Former Section R4-21-01 repealed, new Section R4-21-101 adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

### R4-21-102. Meetings

The Board shall conduct meetings at least 6 times each year at times and places designated by the Board or the Governor.

**Historical Note**
Former Rule Section 2. Former Section R4-21-02 repealed, new Section R4-21-102 adopted effective February 7, 1986 (Supp. 86-1). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-103. Fees**

**A.** In addition to fees established by A.R.S. § 32-1727, the Board shall charge license fees as follows:
1. License issuance fee: $200 in even-numbered years and $400 in odd-numbered years.
2. Biennial license renewal fee: $400.

**B.** A person requesting public records shall pay the following fees for searches and copies of Board records under A.R.S. §§ 39-121.01 or 39-121.03:
1. Noncommercial copy:
   a. 5¢ per name and address for directory listings or 15¢ each if printed on labels, and
   b. 25¢ per page for other records.
2. Commercial copy:
   a. 25¢ per name and address for directory listings or 35¢ each if printed on labels, and
   b. 50¢ per page for other records.
3. Record searches: $25 per hour, with a minimum charge of $10 (this fee shall be waived for other government agencies); and
4. Pamphlets containing optometry statutes and rules: $5.

**C.** An applicant for registration or biennial registration renewal as a nonresident dispenser shall pay to the Board a fee of $500.

**Historical Note**
Former Section 3. Amended effective December 27, 1979 (Supp. 79-6). Former Section R4-21-03 renumbered without change as Section R4-21-211, former Section R4-21-06 renumbered without change as Section R4-21-103 effective February 7, 1986 (Supp. 86-1). Amended subsection (A) effective June 20, 1989 (Supp. 89-2). Amended effective September 14, 1998 (Supp. 98-3). Amended effective November 5, 1998 (Supp. 98-4).

## ARTICLE 2. LICENSING PROVISIONS

**R4-21-201. Licensure**

**A.** An applicant for licensure by examination shall submit to the Board all of the following information on a form provided by the Board not later than 30 days prior to the date of the licensing examination:
1. The applicant's full name;
2. The applicant's place and date of birth;
3. The applicant's current residence;
4. The applicant's residence addresses for the past 10 years;
5. The applicant's educational background;
6. The applicant's previous optometric experience;
7. The applicant's previous optical experience;
8. The applicant's work experience or occupation for the past 10 years;
9. A list of the applicant's previous state board examinations;
10. A list of the states in which applicant is or has been licensed and, if a license is no longer valid, the reasons why;
11. Whether the applicant has ever been denied the right to take an examination for optometric licensure by any state;
12. Whether the applicant has ever been refused an optometric license or renewal in any state;
13. Whether the applicant has ever had a license or certificate of registration to practice optometry suspended or revoked by any optometric licensing agency, board, or equivalent;
14. Whether any disciplinary action has ever been instituted against the applicant by any optometric licensing agency or equivalent, including any to determine whether the applicant's license to practice optometry should be suspended or revoked;
15. Whether the applicant has ever been arrested for, pled guilty to, or been convicted of a felony or misdemeanor offense;
16. Whether the applicant has been addicted to narcotic substances or habitually abused alcohol within the last 10 years;
17. Whether the applicant is presently addicted to narcotic substances or habitually abuses alcohol;
18. If the answer to any of the questions in subsections 11 through 17 is affirmative, a complete explanation of the details, including dates;
19. The signed endorsements of 3 professional or business persons, unrelated to the applicant, who have known the applicant for at least the past 3 years;
20. A sworn statement under oath by the applicant verifying the truthfulness of the information provided by the applicant; and
21. A photograph of the applicant showing head and shoulders and measuring 2" by 3".

**B.** In addition to the requirements of subsection (A), an applicant for licensure by examination shall submit or arrange to have submitted:
1. A completed fingerprint card accompanied by a separate nonrefundable fee in the form of a cashier's check, certified check, or money order in an amount determined by and payable to the Arizona Department of Public Safety for the procurement of background information.
2. The filing fee pursuant to A.R.S. § 32-1727.
3. Evidence of the successful completion of an approved course of study prescribed by A.R.S. § 32-1722(A)(3) that includes the following:
   a. An official transcript showing that the applicant has passed the course or courses, if the applicant graduated from a school of optometry on or after April 6, 1993, or
   b. A certificate of completion issued by the sponsoring institution specifying the subject matter and hours completed, if the applicant graduated from a school of optometry prior to April 6, 1993.
4. An official transcript directly from the accredited institution from which the applicant graduated with a degree in optometry. The transcript need not be filed with the application, but shall be filed with the Board at least 10 days prior to the examination date.

**C.** An applicant for licensure by reciprocity shall submit to the Board all of the information required by subsections (A) and (B) not later than 60 days prior to the date of the licensing examination together with the following additional materials:
1. A State Certification form provided by the Board, completed by the agency responsible for licensing optometrists in the state from which the applicant is seeking reciprocity, that provides the following information:
   a. Confirmation that the state accords similar reciprocity privileges to optometrists licensed in Arizona;
   b. Confirmation that the applicant has been engaged in the practice of optometry in or under the authority of that state for at least 4 of the 5 years preceding the date of the application;

c. Explanation of the basis for and result of any disciplinary action taken against the applicant within the preceding 10 years, including censure, probation, suspension, or revocation of the applicant's license;
d. Description of any pending investigations or complaints regarding the applicant;
e. Statement that the applicant is in good standing to practice optometry in that state; and
f. Statement whether the applicant is known to have been licensed to practice optometry in any other state and, if so, the name of that state.

2. The applicant's sworn and notarized statement on a form provided by the Board that affirms that the applicant satisfies each of the requirements of A.R.S. § 32-1723(A)(3), (4), and (6).

**D.** The Board shall permit only those applicants who complete an application and file transcripts prior to the deadlines to take an examination.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-202. License Examination and Appeal**

**A.** An applicant for licensure shall take a written and practical examination.
1. No later than the 1st Board meeting of a calendar year, the Board shall announce for that calendar year that the Board shall either:
a. Under A.R.S. § 32-1724, administer a written examination to applicants, or
b. Accept documentation that an applicant has passed Board-designated parts of the written examination administered by the National Board and designate the parts of the exam that must be passed.
2. If the Board administers a written examination, the Board shall grade each written examination subject separately, and calculate an overall average of the subjects separately from any practical exam score. All written questions remain the property of the Board and applicants shall return them to the Board at the end of the examination.
3. An applicant for licensure shall complete a practical examination. The practical examination may include clinical procedures and written responses to questions about slides of eye conditions. The Board may require an applicant to examine a patient as part of the practical examination. An applicant shall supply any hand-held instruments or equipment needed for use in the patient examination.

**B.** An applicant who fails either the written or practical portion of the examination and applies for re-examination in a subsequent year shall retake the entire examination given in the re-examination year. An applicant for re-examination shall pay the regular examination fee.

**C.** An applicant who fails the Board's written examination, practical examination, or both may appeal the Board's exam score determinations as follows:
1. Within 60 days of license denial, the applicant or the applicant's attorney may make an appointment to examine the applicant's most recent examination answers in the Board's office during regular business hours for a total time of 2 hours. The applicant may take notes and shall provide a copy of the notes to the Board to retain and review to protect the integrity of the examination. Dissemination of confidential testing material is grounds for license denial.
2. An applicant shall file an original and 7 copies of a petition for review within 60 days after the licensing examination scores are mailed by the Board. The applicant shall type or print the petition that shall contain:
a. A specific statement of grading errors,
b. Supporting evidence, and
c. The signature of the applicant or the applicant's attorney.
3. If the Board affirms the original test score, the applicant may request a hearing on the license denial pursuant to the provisions of A.R.S. Title 41, Chapter 6, Article 6 and 10.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-202 repealed; new Section R4-21-202 renumbered from R4-21-204 and amended effective November 5, 1998 (Supp. 98-4).

**R4-21-203. Time-frames for Licensure, Renewal of License, TPA Certification, and Approval of Course of Study**

**A.** For each type of license, renewal of license, certificate, or approval issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1.

**B.** For each type of license, renewal of license, certificate, or approval issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application.
1. If the application is not administratively complete, the Board shall send a deficiency notice to an applicant.
a. The deficiency notice shall state each deficiency and the information needed to complete the application and documents.
b. Within the time provided in Table 1 for response to the deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit the missing information specified in the deficiency notice to the Board. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information.
2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
3. If the application does not contain all of the components required by statute or this Chapter, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn. Fees are nonrefundable in accordance with A.R.S. § 32-1727(B).

**C.** For each type of license, renewal of license, certificate, or approval issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date as prescribed in subsection (D), depending on the manner in which the Board transmits the written notice of administrative completeness to the applicant.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time-frame for the Board to finish the substantive review is suspended from the date calculated as prescribed in subsection (D),

until the Board receives the requested additional information.

2. Under A.R.S. § 32-1722(C), the Board may notice a hearing to obtain information on the character of any applicant for licensing or any aspect of the application. As part of a request for more information, the time-frame to finish the substantive review is suspended from the date the Board notices the hearing until the hearing is completed.
3. The Board shall issue a written notice of denial of license, renewal of license, certificate, or approval if the Board determines that the applicant does not meet all of the substantive criteria required by statute or this Chapter.
4. The Board shall issue a written notice informing the applicant that the Board considers the application withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1 unless the applicant requests formal denial in writing within 20 days. Fees are nonrefundable in accordance with A.R.S. § 32-1727(B).
5. If the applicant meets all of the substantive criteria required by statute and this Chapter for licensure, renewal of license, certificate, or approval, the Board shall issue the license, renewal of license, certificate, or approval to the applicant. The Board shall issue a topical pharmaceutical agent certificate with a license to practice optometry.

**D.** In computing any period of time prescribed in this Section, the day of the act, event or default after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a state holiday. The computation shall include intermediate Saturdays, Sundays, and holidays. The time period shall commence on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-203 repealed; new Section R4-21-203 adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-204. Renewal of License**

**A.** An applicant for license renewal shall submit all of the following information to the Board on a form provided by the Board prior to August 31 of the year the license expires:
1. Changes in the applicant's mailing address,
2. List of all practice addresses and phone numbers,
3. Information regarding completion of the required continuing education,
4. State where the applicant currently practices and date when practice commenced,
5. Whether the applicant is retired from the practice of optometry,
6. Whether the applicant declines renewal of license,
7. Whether the applicant has been arrested or convicted of any misdemeanor or felony during the renewal period,
8. Sworn statement under oath signed by the applicant verifying the truthfulness of the information provided by the applicant, and
9. Renewal fee.

**B.** A license is void under A.R.S. § 32-1726(A) if an applicant does not submit a renewal application and renewal fee before August 31 of the year the license expires.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-204 renumbered to R4-21-202; new Section R4-21-204 adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-205. Board-approved Course of Study**

**A.** An institution that provides a course of study in didactic education, pharmacology, and clinical training in the examination, diagnosis, and treatment of conditions of the human eye and its adnexa may be designated a college of optometry for purposes of A.R.S. § 32-1722(A)(3) if it is accredited by the American Optometric Association Council on Optometric Education.

**B.** A college of optometry shall apply to the Board for approval for a course of study as prescribed by A.R.S. § 32-1722(A)(3). The initial application for approval shall include the following information:
1. Applicant's name and address;
2. Certification that the course is equivalent to courses provided to new graduates of the college;
3. Number and qualifications of proposed faculty and staff; and
4. Course outline that shall include:
   a. Diagnosis and treatment of anterior segment disease,
   b. Diagnosis and treatment of posterior segment disease,
   c. Diagnosis and treatment of glaucoma, and
   d. Diagnosis and treatment of systemic diseases and emergencies; and
5. Evidence of accreditation by the American Optometric Association Council on Optometric Education.

**C.** A college of optometry that offers a course of study for purposes of A.R.S. § 32-1722(A)(3) shall grant a certificate of completion or its equivalent for the course when a student passes written examination administered by the faculty. The written examination shall not be a take-home test.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-205 renumbered to R4-21-207; new Section R4-21-205 adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-206. Issuance of TPA Certificate to Optometry School Graduates Prior to July 17, 1993**

**A.** An optometrist who graduated from an accredited school of optometry prior to July 17, 1993, who wishes to administer, dispense, and prescribe topical pharmaceutical agents shall submit a written request to the Board and shall cause to be submitted to the Board evidence that:
1. The optometrist has satisfactorily completed the Board-approved course of study required by A.R.S. § 32-1722(A)(3), by causing the issuing institution to submit:
   a. An official transcript showing that the optometrist has passed the course; and
   b. A certificate of completion specifying the subject matter and hours completed.
2. The course of study meets the criteria listed in R4-21-205; and
3. The optometrist has successfully passed the National Board's treatment and management of ocular disease examination or other National Board examination approved by the Board after July 17, 1993.

**B.** An optometrist described in this Section, who is planning to enroll in a course of study in clinical pharmacology for the purposes of A.R.S. §§ 32-1722 or 32-1723 shall submit to the Board for review and approval, prior to enrollment, an outline of the course or courses, name of the sponsoring institution,

names and qualifications of faculty or instructors, and evidence that the course of study meets the criteria for an approvable course of study in R4-21-205. A request for approval of a course shall be submitted to the Board not less than 60 days prior to the date the course is offered. The time-frames for the granting of a course approval are listed in R4-21-203.

**C.** The Board shall issue a TPA certificate to an optometrist who meets the requirements of this Section that evidences that the optometrist is authorized to administer, dispense, and prescribe all topical pharmaceutical agents for the purpose of examining the eye and adnexa, and the diagnosis, treatment, and management of eye conditions.

**D.** An optometrist who is denied certification in accordance with this Section or whose course of study is not approved by the Board may appeal the decision by filing a written request with the Board within 15 days following receipt of the notice from the Board of denial of certification or disapproval. The hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-207. Submission of Fee; Issuance and Display of License; Surrender of License**

**A.** An applicant shall submit to the Board the license issuance fee under A.R.S. § 32-1727 within 60 days following notification by the Board that an applicant has met the qualifications for licensure. The Board shall issue a license within 60 days following receipt of payment.

**B.** An optometrist shall conspicuously display an optometry license or a Board-issued duplicate at all places where the optometrist is registered to practice optometry. In addition, each optometrist authorized to use diagnostic pharmaceutical agents or to administer, dispense, and prescribe all topical pharmaceutical agents shall similarly display the appropriate pharmaceutical agent certificate or a Board-issued duplicate. An optometrist shall surrender to the Board all licenses, certificates, and duplicates upon disciplinary order of the Board.

**Historical Note**
Former Section R4-21-08 renumbered without change as Section R4-21-207 effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-207 renumbered to R4-21-208; new Section R4-21-207 renumbered from R4-21-205 and amended effective November 5, 1998 (Supp. 98-4).

**R4-21-208. Continuing Education Requirements; Program Criteria and Procedures**

**A.** An optometrist applying for biennial license renewal shall include with the application a list of courses and a notarized affirmation by the licensee of attendance at 32 clock hours of Board-approved courses and programs in continuing education. An optometrist who makes a materially false statement in the affirmation shall be subject to disciplinary action, including suspension or revocation of license.

**B.** Continuing education courses approved by the Board for renewal of a license to practice optometry are:

1. Educational courses offered at the American Optometric Association Convention or offered at any American Optometric Association affiliate state association convention;
2. Seminars held by committees of the American Optometric Association or organized regional Optometric Extension Program Foundation seminars for educational purposes;
3. Postgraduate courses offered by accredited schools or colleges of optometry;
4. Postgraduate correspondence courses offered by an accredited college of optometry, provided that no more than 6 hours of continuing education credits are claimed in a single licensing renewal period; and
5. Other continuing education courses or programs that are based upon the following:
   a. The program shall have optometric application and shall be available to all optometrists and students of optometry. All program instructors shall have expertise in the field in which they instruct.
      i. Learning objectives shall be reasonably and clearly stated;
      ii. Teaching methods shall be clearly stated and appropriate;
      iii. Attendance shall be open to all optometrists and students of optometry; and
      iv. Documentation of attendance shall be provided to those attending.
   b. An optometrist applying for license renewal shall submit to the Board for approval 45 days prior to the date the course is offered a description of the program content, instructors, and their qualifications, the sponsor of the program, if any, the conditions of availability, and the time and place offered.

**C.** The Board shall limit continuing education credit for correspondence courses, including computer, on-line education courses, to no more than 6 hours. The Board shall limit continuing education credit for practice management or administration to no more than 4 hours.

**D.** An optometrist shall not carry-over hours accumulated in any 1 biennial license period to a subsequent license period.

**E.** An optometrist shall submit evidence of continuing education hours with the optometrist's biennial license renewal.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-208 renumbered to R4-21-209; new Section R4-21-208 renumbered from R4-21-207 and amended effective November 5, 1998 (Supp. 98-4).

**R4-21-209. Discretionary Exemption**

**A.** In emergency situations or circumstances involving extreme hardship to an optometrist, the Board may, at its discretion and for good cause shown, reduce the number of hours of continuing education required or grant an extension of time for completion of all or part of the continuing education requirement for a particular biennial licensure period.

**B.** At least 90 days prior to the date of license renewal, a licensee who desires a reduction or extension to complete continuing education shall submit documentation to the Board of the emergency situation or circumstances involving extreme hardship that prevent the licensee from complying with the continuing education requirement in R4-21-208.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Section R4-21-209 renumbered to R4-21-307 effective April 1, 1991 (Supp. 91-2). New Section R4-21-209 renumbered from R4-21-208 and amended effective November 5, 1998 (Supp. 98-4).

**R4-21-210. Repealed**

**Historical Note**
Former Section R4-21-02 renumbered without change as Section R4-21-210 effective February 7, 1986 (Supp. 86-

1). Repealed effective April 1, 1991 (Supp. 91-2).

**R4-21-211. Repealed**

**Historical Note**
Former Section R4-21-03 renumbered without change as Section R4-21-211 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2).

**R4-21-212. Repealed**

**Historical Note**
Former Section R4-21-04 renumbered without change as Section R4-21-212 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2).

Table 1. Time-frames (in days)

| Type of License | Overall Time-frame | Administrative Review Time-frame | Time to Respond to Deficiency Notice | Substantive Review Time-frame | Time to Respond to Request for Additional Information |
|---|---|---|---|---|---|
| Initial Licensure by Examination or Reciprocity R4-21-201 | 90 | 30 | 20 | 60 | 20 |
| Renewal of License R4-21-204 | 90 | 60 | 20 | 30 | 20 |
| Board Approved Course of Study R4-21-205 | 180 | 90 | 20 | 90 | 20 |
| Issuance of TPA Certification R4-21-206 | 120 | 60 | 20 | 60 | 20 |
| Continuing Education Program Approval R4-21-208 | 120 | 60 | 20 | 60 | 20 |
| Registration of nonresident dispenser of replacement soft contact lenses A.R.S. § 32-1773 | 120 | 60 | 20 | 60 | 20 |

**Historical Note**
Table 1 adopted effective November 5, 1998 (Supp. 98-4).

## ARTICLE 3. REGULATORY PROVISIONS

**R4-21-301. Styles of Optometric Practice; Staff Responsibility**

**A.** An optometrist shall practice the profession of optometry only as a sole practitioner, a partner with other optometrists, an employee of an optometrist, or an optometric professional corporation. In any of these styles of practice, an optometrist may practice as an independent contractor and shall practice only under the name, which may include a trade name, by which the optometrist is registered with the Board.

**B.** An optometrist and particularly an optometrist practicing the profession of optometry as an independent contractor shall:
1. Be solely responsible for patient examination, diagnosis and treatment; and for the procedures used for scheduling and recordkeeping; and
2. Conduct the practice of optometry free of any control by a person not licensed to practice the profession of optometry.

**C.** An optometrist shall ensure that the optometrist's staff complies with the requirements of the laws and rules of Arizona that govern the practice of optometry.

**Historical Note**
Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-302. False Advertising**

**A.** An optometrist shall not make, publish, or use an advertisement, printed, oral, or otherwise, that contains any false, fraudulent, deceptive, or misleading representations concerning ophthalmic goods or optometric services, or the manner of their sale or distribution.

**B.** An optometrist shall only advertise as a specialist if the optometrist has been certified by the American Academy of Optometry as a diplomate in that specialty or as a fellow in the College of Optometrists in Vision Development. An optometrist may advertise that the optometrist has a practice limited in some way, provided that the optometrist shall not use the term specialist or any derivative of that term.

**C.** An optometrist shall have knowledge of and be professionally responsible for the contents of any advertisement or directory that includes the name and address of the optometrist.

**Historical Note**
Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-303. Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacement Agreements**

**A.** An advertisement for or by an optometrist offering ophthalmic goods or optometric services for a stated price or discount shall clearly indicate in the spoken word or in type size equivalent to the address line within the advertisement:
1. If for spectacle lenses or contact lenses whether they are single vision, multifocal, or other;
2. Whether the price includes the frame and lenses for spectacles;
3. Whether the price includes an eye examination;

4. Whether the price for contact lenses includes all dispensing fees, follow-up care, a contact lens accessory kit, and, if an accessory kit is included, the specific features of the kit;
5. Whether restrictions are imposed upon delivery, if delivery time is advertised;
6. The applicable refund policy if refunds are advertised; and
7. If applicable, a statement that other restrictions apply.

**B.** An optometrist shall inform a patient of the optometrist's fee policy prior to providing treatment.

**C.** An optometrist who refers a patient to a facility in which the optometrist or a member of the optometrist's family has an ownership or employment interest shall advise the patient at the time of the referral.

**D.** An optometrist who charges a patient a fee for a warranty, or service or ophthalmic goods replacement agreement, shall give the patient a written copy of the warranty, or service or ophthalmic goods replacement agreement, that explains the coverage and any limitations. An optometrist shall document the transaction by making a written entry on the patient's records, or by placing a copy of the warranty, or service or ophthalmic goods replacement agreement, in the patient's records.

**Historical Note**
Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-304. Vision Examination Standards; Records**

**A.** An optometrist shall conduct eye examinations in accordance with the standards of care established by the following American Optometric Association practice guidelines which are incorporated by this reference and on file with the Secretary of State. The materials incorporated contain no later editions or amendments:
1. *Comprehensive Adult Eye and Vision Examination*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
2. *Pediatric Eye and Vision Examination*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
3. *Care of the Patient with Diabetes Mellitus*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
4. *Care of the Patient with Amblyopia*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
5. *Care of the Patient with Primary Angle Closure Glaucoma*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
6. *Care of the Patient with Age-Related Macular Degeneration*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
7. *Care of the Patient with Anterior Uveitis*, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
8. *Care of the Adult Patient with Cataract*, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
9. *Care of the Patient with Open Angle Glaucoma*, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
10. *Care of the Patient with Ocular Surface Disease*, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
11. *Care of the Patient with Conjunctivitis*, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
12. *Care of the Patient with Strabismus: Esotropia and Exotropia*, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881; and
13. *Care of the Patient with Retinal Detachment and Related Peripheral Vitreoretinal Disease*, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881.

**B.** An optometrist shall establish and maintain a complete and legible record of each examination including all findings. The Board shall consider an illegible record to be an incomplete examination. An optometrist shall ensure that a patient record reflects the name of the person who makes each entry and is maintained for at least 5 years after the last contact with a patient. The patient record shall include:
1. Complete case history;
2. Visual acuity of each eye: entering, and best corrected;
3. Ocular health examination;
4. Assessment of intraocular and extraocular muscle function;
5. Objective or subjective refraction of the eyes;
6. Diagnosis, treatment, and disposition;
7. The type and dosage of each use of a pharmaceutical agent used;
8. Any final prescription given; and
9. Any corrective procedure program prescribed.

**C.** An optometrist who discontinues practice for any reason shall arrange for patient records to be available to a patient for 5 years and shall notify the Board of the permanent location of patient records from that practice prior to discontinuing practice. An optometrist who acquires or succeeds to a practice or patient records of an optometrist who has discontinued practice shall maintain the records or make arrangements for the records to be available to a patient for 5 years after the practice was discontinued.

**D.** An optometrist shall, upon written request of a patient, transmit a copy of the patient's requested records to any designated person. The optometrist may charge a fee to cover clerical and mailing costs. The optometrist shall maintain a record of the transfer for 5 years from the date of the transfer.

**Historical Note**
Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-305. Prescription Standards; Release to Patients**

**A.** An optometrist shall not charge a patient a fee in addition to the examination fee as a condition for release of the patient's prescription. An optometric prescription shall include:
1. For ophthalmic lenses other than contact lenses:
   a. The refractive power of the lenses;
   b. The interpupillary distance;
   c. The printed name of the optometrist, the location of the office, and the signature of the optometrist; and
   d. The date of the examination and the expiration date of the prescription.
2. For contact lenses:
   a. If a patient who has not completed a trial period appropriate under the circumstances desires to have a prescription, the prescription need only contain the information required for ophthalmic lenses other than contact lenses;
   b. If a patient has completed a trial period appropriate under the circumstances for the lenses prescribed, all

information necessary to accurately reproduce the contact lenses;
c. The printed name of the optometrist, the location of the office, and the signature of the optometrist;
d. The date of the examination, the expiration date of the prescription, and the number of lenses that can be dispensed prior to the expiration date.

3. For topical pharmaceutical agents:
a. The date of issuance;
b. The name and address of the patient;
c. The name, strength, and quantity;
d. The directions for use;
e. The name and address of the prescribing optometrist;
f. The written signature of the prescribing optometrist;
g. The topical pharmaceutical agent certificate number of the prescribing optometrist; and
h. Two adjacent signature lines, under the left of which are the printed words dispense as written, and under the right, the printed words substitution permissible;

4. A prescription may include additional information the optometrist considers necessary.

**B.** An optometrist who dispenses or directs the dispensing of ophthalmic materials shall ensure that prescriptions are filled accurately.

**C.** An optometrist shall be available to verify that a prescription written by the optometrist but filled by another provider of ophthalmic goods has been accurately filled. The optometrist may charge a fee for verification of the accuracy or quality of ophthalmic goods dispensed by another provider.

**Historical Note**
Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

**R4-21-306. Low Vision Rehabilitation and Vision Therapy**
An optometrist may employ any objective or subjective means or methods other than surgery, to diagnose or treat with topical pharmaceutical agents any visual, muscular, neurological, or anatomical anomaly of the eye. The optometrist may use any instrument or device to train the visual system or correct any abnormal condition of the eye, including the use of low vision rehabilitation and vision therapy.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-306 renumbered to R4-21-307; new Section R4-21-306 adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-307. Subpoenas**
The Board shall approve all summons and subpoenas issued by the Secretary or the Executive Director of the Board in connection with Board investigations or disciplinary proceedings pursuant to Title 32, Chapter 21.

**Historical Note**
Adopted effective February 7, 1986 (Supp. 86-1). Section R4-21-307 renumbered from R4-21-209 effective April 1, 1991 (Supp. 91-2). Section R4-21-307 renumbered to R4-21-308; new Section R4-21-307 renumbered from R4-21-306 and amended effective November 5, 1998 (Supp. 98-4).

**R4-21-308. Rehearing or Review of Administrative Decision**

**A.** Except as provided in subsection (G), any party in a contested case or appealable agency action before the Board who is aggrieved by a decision rendered by the Board may file a written motion for rehearing of the decision with the Board not later than 30 days after service of the decision. The motion shall specify the particular grounds for the rehearing. For purposes of this subsection, a decision is served when personally delivered or mailed by certified mail to a party at the party's last known residence or place or business.

**B.** A party may amend a motion for rehearing under this Section at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may permit oral argument.

**C.** The Board may grant a rehearing or review of the decision for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the Board, hearing officer, or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board, hearing officer, or prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Material evidence, newly discovered, that with reasonable diligence could not have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring in the course of an administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing shall specify with particularity the grounds on which the rehearing is granted, and the rehearing shall cover only those matters.

**E.** Not later than 30 days after the Board issues a decision, the Board may on its own initiative review or order a rehearing of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the Board order granting the rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, a party making the motion shall serve the affidavits with the motion. Within 10 days after service an opposing party may serve opposing affidavits. The Board may extend the 10-day period an additional 10 days, for good cause or upon written stipulation of the parties. The Board may permit reply affidavits.

**G.** If the Board makes a specific finding in a decision that the immediate effectiveness of the decision is necessary for the preservation of the public peace, health, or safety and that a rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without opportunity for a rehearing. If a Board decision is issued as a final decision without an opportunity for rehearing, a party seeking judicial review of the decision shall make application to the superior court within the time limits permitted for application for judicial review of the Board's final decision.

**H.** The terms "contested case and party" have the same meaning as in A.R.S. Title 41, Chapter 6.

**Historical Note**
Section R4-21-308 renumbered from R4-21-307 and amended effective November 5, 1998 (Supp. 98-4).

## ARTICLE 4. PUBLIC PARTICIPATION PROCEDURES

**R4-21-401. Agency Record; Directory of Substantive Policy Statements**
The official rulemaking record and directory of substantive policy statements is located in the office of the Board and may be reviewed any week day, 8:00 a.m. until 5:00 p.m., except state holidays.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-402. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact**
A petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a rule in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the petitioner;
2. For the adoption of a new rule, the specific language of the proposed rule;
3. For the amendment of a current rule, the citation for the applicable Arizona Administrative Code number and rule title. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined;
4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal;
5. The reasons a rule should be adopted, amended, or repealed, and if in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:
   a. Any statistical data or other justification, with clear reference to an attached exhibit;
   b. An identification of what persons or segment of the public would be affected and how they would be affected; and
   c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public;
6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reasons the existing Board practice or substantive policy statement constitutes a rule and the proposed action requested of the Board.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
   a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or
   b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule.
8. The signature of the person submitting the petition.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-403. Public Comments**

**A.** On or before the date of the close of record, a person may comment upon a rule proposed by the Board by submitting written comments on the proposed rule or upon any other matter noticed for public comment in the Arizona Administrative Register to the Board.

**B.** The Board considers a written comment submitted on the date it is received by the Board, except if a comment is mailed the date of receipt shall be the postmarked date.

**C.** The Board shall consider all written comments that conform with A.R.S. § 41-1023.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-404. Oral Proceedings**

**A.** A person requesting oral proceedings, as prescribed in A.R.S. § 41-1023(C), shall:
   1. File the request with the Board;
   2. Include the name and current address of the person making the request; and
   3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the notice was published.

**B.** The Board shall record an oral proceeding either electronically or stenographically, and any cassette tapes, transcripts, registers, and written comments received shall become part of the official record.

**C.** The presiding officer shall utilize the following guidelines to conduct oral proceedings:
   1. Registration of attendees. Registration of attendees shall be voluntary;
   2. Registration of persons intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, a notation of the registrant's position with regard to the proposed rule and the approximate length of time the registrant wishes to speak;
   3. Opening of the record. The presiding officer shall open the proceeding by identifying the rules to be considered, the location, date, time, and purpose of the proceeding, and present the agenda;
   4. A statement by Board representative. The Board representative shall explain the background and general content of the proposed rules;
   5. A public oral comment period. The presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition; and
   6. Closing remarks. The presiding officer shall announce the location where the written public comments are to be sent.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-405. Petition for Delayed Effective Date**

**A.** A person wanting to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the Board. The petition shall contain:
   1. The name and current address of the person submitting the petition;
   2. Identification of the proposed rule;
   3. The need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted, and the reasons why

the public interest will not be harmed by the later date; and

4. The signature of the person submitting the petition.

**B.** The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

**R4-21-406. Written Criticism of Rule**

**A.** Any person may file a written criticism of an existing rule with the Board.

**B.** The criticism shall clearly identify the rule and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.

**C.** The Board shall acknowledge receipt of any criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

**Historical Note**
Adopted effective November 5, 1998 (Supp. 98-4).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

# CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

(Authority: A.R.S. § 32-1801 et seq.)

## ARTICLE 1. GENERAL PROVISIONS

*New Article 1 consisting of Sections R4-22-101, R4-22-103, and R4-22-104 adopted and former rules R4-22-05 and R4-22-06 amended and renumbered as Sections R4-22-105 and R4-22-106 effective June 29, 1987.*

*Former Article 1 consisting of Sections R4-22-01, R4-22-02, R4-22-04 thru R4-22-07, R4-22-09, R4-22-10, and R4-22-12 repealed and Sections R4-22-08 and R4-22-11 amended and renumbered as R4-22-05 and R4-22-06 effective June 29, 1987.*

Section

R4-22-101. Definitions
R4-22-102. Specialist Designation
R4-22-103. Accredited internships and residencies
R4-22-104. Examination and issuance of licenses; lapse of application
R4-22-105. Temporary licenses
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## ARTICLE 1. GENERAL PROVISIONS

### R4-22-101. Definitions

For the purposes of A.R.S. Title 32, Chapter 17 and of this Chapter, the following terms shall have the meanings set forth in this rule, unless the context otherwise requires:

1. "Complete", with regard to an educational program, means to satisfy all the requirements of the educational program, including the achieving of a passing score on all applicable examinations.
2. "Supervise", with regard to a medical assistant, means that a physician has assigned to a medical assistant a procedure to be performed for a patient, has reviewed the procedure upon completion and approved it, and is available for consultation with the medical assistant at all times during the course of the procedure.

**Historical Note**

Former Rule 1. Former Section R4-22-01 repealed, new Section R4-22-101 adopted effective June 29, 1987 (Supp. 87-2). Former Section R4-22-101 renumbered to R4-22-109, new Section R4-22-101 adopted effective May 3, 1993 (Supp. 93-2).

### R4-22-102. Specialist Designation

A specialty board approved by the Board includes only those specialty boards recognized by the American Osteopathic Association and listed in the *Yearbook and Directory of the American Osteopathic Association*, 1991, page 643, or the American Board of Medical Specialties and listed in the *Annual Report and Reference Handbook* of the American Board of Medical Specialties, June 1991, page 103, which are incorporated herein by reference and on file with the Office of the Secretary of State.

**Historical Note**

Adopted effective January 24, 1984 (Supp. 84-1). Section R4-22-02 repealed effective June 29, 1987 (Supp. 87-2). New Section R4-22-102 adopted effective August 7, 1992 (Supp. 92-3).

### R4-22-103. Accredited internships and residencies

For purposes of A.R.S. § 32-1822(3)(c), the equivalent of an accredited internship or approved residency is any of the following:

1. One or more years of a fellowship training program approved by the AOA or AMA.
2. A current certification by the AOA in an osteopathic medical specialty.
3. For those who were awarded a Doctor of Osteopathy degree in 1946 or earlier, a minimum of ten years of continuous active practice of osteopathic medicine and surgery immediately prior to application for licensure.

**Historical Note**

Former Section R4-22-04 repealed, new Section R4-22-103 adopted effective June 29, 1987 (Supp. 87-2).

### R4-22-104. Examination and issuance of licenses; lapse of application

**A.** Examination. Pursuant to A.R.S. § 32-1822(4), an applicant for licensure by examination must pass either the federal licensing examination (FLEX) with a grade of 75 or above in both components or the examination by the National Board of Osteopathic Examiners (NBOE) with a weighted average of 75% as determined by the NBOE.

**B.** Waiver of examination. An applicant for licensure who is currently licensed to practice as an osteopathic physician and surgeon as specified in A.R.S. § 32-1822(4) need not take the examination referred to in subsection (A) if:

1. The applicant has taken the FLEX or NBOE examination within the seven-year period preceding the date of application and passed with the grade level specified in subsection (A); or
2. The applicant has been continuously engaged in osteopathic practice and training since initial licensure. In determining whether an applicant has been continuously engaged in osteopathic practice and training, the Board will consider the following:
   a. Total length of time the individual has been in the practice of medicine.
   b. Percentage of time the individual devoted to the practice of medicine while not in full time practice.
   c. Type and amount of continuing medical education or professional training the individual obtained while not in full time practice.

**C.** Personal interviews. The purpose of the personal interview required by A.R.S. § 32-1822(6) is to investigate the applicant's professional and personal background, to review the applicant's medical knowledge, to determine the applicant's ability to practice medicine in Arizona and to clarify, explain or amplify information obtained during the application process.

1. The personal interview may include questions relating to any or all of the following areas:
   a. Substantive medical knowledge.
   b. Arizona practice issues or problems.
   c. Education qualifications.

d. Professional experience.
e. Applicant's moral character and fitness to practice medicine and surgery in Arizona.

2. An applicant must correctly answer 75% of the medical knowledge questions to be considered acceptable for licensure.
3. Any adverse information obtained by the Board during the personal interview may be grounds for further investigation or denial of licensure.

**D.** Time limitations. Each applicant for Arizona Osteopathic licensure must pass the written examination if required, and appear before the Board for the personal interview within one year from the date the application is filed. Failure to do so shall cause the application to lapse. Within six months from the date of successful completion of the personal interview, each applicant for Arizona Osteopathic licensure must complete all requirements for issuance of the license including payment of all fees and completion of an internship. Failure to do so shall cause the application to lapse.

**Historical Note**
Former Rule 4. Amended effective May 2, 1978 (Supp. 78-3). Former Section R4-22-05 repealed, new Section R4-22-104 adopted effective June 29, 1987 (Supp. 87-2).

**R4-22-105. Temporary licenses**

**A.** Issuance. A temporary license shall be issued by the Secretary-Treasurer with the approval of the Board, provided the applicant meets the requirements for licensure under the terms and conditions as set forth in A.R.S. § 32-1823.01. Temporary licenses will be numbered consecutively beginning with 100 and bearing the suffix "T", e.g. License No. 100-T.

**B.** Letter of temporary licensure: The Board shall issue a "Letter of Temporary Licensure" to the applicant bearing:
1. The date of issue,
2. The date of expiration,
3. The signatures of the President or Vice President and the Secretary-Treasurer, and
4. The seal of the Board.

**C.** Local emergency: A "local emergency" shall be deemed to exist wherever so declared by the Director of the Department of Health Services.

**D.** Inadequate availability of medical care: A lack of availability of adequate medical care in an Arizona community is deemed to exist if there is a critical shortage of physicians at tax supported institutions or in any locale where there is no coverage or inadequate coverage by osteopathic physicians and surgeons.

**E.** The fee for the initial six-month term of a temporary license is $100.00. The fee for the renewal term of a temporary license is $100.00.

**Historical Note**
Former Rule 8. Amended by adding subsection (D) effective January 24, 1984 (Supp. 84-1). Former Section R4-22-08 amended and renumbered as Section R4-22-105 effective June 29, 1987 (Supp. 87-2).

**R4-22-106. Rehearing or review of decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Arizona Board of Osteopathic Examiners in Medicine and Surgery who is aggrieved by a decision rendered in such case may file with the Arizona Board of Osteopathic Examiners in Medicine and Surgery, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Arizona Board of Osteopathic Examiners in Medicine and Surgery. A response may be filed within ten days after service of such motion or amended motion by any other party. The Arizona Board of Osteopathic Examiners in Medicine and Surgery may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Arizona Board of Osteopathic Examiners in Medicine and Surgery or its hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Arizona Board of Osteopathic Examiners in Medicine and Surgery may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C) an order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than 20 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Arizona Board of Osteopathic Examiners in Medicine and Surgery for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Arizona Board of Osteopathic Examiners in Medicine and Surgery makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for a rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Arizona Board of Osteopathic Examiners in Medicine and Surgery's final decision.

**H.** For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Arizona Board of Osteopathic Examiners in Medicine and Surgery such statutory provisions shall govern.

**Historical Note**
Adopted effective May 8, 1978 (Supp. 78-3). Former Section R4-22-11 amended and renumbered as Section R4-22-106 effective June 29, 1987 (Supp. 87-2).

**R4-22-107. Labeling, Recordkeeping, Storage and Packaging of Drugs**

**A.** Labeling. The following information shall be included on labels of medications being dispensed by licensed osteopathic physicians:
1. Serial number and date dispensed.
2. Name of the patient for whom drug was issued.
3. Name, strength and quantity of drug dispensed.
4. Directions for use and cautionary statement if any is contained in the prescription order for the drug.
5. Name of drug and manufacturer or distributor in case of generic substitution.
6. Name, address and telephone number of the dispensing physician.
7. In the case of controlled substances, the cautionary statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

**B.** Required information. A prescription order shall contain the following information:
1. Date of issuance.
2. Name and address of the patient for which the prescription order has been issued.
3. Name, strength and quantity of the drug prescribed and dispensed.
4. Name and address of the physician dispensing the medication.
5. Drug Enforcement Agency number of the physician dispensing for controlled substances.

**C.** Prescription recordkeeping. Prescription orders for drugs dispensed by licensed osteopathic physicians shall be:
1. Sequentially numbered and dated on date of dispensing.
2. Filed separately from the patient records.
3. Filed separately for Class II controlled substances.
4. Filed separately or marked with a prominent red "C" for Class III, IV, & V controlled substances.
5. Listed in a log showing the name of patient, name of drug, number dispensed, and date of dispensation.

**D.** Records, receipts, refilling prescriptions.
1. A record of refills shall be kept on the back of the prescription showing the date, name or initials of dispensing physician and quantity dispensed if that varies from the original amount ordered.
2. Resale of medication to another licensed physician shall not exceed five percent of the seller's total annual sales of medications. A record of the sale shall be kept for a period of three years.
3. Invoices of receipts and records of disbursement shall be maintained for all controlled substances for a period of three years.
4. Annual inventories of all controlled substances shall be performed and available for review by Drug Enforcement Agency and other drug control agencies.
5. Schedule II controlled substances prescription orders shall not be refilled.
6. Schedule III, IV and V controlled substances prescription orders may be refilled a maximum of five times within six months from date of prescription order.

**E.** Storage.
1. All medications shall be stored in a locked cabinet or room, with restricted access to the drug storage area.
2. Storage rooms should not exceed a high temperature of 855 Fahrenheit.
3. All medications shall be in current or unexpired dating or returned to source of supply.

**F.** Packaging. A medication dispensed by the physician shall be in light-resistant container with a consumer safety cap (i.e., a container cap that does not screw directly on or off the container) unless the patient and physician agree otherwise and shall be labeled by a mechanically printed label.

**Historical Note**
Adopted effective August 7, 1992 (Supp. 92-3).

**R4-22-108. Miscellaneous Fees**

The following fees for services rendered by the Board are hereby established:
1. For verification of a license to practice osteopathic medicine issued by the Board and copy of licensee's complaint history, $5.00.
2. For a copy of the minutes to all Board meetings during the calendar year, $75.00.
3. For the sale of lists of physicians licensed by the Board, $25.00.
4. For copying records, documents, letters, minutes, applications, and files, 25¢ per page.
5. For copying audio tapes, $35.00 per tape.
6. For the sale of computerized tapes or diskettes not requiring programming, $100.

**Historical Note**
Adopted effective August 7, 1992 (Supp. 92-3).

**R4-22-109. Continuing Medical Education; Approval; Waiver**

**A.** Board approved continuing medical education programs required by A.R.S. § 32-1825(B) include:
1. Programs classified by the American Osteopathic Association (AOA) as Approved Category 1A Continuing Medical Education defined in the AOA Continuing Medical Education Guide dated 1983, incorporated herein by reference and on file in the Office of the Secretary of State.
2. Residency, internship, fellowship or preceptorship in a teaching institution approved by the AOA or the American Medical Association (AMA).

**B.** The following is acceptable evidence of continuing medical education for annual license renewal:
1. An individual using AOA-Approved Category 1A Continuing Medical Education shall submit either the AOA printout of the individual's continuing medical education or a certificate of attendance from the sponsor of the course.
2. Interns, residents, fellows or preceptors shall submit either a letter from the Director of Medical Education for the internship, residency, fellowship or preceptorship, or a copy of a certificate of completion of the internship, residency, fellowship or preceptorship.

**C.** Requests for waiver of continuing medical education requirements made pursuant to A.R.S. § 32-1825(C) must be in writing and must be accompanied by the following documentation depending upon the reason for waiver:
1. Disability - letter from treating physician stating nature of disability.

2. Military - letter from commanding officer verifying type of service (administrative or practice of medicine).
3. Absence from the United States - photocopy of passport showing dates of exit and, if applicable, date of reentry.
4. Circumstances beyond licensee's control - letter stating the nature of the circumstances explaining why it is beyond the licensee's control to timely obtain the required continuing education. The letter must be supplemented with supporting documentation.

**Historical Note**
Former Rule 1. Former Section R4-22-01 repealed, new Section R4-22-101 adopted effective June 29, 1987 (Supp. 87-2). Renumbered from R4-22-101 effective May 3, 1993 (Supp. 93-2).

**R4-22-110. Approval of Educational Programs for Medical Assistants**

**A.** The Board shall approve an educational program for medical assistants when it has received all of the information specified in paragraph (B)(1) or (2), as applicable, concerning the program and the Board determines that the educational program provides at a minimum the following training:
1. Cardiopulmonary resuscitation - 6 hours;
2. Patient assessment techniques, including blood pressure, temperature, height, weight, administering EKG tests and administering pulmonary function tests - 20 hours;
3. Injections and sterile techniques, including blood drawing and specimen collection, administering injections, and applying and changing dressings on wounds and injuries - 20 hours;
4. Physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galvation stimulation treatments, ultrasound therapy, massage therapy, traction treatments, and applying Transcutaneous Nerve Stimulation units and hot and cold packs - 20 hours;
5. Medical ethics and confidentiality requirements - 16 hours.

**B.** A provider of an educational program for medical assistants, seeking approval of its program, shall submit the following items to the Board:
1. Copies of all course materials;
2. Class content outlines on a session-by-session basis;
3. Sample examinations for each course; and
4. A list of all instructors and their qualifications.

**C.** An individual seeking approval of an educational program for medical assistants completed by that individual after December 31, 1985, shall submit the following items to the Board regarding the educational program:
1. Name and address of each educational program provider;
2. A list of the courses taken, and a description of the content of each course;
3. Documentation of completion of the educational program after December 31, 1985; and
4. Any other information which the Board may require in order to determine that the educational program meets the requirements of subsection (A) and that the applicant has completed the educational program.

**D.** The Board shall not approve an educational program for an individual if the individual completed the program prior to January 1, 1986.

**E.** Approval by the Board of an educational program for medical assistants shall remain valid so long as the program continues to satisfy the requirements of subsection (A).

**Historical Note**
Adopted effective May 3, 1993 (Supp. 93-2).

**R4-22-111. Medical Assistants - Authorized Procedures**

Procedures authorized for medical assistants to engage in shall include the following:
1. Cardiopulmonary resuscitation;
2. Patient assessment techniques, including blood pressure, temperature, height, weight, administering EKG tests and administering pulmonary function tests;
3. Injections and sterile techniques, including blood drawing and specimen collection, administering injections, and applying and changing dressings on wounds and injuries;
4. Physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galvation stimulation treatments, ultrasound therapy, massage therapy, traction treatments, and applying Transcutaneous Nerve Stimulation units and hot and cold packs.

**Historical Note**
Adopted effective May 3, 1993 (Supp. 93-2).

**R4-22-112. Qualifications of Medical Assistants**

A medical assistant shall be 18 years of age or older and possess a high school degree or equivalent thereof.

**Historical Note**
Adopted effective May 3, 1993 (Supp. 93-2).

**R4-22-113. Regulation of Medical Assistants**

A medical assistant, when interacting with a patient or otherwise working as a medical assistant, shall wear a name tag which clearly identifies the medical assistant and states that the medical assistant is a medical assistant.

**Historical Note**
Adopted effective May 3, 1993 (Supp. 93-2).

**R4-22-114. Physician Responsibility for Medical Assistants**

A physician employing a medical assistant shall insure that such medical assistant complies with all statutes and rules applicable to employment as a medical assistant. A physician who utilizes the services of a medical assistant to assist the physician in the practice of medicine shall supervise and be responsible for all actions or failures of the medical assistant relating to the physician's practice of medicine.

**Historical Note**
Adopted effective May 3, 1993 (Supp. 93-2).

**R4-22-115. Petitions for Rulemaking**

Petitions to the Board pursuant to A.R.S. § 41-1033 shall be made in writing by delivering or mailing to the Board a letter requesting the adoption of the rule. The letter shall state the purpose for the proposed rule, the name and address of the person requesting the adoption of the rule, and be signed by that person.

**Historical Note**
Adopted effective May 3, 1993 (Supp. 93-2).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

# CHAPTER 23. BOARD OF PHARMACY

(Authority: A.R.S. § 32-1904 et seq.)

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R4-23-707. Repealed
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**ARTICLE 8. REPEALED**

*Article 8, consisting of Sections R4-23-801 thru R4-23-804, repealed effective November 4, 1998 (Supp. 98-4).*

**ARTICLE 9. PENALTIES AND MISCELLANEOUS**

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## ARTICLE 1. ADMINISTRATION

### R4-23-101. General

**A.** Notice, part of record, amendment: These rules apply to all actions and proceedings of the Board and shall be deemed a part of the record in every such action or proceeding without formal introduction of, or reference to the same. All parties are deemed to have knowledge of the same. A copy will be supplied to licensees free of charge by the Board and to others for the approximate cost of printing. The rules are subject to amendment at any time, and the Board may adopt additional rules whenever, in its judgment, the same are advisable. These rules supersede existing rules of the Board.

**B.** Excuse of failure to comply: The Board, when it is within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any of these rules.

**C.** Extension of time: The Board, when it is within its jurisdiction, may grant an extension of time within which to comply with any rule when it shall deem such extension to be proper and reasonable.

**Historical Note**
Former Rules 1.1000, 1.1200, and 1.1300; Amended effective August 23, 1978 (Supp. 78-4).

### R4-23-102. Meetings

**A.** Regular: Meetings of the Board of Pharmacy for the purpose of conducting general business and interviewing applicants for license shall be held four times each year.

**B.** Examination: The Board shall designate the time and place of its meetings for examination of applicants, at least 30 days prior to each meeting (A.R.S. § 32-1905).

**C.** Special: Special meetings of the Board of Pharmacy may be held at any time subject to the call of the President or a majority of the Board members.

**D.** Location of office and office hours: The office of the State Board of Pharmacy is, unless otherwise designated, located in Phoenix, Arizona. The office shall be kept open continuously from 8:00 o'clock A.M. until 5:00 o'clock P.M. of each day, Monday through Friday.

**Historical Note**
Former Rules 1.2100, 1.2200, 1.2300, and 1.2400.

### R4-23-103. Procedure: Witnesses

**A.** Pleading, etc., printed or typewritten: Pleadings, depositions, briefs and other papers of importance shall be printed or typewritten, and when printed only one side of the paper shall be used.

**B.** Witnesses: All parties desiring witnesses summoned to testify on a hearing before the Board must make written application for subpoenas to issue stating the substance of what each witness will testify.

**C.** Subpoenas: Any party desiring the Board to issue a subpoena to compel the appearance of a witness at any hearing shall make written application therefor. Service of such subpoena shall be made at the expense of the party applying for same.

**D.** Witness' depositions:

1. When any party desires to take the oral deposition of any witness residing outside the state, such party shall file with the Board a petition for permission to take the deposition of such witness, showing the name and address of such witness and setting forth specifically and in detail the nature and substance of the testimony expected to be given by such witness. Unless it appears from such petition that the testimony of such witness is relevant and material, said petition may be denied. If such statement be not made specifically and in detail, so that the Board may determine therefrom the relevancy and materiality of the testimony of such witness, such petition may be disregarded.
2. Upon the granting of such petition, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure.
3. The Board may, in its discretion, designate the time and place and the officer before whom such deposition may be taken.
4. The expense of any deposition must be borne by the party applying to the Board for permission to take same.
5. Any party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board in duplicate a statement showing the name and address of such witness and containing the interrogatories such party wishes such witness to answer. The adverse party may file in duplicate, cross-interrogatories within ten days following the service upon him of a copy of said statement.
6. Any party having any objection to the form of any interrogatory or cross-interrogatory may file a statement of his objections with the Board within five days after the service upon him of the interrogatories or cross-interrogatories and may suggest to the Board any amendment to any interrogatory or cross-interrogatories. The Board may amend, add or strike out any interrogatory when in its judgment it is proper to do so.

**Historical Note**
Former Rules 1.3100, 1.3200, 1.3300, and 1.3400; Amended subsection (C) effective August 9, 1983 (Supp. 83-4).

### R4-23-104. Hearings

**A.** Hearings; restraining order: Except as provided in A.R.S. § 32-1928(B), a certificate of licensure, as required of practitioners, or permit, as required of establishments, shall be denied, revoked, suspended, or placed on probation only after due notice under R4-23-104(B), and only after hearing under R4-23-104(D). Failure to appear when requested shall leave the Board free to act upon the evidence and other information at hand without further notice to the licensee. Further, the licensee must be given an opportunity to show compliance with all lawful requirements for the retention of the license.

**B.** Notice of hearing: Notice shall be given to all interested parties at least 20 days prior to the date set for the hearing.

**C.** The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application, more definite and detailed statements shall be furnished.

**D.** Hearing procedures: A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. A decision or order of the Board must be supported by substantial, reliable, and probative evidence. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel to submit evidence in open hearing and shall have the right of cross-examination. All witnesses will testify under oath.

**E.** Opportunity to respond: Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

The deposition of any witness shall be taken in such manner as in the judgment of the Board is best calculated to ascertain the substantial rights of the parties and to expedite the investigation of the facts. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require it to be taken upon written interrogatories and vice versa.

The deposition or answers to the interrogatories must be returned and filed with the Board within 45 days after permission for the taking of same is required.

**F.** Power to join an interested party: Any Board member may join as a party applicant or as a party defendant, any person, firm, or corporation, who may or might appear to have an interest in the matter before the Board.

**G.** Stipulation at hearing: The parties may stipulate to any facts that are not in dispute. Such stipulation may be in writing or may be made orally by reading the same into the record at the hearing; and will be binding upon the parties unless the Board grants permission to withdraw therefrom. The Board may, where it considers such action proper, set aside any stipulation and proceed to ascertain the true facts. Further, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

**H.** Continuance of hearing: If, at the conclusion of a hearing held before a Board member, either party desires a further hearing in order to introduce further evidence, such party shall state, specifically and in detail, the nature and substance of the evidence desired to be produced, the names and addresses of the witnesses and the reasons why such party was unable to produce such evidence and such witnesses at the hearing. If it appears to the Board member presiding at the hearing that, with the exercise of due diligence, such party could have produced such witnesses or such evidence at the hearing, or that such evidence is cumulative or immaterial or otherwise not necessary, the Board member may submit the case for decision and deny the request for such further hearing; or may on its own motion continue the hearing. When a hearing is conducted, the matter shall be deemed submitted, subject to the jurisdiction of the Board to make any further or independent investigation it may determine advisable in the premises.

**I.** Files public records; notice of contents: The files of the Board will be open for inspection by all parties to the proceeding only, and they are deemed to have notice of all reports and other documents filed therein. Every party is deemed to admit the truth and correctness of every material fact or statement contained in any report or document on file, unless a written objection to or denial of such fact or facts be made and filed with the Board.

**Historical Note**

Former Rules 1.4011, 1.4110, 1.4120, 1.4200, 1.4210, 1.4220, 1.4300, 1.4400, 1.5500, 1.5600, 1.5700, and 1.4500; Amended effective August 23, 1978 (Supp. 78-5); Amended by deleting subsection (B) and renumbering subsections (C) through (J) as subsections (B) through (I) effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1).

**R4-23-105. Service**

**A.** Service, same as civil action: Service of any decision, order, notice, subpoena, or other processes may be made personally in the same manner as a summons is served in a civil action; and in such event service shall be deemed complete at the time actually made.

**B.** Service by mail: Service may also be made of any decision, order, notice, subpoena, or other process by enclosing the same or a copy thereof in a sealed envelope and depositing the same in the United States mail, with postage prepaid, addressed to the party to be served. Such service may be made to the address of such party as shown by the records of the Board. Service shall be deemed complete within six days after the date of mailing. In computing time, the date of mailing is not to be counted; all intermediate Sundays and holidays are to be counted; if the last day falls on Sunday or a holiday, it is not to be counted, but service will be completed the following date.

**C.** Service upon attorney: Service upon an attorney who has appeared in behalf of a party will constitute service upon such party.

**D.** Service, proof of: Proof of service may be made by the affidavit or oral testimony of the person making such service.

**Historical Note**

Former Rules 1.5100, 1.5200, 1.5300, and 1.5400; Amended subsection (B) effective August 9, 1983 (Supp. 83-4).

**R4-23-106. Record and Transcript**

**A.** Record: The record in a contested case shall include:

1. All pleadings, motions, interlocutory rulings.
2. Evidence received or considered.
3. A statement of matters officially noticed.
4. Objections and offers of proof and rulings thereon.
5. Proposed findings and exceptions.
6. Any decision, opinion or report by the officer presiding at the hearing.
7. All staff memoranda, other than privileged communications, or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

**B.** Transcripts: Oral proceedings or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party. The cost of such transcript shall be paid in accordance with the provisions of R4-23-109(B).

**Historical Note**

Former Rules 1.5800 and 1.5900.

**R4-23-107. Findings and Evidence**

**A.** "Findings: Findings of facts shall be based exclusively on the evidence and on matters officially noticed.

**B.** Evidence: See R4-23-104(D).

**C.** Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, parties shall be given an opportunity to compare the copy with the original.

**D.** Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data, and the agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

**Historical Note**

Former Rules 1.5910, 1.5920, 1.5921, and 1.5922.

**R4-23-108. Decisions and Orders**

Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accom-

panied by a concise and explicit statement of the underlying facts supporting the finding. Parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

**Historical Note**
Former Rule 1.5930.

**R4-23-109. Appeal**

**A.** Notice of an appeal from the decision of the Board shall be made by service on the executive director at the office of the Board within 30 days after the Board has notified the person aggrieved of its decision.

**B.** The party appealing may demand from the Board, in writing, a certified transcript of the record of the Board relating to its decision. Within 30 days after receipt of the demand, accompanied by payment of a fee of the current prevailing rate for transcript, and $1.00 for certification thereof, the Board shall make and certify the transcript and file it with the county clerk of the court to which the appeal has been taken.

**C.** When an appeal is taken to the superior court from the order or decision of the Board, such order or decision shall remain in effect pending final determination of the matter unless stayed by the court, on a hearing after notice to the Board, and upon a finding by the court there is probable cause for appeal, warranting such stay.

**D.** Rehearing or review of decision

1. Except as provided in paragraph (7), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this paragraph, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.
2. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
3. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
   a. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
   b. Misconduct of the Board or its hearing officer or the prevailing party;
   c. Accident or surprise which could not have been prevented by ordinary prudence;
   d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
   e. Excessive or insufficient penalties;
   f. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
   g. That the decision is not justified by the evidence or is contrary to law.
4. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in paragraph (3). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
5. Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefor.
6. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
7. If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.
8. For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
9. To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing or decisions of Board, such statutory provisions shall govern.

**Historical Note**
Former Rules 1.7100, 1.7200, and 1.7300. Amended effective July 14, 1977 (Supp. 77-4). Amended effective February 8, 1991 (Supp. 91-1).

**R4-23-110. Definitions**

"Active ingredient" means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

"Authentication of product history" means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

"AZPLEX" means an Arizona pharmacy law examination written and administered by the Board staff or a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

"Batch" means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

"Beyond-use date" means a date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used.

"Biological safety cabinet" means a containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board and the office of the Secretary of State.

"Class 100 environment" means an atmospheric environment in compliance with the Federal Standard 209 Clean Room and Work Station Requirements: Controlled Environment, publication FED-STD-209D, U.S. Government Services Administration 450 Golden Gate Avenue, San Francisco, CA, June 15, 1988 edition which includes January 28, 1991, changes, (and no future amendments or editions), incorporated by reference and on file with the office of the Secretary of State.

"Community pharmacy" means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

"Component" means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

"Container" means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

"Correctional facility" has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

"Current good compounding practices" means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

"Current good manufacturing practice" means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

"Cytotoxic" means a pharmaceutical that is capable of killing living cells.

"Day" means a calendar day unless otherwise specified.

"Delinquent license" means a pharmacist or intern license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

"Drug sample" means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug. No person shall sell, purchase, or trade or offer to sell, purchase, or trade a drug sample.

"Extreme emergency" means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

"FDA" means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

"Inactive ingredient" means any component other than an "active ingredient" present in a drug.

"Internal test assessment" means performing quality assurance or other procedures necessary to ensure the integrity of a test.

"Limited-service correctional pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

Holds a current Board permit under A.R.S. § 32-1931;

Is located in a correctional facility; and

Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

"Limited-service mail-order pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

"Limited-service nuclear pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

"Limited-service pharmacy permittee" means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

"Long-term care consultant pharmacist" means a pharmacist providing consulting services to a long term care facility.

"Lot" means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures it uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

"Lot number" or "control number" means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

"Materials approval unit" means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

"Mediated instruction" means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

"NABP" means National Association of Boards of Pharmacy.

"NABPLEX" means National Association of Boards of Pharmacy Licensure Examination.

"NAPLEX" means North American Pharmacist Licensure Examination.

"Outpatient" means a person who is not a residential patient in a health care institution.

"Outpatient setting" means a location that provides medical treatment to an outpatient.

"Patient profile" means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

"Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes, related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

"Pharmacy law continuing education" means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

"Prepackaged drug" means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

"Provider pharmacist" means a pharmacist who supplies medication to a long-term care facility and maintains patient profiles.

"Radiopharmaceutical" means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

"Radiopharmaceutical quality assurance" means the performance and interpretation of appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

"Radiopharmaceutical services" means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

"Red C stamp" means a device used with red ink to imprint an invoice with a red letter C at least 1 inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

"Remodel" means to structurally alter the pharmacy area or location.

"Remote drug storage area" means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

"Resident" means a person admitted to and residing in a long term care facility.

"Score transfer" means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

"Sterile pharmaceutical product" means a dosage form free from living micro-organisms.

"Strength" means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

"Supervision" means a pharmacist shall be present, assume legal responsibility, and have personal oversight of activities relating to the acquisition, preparation, distribution, and sale of prescription medications by pharmacy interns or supportive personnel.

"Supplying" means selling, transferring, or delivering to a patient or a patient's agent 1 or more doses of:

A nonprescription drug in the manufacturer's original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer's or compressed medical gas distributor's original container for subsequent use by the patient.

"Supportive Personnel" means individuals trained to perform, under the supervision of a pharmacist, activities related to the preparation and distribution of prescription medications consistent with policy and procedures required in R4-23-403.

"Transfill" means a manufacturing process by which 1 or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

"Wholesale distribution" means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, "emergency medical reasons" includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug pursuant to a prescription;

Distributing a drug sample by a manufacturers' or distributors' representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

"Wholesale distributor" means any one engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug ware-

houses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

**Historical Note**

Adopted effective August 24, 1992 (Supp. 92-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective April 5, 1996 (Supp. 96-2). Amended effective July 8, 1997; amended effective August 5, 1997 (Supp. 97-3). Amended effective January 12, 1998 (Supp. 98-1). Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

## ARTICLE 2. PHARMACIST LICENSURE

### R4-23-201. General

**A.** Licensure required: Before posing or practicing as a pharmacist in Arizona, a person shall possess a valid pharmacist license issued by the Board. There is no temporary licensure.

**B.** Methods of licensure: Licensure as a pharmacist shall be either:
1. By practical examination, using paper and pencil written testing, computer adaptive testing, or other Board-approved testing methods; or
2. By reciprocity.

**C.** Practicing pharmacist holding a delinquent license: Before an Arizona pharmacist license will be reinstated, a pharmacist, whose Arizona pharmacist license is delinquent for 5 or more years and who is practicing pharmacy outside the Board's jurisdiction with a pharmacist license issued by another jurisdiction, shall:
1. Pass the AZPLEX or other Board-approved jurisprudence examination,
2. Pay all delinquent annual renewal fees, and
3. Pay penalty fees.

**D.** Non-practicing pharmacist holding a delinquent license: Before an Arizona pharmacist license will be reinstated, a pharmacist, whose Arizona pharmacist license is delinquent for 5 or more years and who did not practice pharmacy within the last year, shall complete the requirements in subsection (C) and appear before the Board to furnish satisfactory proof of fitness to be licensed as a pharmacist.

**Historical Note**

Former Rules 2.1100, 2.1310, 2.1320, and 2.1400. Amended effective August 23, 1978 (Supp. 78-4). Amended by deleting subsection (E) effective April 20, 1982 (Supp. 82-2). Amended subsections (C) and (D) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1).

### R4-23-202. Licensure by Examination

**A.** Eligibility: To be eligible for licensure as a pharmacist by examination, a person shall:
1. Have an undergraduate or 1st professional degree in pharmacy from a school or college of pharmacy whose professional degree program, at the time the person graduates, is accredited by the American Council on Pharmaceutical Education, and
2. Complete not less than 1,500 hours of intern training as specified in R4-23-303.

**B.** Application:
1. An applicant for licensure by examination shall file with the Board:
   a. A completed application form at least 30 days before the date of the AZPLEX, and
   b. A completed registration form for the NAPLEX at least 30 days before the applicant's preferred NAPLEX testing window or an Official NABP Score Transfer Report through the Board Office on-line computer link with NABP indicating the applicant's score on the NAPLEX taken in another jurisdiction.
2. The Board Office shall deem an application form or registration form received on the date that the Board Office stamps on the form as the form is delivered to the Board Office and a score transfer received on the date that the NABP transmits the applicant's Official NABP Score Transfer Report through the on-line computer link to the Board Office.
3. An applicant shall make application for licensure by examination on a form furnished by the Board and shall submit with the application form, the documents specified in the application form, and the examination fee specified in R4-23-205(C)(1)(a). The fee shall be paid to the Arizona State Board of Pharmacy by money order or certified or personal check.
4. An applicant shall make the NAPLEX registration on a form furnished by the Board or NABP and shall submit with the registration form, the documents specified in the registration form, and the examination fee specified by NABP. The fee shall be made payable to NABP by money order, certified check, or bank draft.
5. The Board shall deem a NAPLEX registration or AZPLEX application for licensure by examination to be invalid after 12 months from the date the Board Office determines an application or registration form is complete. An applicant whose application or registration form is invalid and who wishes to continue licensure procedures, shall submit a new application form or registration form and fee.

**C.** Passing grade; notification; re-examination:
1. To pass the required examinations, an applicant shall obtain a score of at least 75 on the NAPLEX and 75% on the AZPLEX.
2. The NABP will forward an applicant's NAPLEX score to the Board 2 weeks after the applicant's examination date. The Board Office shall mail the NAPLEX score to an applicant no later than 7 days after the Board Office receives the applicant's score from NABP.
3. The Board Office shall mail an applicant's AZPLEX score to the applicant no later than 14 days after the applicant takes the examination.
4. An applicant who fails the NAPLEX may apply to take a subsequent examination. An applicant applying to take a subsequent examination shall submit to the Board Office a completed NAPLEX registration form and pay the examination fee specified by NABP. The fee shall be made payable to NABP by money order, certified check, or bank draft. An applicant who fails the NAPLEX 3 times shall petition the Board for permission before retaking the examination.
5. An applicant who fails the AZPLEX may apply for reexamination within the 12-month-application period defined in subsection (B)(5). An applicant applying for reexamination shall submit to the Board Office a written request to retake the AZPLEX including the examination date preferred by the applicant and pay the examination fee specified in R4-23-205(C)(1)(b). The fee shall be paid to the Arizona State Board of Pharmacy by money order

or certified or personal check. An applicant who fails the AZPLEX 3 times shall petition the Board for permission before retaking the examination.

**D.** NAPLEX score transfer:

1. An applicant who receives a passing score on the NAPLEX taken in another jurisdiction shall complete the licensure procedure within 12 months from the date the Board receives the applicant's Official NABP Score Transfer Report from the NABP by making application for licensure according to subsection (B)(3). After 12 months, an applicant may apply for licensure in Arizona under the provisions of R4-23-202(B) or R4-23-203(B).
2. An applicant who takes the NAPLEX in another jurisdiction and fails the examination may apply for licensure in Arizona under the provisions of R4-23-202(B).

**E.** Licensure: The Board shall issue a certificate of licensure to a successful applicant upon receipt of the licensure fee specified in R4-23-205(A)(1)(a). The Board Office shall mail a receipt for payment of the licensure fee to the applicant within 1 working day of receiving the payment.

**F.** Time-frames for licensure by examination:

1. The Board Office shall finish an administrative completeness review within 20 days from the date of receipt of an application or registration form.
   a. The Board Office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application or registration form.
   b. If the application or registration form is incomplete, the Board Office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 20-day time-frame for the Board Office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board Office with all missing information.
   c. If the Board Office does not provide the applicant with notice regarding administrative completeness, the application or registration form shall be deemed complete 20 days after receipt by the Board Office.
2. An applicant with an incomplete application or registration form shall submit all of the missing information within 30 days of service of the notice of incompleteness.
   a. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may obtain an extension by submitting a written request to the Board Office post marked or delivered no later than 30 days from service of the notice of incompleteness.
   b. The written request for an extension shall document the reasons the applicant is unable to meet the 30-day deadline.
   c. The Board Office shall review the request for an extension of the 30-day deadline and grant the request if the Board Office determines that an extension of the 30-day deadline will enable the applicant to assemble and submit the missing information. An extension of the 30-day deadline shall be for no more than 30 days. The Board Office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request in accordance with this subsection.
3. If an applicant fails to submit a complete application or registration form within the time allowed, the Board Office shall close the applicant's file. An applicant, whose file is closed and who later wishes to obtain a license, shall apply again in accordance with subsection (B).
4. From the date on which the administrative completeness review of an application or registration form is finished, the Board Office shall complete a substantive review of the applicant's qualifications in no more than 20 days.
   a. If an applicant is found to be ineligible, the Board Office shall issue a written notice of denial to the applicant.
   b. If an applicant is found to be eligible to take the NAPLEX, the Board Office shall issue a written notice of eligibility to the applicant and the NABP.
   c. If an applicant is found to be eligible to take the AZPLEX, the Board Office shall issue a written notice of eligibility to the applicant.
   d. If the Board Office finds deficiencies during the substantive review of an application or registration form, the Board Office shall issue a written request to the applicant for additional documentation.
   e. The 20-day time-frame for a substantive review of eligibility to take the NAPLEX or AZPLEX is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation in accordance with subsection (F)(2).
   f. If the applicant and the Board Office mutually agree in writing, the 20-day substantive review time-frame may be extended once for no more than 10 days.
5. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for licensure by examination.
   a. Administrative completeness review time-frame: 20 days;
   b. Substantive review time-frame: 20 days; and
   c. Overall time-frame: 40 days.

**Historical Note**

Former Rules 2.2100, 2.2200, 2.2300, 2.2400, 2.2500, 2.2600, 2.2700, 2.2800, 2.2910, 2.2920, 2.2930, 2.3000, 2.3010, 2.3100; Amended effective August 23, 1978 (Supp. 78-5). Amended effective June 10, 1981 (Supp. 81-3). Former Section R4-23-202 repealed, new Section R4-23-202 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1).

**R4-23-203. Licensure by Reciprocity**

**A.** Eligibility: A person is eligible for licensure by reciprocity who:

1. Is licensed as a pharmacist in a jurisdiction that provides reciprocity to Arizona licensees;
2. Has passed the NABPLEX or NAPLEX with a score of 75 or better or was licensed by examination in another jurisdiction having essentially the same standards for licensure as Arizona at the time the pharmacist was licensed;
3. Provides evidence to the Board of having completed the required secondary and professional education and training;
4. Has engaged in the practice of pharmacy for at least 1 year or has met the internship requirements of Arizona

within the year immediately before the date of application; and

5. Has actively practiced as a pharmacist for 400 or more hours within the last calendar year. If this requirement is not met, an applicant may qualify for licensure by reciprocity by obtaining an Arizona intern license and completing 400 hours of internship in an approved internship training site.

**B.** Application:

1. A person who is eligible and wishes to be licensed by reciprocity shall file an application form at least 20 days before the date of the AZPLEX.
2. The Board Office shall deem an application for licensure by reciprocity received on the date that the Board Office stamps on the application form as the form is delivered to the Board Office.
3. An applicant shall make application for licensure by reciprocity on a form furnished by the Board and shall submit with the application form, the documents specified in the application form, and the reciprocity fee specified in R4-23-205(B). The fee shall be paid to the Arizona State Board of Pharmacy by money order or certified or personal check and entitles the applicant to 1 sitting of the AZPLEX.
4. The Board shall deem an application for licensure by reciprocity invalid after 12 months from the date the Board Office determines an application form is complete. An applicant whose application form is invalid and who wishes to continue licensure procedures, shall submit a new application form and fee.

**C.** Passing grade; notification; re-examination:

1. An applicant shall obtain a score of at least 75% on the AZPLEX.
2. The Board shall mail an applicant's AZPLEX score to the applicant no later than 14 days after the applicant takes the examination.
3. If an applicant fails the AZPLEX, the applicant may apply for reexamination within the 12-month-application period defined in subsection (B)(4). An applicant applying for reexamination shall submit to the Board Office a written request to retake the AZPLEX including the examination date preferred by the applicant and pay the examination fee specified in R4-23-205(C)(1)(b). The fee shall be paid to the Arizona State Board of Pharmacy by money order or certified or personal check. An applicant who fails the AZPLEX 3 times shall petition the Board for permission before retaking the examination.

**D.** Licensure: The Board shall issue a certificate of licensure to a successful applicant upon receipt of the licensure fee specified in R4-23-205(A)(1)(a). The Board Office shall mail a receipt for payment of the licensure fee to an applicant within 1 working day of receiving the payment.

**E.** Time-frames for licensure by reciprocity: The Board Office shall follow the time-frames established for licensure by examination in R4-23-202(F).

**Historical Note**

Former Rules 2.4100, 2.4200, 2.4310, 2.4320, 2.4330, 2.4340, 2.4350, 2.4360, 2.4400, 2.4510, 2.4520, 2.4522, 2.4523, 2.4530, 2.4540, 2.4550, 2.4560, 2.4610, 2.4620, and 2.4700; Amended effective August 23, 1978 (Supp. 78-4). Amended subsections (H), (L), (O) through (Q) effective June 10, 1981 (Supp. 81-3). Former Section R4-23-203 repealed, new Section R4-23-203 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended effective January 12, 1998 (Supp. 98-1).

**R4-23-204. Continuing Education Requirements**

**A.** General: In accordance with A.R.S. § 32-1925(G), no renewal of license shall be issued by the Board unless the applicant has, during the two years preceding the application for renewal, participated in 30 contact hours (3.0 CEU's) of continuing education activities sponsored by an Approved Provider as defined in subsection (B)(5) of this Section, at least three contact hours (0.3 CEU's) of which shall be approved courses on pharmacy law. Pharmacists licensed for less than 24 months shall accrue continuing education units determined by multiplying 1.25 hours times the number of months between the date of their licensure and the date of their application for renewal of their license.

**B.** Definitions:

1. Continuing education shall include study in the general areas of socio-economic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology, characteristics and therapeutics of disease status; and pharmacy practice.
2. Continuing education activities shall consist of institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, or programmed learning courses. Postgraduate studies in an accredited college of pharmacy shall be considered as continuing education activities.
3. A continuing education unit (CEU) is equivalent to ten contact hours of participation in a continuing education activity sponsored by an Approved Provider.
4. A contact hour is equivalent to 50 minutes of participation in a continuing education activity sponsored by an Approved Provider.
5. "Approved Provider" means an individual, institution, organization, association, corporation or agency that has been approved by the American Council on Pharmaceutical Education (A.C.P.E.) in accordance with its policy and procedures, or by the Board as having met criteria indicative of the ability to provide quality continuing education.
6. Mediated instruction refers to learning transmitted via intermediate mechanisms such as audio and/or visual tape, telephonic transmission, etc.
7. "Approved course in pharmacy law" means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules or regulations.

**C.** Acceptance of continuing education units (CEU's).

1. The Board shall accept continuing education units (CEU's) for continuing education activities provided the activities are sponsored by an Approved Provider.
2. Only continuing education units (CEU's) accrued during the two-year period immediately prior to renewal shall be considered acceptable for licensure renewal.
3. No continuing education units (CEU's) may be accrued as excess and carried forward to the succeeding biennial renewal period.
4. Any pharmacist who leads, instructs or lectures to groups of health professionals on pharmacy-related topics in continuing education activities sponsored by an Approved Provider shall be granted continuing education units (CEU's) for such time expended during actual presentation, upon documentation to the Board.
5. Any pharmacist whose primary responsibility is the education of health professionals shall not be granted continuing education units (CEU's) for the performance of normal teaching duties within the learning institution.

**D.** Records of continuing education units (CEU's):

1. Each individual pharmacist is responsible for maintaining and preserving records which verify the continuing education activities in which he or she has participated during the preceding five years.
2. The records shall consist of the certificate issued by the Approved Provider at the conclusion of each continuing education activity or documentation in the case of a leader, instructor or lecturer.

**E.** Reporting of continuing education units (CEU's):
1. At the time a pharmacist is required to renew his or her license, the pharmacist shall attest to participating in continuing education, pursuant to subsection (A) of this Section, on the renewal application.
2. In the event a pharmacist is requested by the Board office to submit proof of continuing education participation and fails to do so within 20 days, the licensee shall be advised he or she is noncompliant and shall be required to appear before the Board.

**F.** In the event that a pharmacist is aggrieved by any decision of the Board or its administrative staff concerning continuing education units, he may request a hearing before the Board.

**Historical Note**
Adopted effective September 1, 1981 (Supp. 81-5). Amended effective March 13, 1991 (Supp. 91-1).

**R4-23-205. Fees**

**A.** Licensure fees:
1. Pharmacist:
   a. Initial licensure [Prorated according to A.R.S. § 32-1925(B)]: $110.
   b. Licensure renewal: $110.
2. Pharmacy or graduate intern: $10.

**B.** Reciprocity fee: $300.

**C.** Examination fees:
1. AZPLEX:
   a. Initial: $100.
   b. Retake: $50.
2. NAPLEX: specified by and made payable to NABP according to R4-23-202(B)(4).

**D.** Vendor permit fees:
1. Pharmacy: $300 biennially. (Including hospital, nuclear, and limited service.)
2. Drug wholesaler or manufacturer:
   a. Manufacturer: $1,000 biennially.
   b. Full service drug wholesaler: $1,000 biennially.
   c. Nonprescription drug wholesaler: $500 biennially.
3. Drug packager or repackager: $1,000 biennially.
4. Nonprescription drug, retail:
   a. Category I (30 or fewer items): $100 biennially; and
   b. Category II (more than 30 items): $200 biennially.

**E.** Other Fees:
1. Wall certificate.
   a. Pharmacist: $20.
   b. Pharmacy intern: $10.
   c. Relief Pharmacist: $10.
2. Duplicate of any Board-issued license, registration, certificate, or permit: $10.
3. Certification of electronic security system: $25.

**F.** Fees are not refunded under any circumstances except for the Board's failure to comply with its established licensure or permit time-frames under A.R.S. § 41-1077.

**G.** Penalty fee. Renewals submitted after expiration date are subject to penalty fees as provided in A.R.S. § 32-1925.

**Historical Note**
Adopted effective July 24, 1985 (Supp. 84-5). Amended subsection (A) paragraph (1) effective May 20, 1988 (Supp. 88-2). Amended effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective January 12, 1998 (Supp. 98-1).

## ARTICLE 3. INTERN TRAINING AND PRECEPTORS

**R4-23-301. General**

**A.** In general: Registration as a pharmacy intern may only be granted by the Board so the applicant may obtain practical experience in the practice of pharmacy. Registration as a pharmacy intern shall not be granted beyond the time necessary to complete the minimum practical experience as a pharmacy intern, as required by R4-23-303(A), unless such permission is specifically granted by the Board.

**B.** Practical experience: Practical experience in intern training activities shall include, but not be limited to, the following activities and services pertaining to drugs devices and medical care: distribution, dispensing, manufacturing, providing information, monitoring, modifying, keeping records, making reports and experience in clinical pharmacy.

**C.** Out-of-state experience: Practical experience in intern training received in a state other than Arizona may be allowed by the Board if in the opinion of the Board the requirements of the state in which the experience was received are equal to the minimum standards for intern training in Arizona. The applicant for such credit in intern training shall furnish a transcript of the records of intern training from the Board of Pharmacy of the state in which the experience was obtained.

**D.** Management required to verify intern's qualifications: The owner, manager, or pharmacist-in-charge shall not permit a person to act as a pharmacy intern until there has been verification the person is currently registered by the Board as a pharmacy intern.

**E.** Registration: An applicant for registration as a pharmacy intern shall not be approved until the applicant shall have been accepted for registration in an accredited college of pharmacy.

**F.** Intern application: An applicant for registration as a pharmacy intern shall file an application on a form furnished by the Board. If accepted, the applicant shall pay a biennial registration fee prorated from date of registration to June 30 of even-numbered years. The fee is not refunded under any circumstances. The intern certificate shall be kept in good standing by payment of a biennial fee July 1 of even-numbered years, provided, however, the intern training time shall be no longer than six years from the time of enrollment in a college of pharmacy, without providing proof to the Board that he is intending and working toward becoming a pharmacist.

**G.** Failure to pay renewal fee: If renewal fee is not paid by July 1 of an even-numbered year, the intern registration is delinquent and a penalty as provided in A.R.S. §§ 32-1925 and 32-1931 is required.

**H.** Notification of training: A pharmacy intern shall notify the Board within ten days of starting, terminating or changing place of training, in accordance with A.R.S. § 32-1926(A).

**Historical Note**
Former Rules 3.1000, 3.1100, 3.1200, 3.2000, 3.2100, and 3.2200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsections (A), (F) and (G) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-302. Training Place and Preceptors**

**A.** Training place.

1. A pharmacy operating under a pharmacy credit from the Board, employing a pharmacy intern preceptor.
2. Other pharmaceutical specialties, such as wholesale drug companies, drug manufacturers, medical care clinics and others, where practical experience in pharmacy may be obtained as listed in subsection (B) of R4-23-301.

**B.** Cancellation of approval of training place. The Board may disapprove or cancel approval of a pharmacy or other place to train pharmacy interns if in the opinion of the Board the pharmacy or other place of training fails to comply with drug laws and regulations.

**C.** Preceptor.

1. A pharmacist who has been actively engaged in the practical experience of pharmacy in Arizona for one year as listed in R4-23-301(B) may make application, on a form to be provided by the Board, to be a pharmacy intern preceptor.
2. Any preceptor applicant who has been found guilty of violations of the laws and regulations pertaining to drugs, devices or poisons, or of gross immorality, shall be eligible as a pharmacy preceptor only by special permission from the Board.

**D.** Cancellation of preceptorship. The right to be a pharmacy intern preceptor may be revoked if the Board finds that the preceptor has failed to comply with drug laws and regulations.

**E.** Intern to notify Board. An intern must notify the Board when he begins training and when he leaves his training position.

**F.** Supervision defined: The term "supervision" as used in connection with the intern training requirements shall mean that, in the pharmacy where intern training is being obtained, a pharmacy preceptor shall be in personal contact with, and actually giving instructions to, the intern obtaining practical experience during the entire period of such training.

**G.** Preceptor-intern ratio: The ratio of intern to full-time pharmacy preceptor employed in an Intern Training Place where more than one intern is employed must not be greater than one intern to each pharmacy preceptor at any one time. A preceptor may train more than one pharmacy intern at different times.

**H.** Willingness to train interns: Evaluation of training. The owner and pharmacy preceptor in an Intern Training Place shall cooperate with the Board of Pharmacy in developing intern training and shall report to the Board from time to time as requested by the Board on the progress and aptitude of any intern under their supervision.

**I.** Preceptor responsibilities: The Board holds the pharmacy preceptor responsible for the actions of the pharmacy intern he is training. Therefore, the preceptor should determine the degree of skill possessed by the intern and develop a training program whereby the intern will be able to improve upon and develop his ability in the actual practice of pharmacy.

**J.** Sufficient time to instruct: The pharmacy preceptor shall allow sufficient time to instruct the intern in the practical aspects of pharmacy and to review and discuss his progress frequently.

**K.** Preceptor continuing education: The preceptor shall continue his own professional education by reading the available pharmacy journals, magazines and other trade publications. He shall also attend seminars, meetings or other functions which may, in the opinion of the Board, be required to remain an informed and competent pharmacy preceptor.

**Historical Note**

Former Rules 3.3000, 3.3100, 3.3200, 3.3300, 3.3310, 3.3320, 3.3330, 3.3340, 3.3400, 3.4000, 3.4100, 3.4200, 3.4300, and 3.4400; Amended effective August 9, 1983 (Supp. 83-4).

**R4-23-303. Training Time**

**A.** Training: The minimum internship training for licensure examination shall be 1,500 hours, all of which must be accumulated after the intern has been enrolled in a college of pharmacy as prescribed in R4-23-301(D) and after the Board has accepted the intern's application. Time spent in college clinical programs or demonstration projects which have been approved by the Board shall be credited. No more than 500 hours of training will be approved for one calendar quarter. (See R4-23-304 for reports required.)

**B.** Start of training and limitation of credit: Practical experience as a pharmacy intern shall be computed from the date of registration as a pharmacy intern. Practical experience shall be credited only when it has been obtained in a pharmacy or other place approved and authorized by the Board for training interns and under an approved pharmacy intern preceptor. In no event shall more than 500 hours practical experience as a pharmacy intern be approved for training received in any pharmacy specialty other than an approved intern training place.

**Historical Note**

Former Rules 3.5000 and 3.5200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4).

**R4-23-304. Reports**

**A.** Change of employment or mailing address: A pharmacy intern shall notify the Board within ten days of change of employment or mailing address.

**B.** Quarterly reports: A pharmacy intern shall file on forms supplied by the Board quarterly reports of such training for the duration of his training. Such reports shall be filed October 1, January 1, April 1 and July 1 for the preceding quarter, whether training or not during the quarter. The quarterly reports shall be delinquent if not received at the Board's office 30 days after being due. The Board will acknowledge the reports and notify the intern the remaining hours of training required.

**C.** Preceptor's final report: Upon completion of the year's intern training, the last preceptor under whom this experience was obtained shall file a report describing this training and giving the preceptor's opinion on the ability of the intern to practice pharmacy without supervision. If the preceptor's report is not satisfactory, the Board may require further training before allowing the intern to take the practical examination.

**Historical Note**

Former Rules 3.6100, 3.6200, 3.6300, and 3.6400; Amended effective August 23, 1978 (Supp. 78-4).

**R4-23-305. Miscellaneous Intern Training Provisions**

Experience in lieu of intern training: Intern training is ordinarily only credited for experience gained while training under a pharmacist, or limited credit given for training in wholesale drug companies, drug manufacturers, and other pharmaceutical specialties which may not be under a pharmacist. However, the Board may accept three years' experience as a pharmacist in another jurisdiction as the equivalent of the 1,500 hours of intern training required. To prevent losing credit, intern should ask Board whether the training place is approved and if credit will be given hour credit for hour trained. Note: Intern training should be practical; research and college studies are not considered that kind of "practical".

**Historical Note**

Former Rule 3.7000; Amended effective August 23, 1978 (Supp. 78-4).

## ARTICLE 4. PROFESSIONAL PRACTICES

### R4-23-401. Repealed

**Historical Note**
Former Rule 4.1000; Former Section R4-23-401 repealed, new Section R4-23-401 adopted effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Repealed effective August 24, 1992 (Supp. 92-3).

### R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

**A.** A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:
1. Receive, reduce to written form, and manually initial oral prescription orders;
2. Obtain and record the name of an individual who communicates an oral prescription order;
3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
   a. Name, address, telephone number, date of birth (or age), and gender;
   b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the individual's drug therapy, including other information specific to the patient or drug;
5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
   a. A patients' allergies,
   b. Incompatibilities with a patient's currently taken medications,
   c. A patient's use of unusual quantities of dangerous drugs or narcotics,
   d. A medical practitioner's signature, and
   e. The frequency of refills;
6. Verify that a dosage is within proper limits;
7. Interpret the prescription order;
8. Compound, mix, combine, or otherwise prepare and package prescription medication needed to dispense individual prescription orders;
9. Prepackage or supervise the prepackaging of drugs by supportive personnel under R4-23-403. For drugs prepackaged by supportive personnel, a pharmacist shall verify the drug to be prepackaged, decide the wording and requirements placed on the label, and check the completed prepackaging procedure and product;
10. Check a prescription label to ensure that it communicates the prescriber's directions precisely;
11. Make a final check on the completed prescription medication and manually initial the finished label;
12. Record, or assume responsibility to record a prescription serial number and date dispensed on the original prescription order.
13. Obtain or assume responsibility to obtain permission to refill prescription orders and record or assume responsibility to record, on the prescription order, the date dispensed, quantity dispensed, and name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;
14. Reduce to written or printed form or assume responsibility to reduce to written or printed form a new prescription order received by facsimile, computer modem, or other means of communication;
15. Verify and manually initial a new prescription order received by facsimile, computer modem, or other means of communication;
16. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the order; and
17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.

**B.** Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's agent in all outpatient settings, including a patient discharged from a hospital, whenever the following occurs:
1. The prescription medication has not been previously dispensed to the patient;
2. A new prescription number is assigned to a previously dispensed prescription medication;
3. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
4. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
5. The patient or patient's agent requests oral consultation.

**C.** Oral consultation shall include:
1. The name, strength, and dosage form of a prescription medication or prescription-only device;
2. The directions for use;
3. The route of administration; and
4. Special instructions, precautions, or storage requirements.

**D.** The pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
2. Techniques of self-monitoring drug therapy;
3. The duration of the drug therapy;
4. Prescription refill information; and
5. Action to be taken if a dose is missed.

**E.** Nothing in subsection (B) shall be construed as requiring a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's agent refuses the consultation. Only a pharmacist, graduate intern, or pharmacy intern shall accept a refusal for consultation. A pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, a refusal for consultation on the original prescription order or document by alternative methods approved by the Board or its designee.

**F.** When a prescription is delivered to the patient or patient's agent outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
1. Approved use for the prescription medication;
2. Possible adverse reactions;
3. Drug-drug, food-drug, or disease-drug interactions;
4. Missed dose information; and
5. Telephone number of the dispensing pharmacy.

**G.** A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering a prescription medication to a patient, is exempt from the requirement of subsection (C).

**H.** A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.

**I.** Nothing in this Section shall prevent hospital pharmacists from accepting prescription orders in accordance with rules pertaining specifically to hospital pharmacies.

**Historical Note**

Former Rule 4.1100; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective July 7, 1998 (Supp. 98-3).

**R4-23-403. Supportive Personnel**

**A.** Prior to working as a pharmacy supportive person, an individual shall:

1. Have read and discussed, with the pharmacist-in-charge of the pharmacy where employed, the Board of Pharmacy rules concerning supportive personnel, the supportive personnel job description, and policy and procedure manual of that pharmacy.
2. Date and sign a statement affirming their understanding of the Board of Pharmacy rules for supportive personnel and the pharmacy's job description and policy and procedure manual.

**B.** Procedures. Supportive personnel shall function in accordance with written procedures prepared by the pharmacist-in-charge. These procedures shall specify functions and supervisory controls designed to assure the quality and safety of pharmaceutical service. A function is suitable to be performed by supportive personnel if written quality control procedures are developed, and a verification procedure is documented by the pharmacist-in-charge to assure the quality of product and service. Supportive personnel shall wear a badge indicating his or her name and title.

**C.** Permissible activities. Acting in compliance with R4-23-403(A) and under the supervision of a pharmacist, supportive personnel may assist a pharmacy intern or a pharmacist in the following.

1. Accepting a new written prescription order;
2. Receiving requests for refilling prescription medication by serial number;
3. Recording on the front of an original prescription order the serial number and date dispensed;
4. Accepting verbal refill authorization from a medical practitioner or agent thereof and recording practitioner's name, patient name, name and quantity of medication, specific refill information, and name of practitioner's agent;
5. Recording information in the refill record or family prescription order record;
6. Typing and affixing labels for prescription medications, or causing information for new or refill medication to be entered into a computer provided the pharmacist shall verify the accuracy and personally initial in handwriting the finished label prepared by supportive personnel before the medication is dispensed to the patient;
7. Counting, pouring or reconstituting medications, provided the pharmacist checks the ingredients and procedure prior to any reconstitution and provided the original containers are beside the medication for verification by the pharmacist;
8. Prepackaging drugs in accordance with R4-23-402; and
9. Filing prescription orders.

**D.** Prohibited activities. Supportive personnel are not authorized to perform functions reserved for a pharmacist or pharmacy intern in accordance with R4-23-402.

**E.** Notification. The pharmacist-in-charge shall notify the Arizona State Board of Pharmacy within ten days of employing a supportive person. Such notice shall indicate that the individual has signed the statement prescribed in R4-23-403(A) and the statement is available for review by a Board of Pharmacy Compliance Officer. At the discretion of the Executive Director of the Arizona State Board of Pharmacy, this notification may be by written statement, telephone, or personal appearance. The Executive Director shall maintain a file of supportive personnel.

**F.** Hospital pharmacies. Nothing in this rule shall prevent hospital pharmacists from utilizing supportive personnel in accordance with regulations pertaining specifically to hospital pharmacies.

**Historical Note**

Former Rule 4.1200; Amended effective August 10, 1978 (Supp. 78-4). Amended effective March 28, 1980 (Supp. 80-2). Amended effective August 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-404. Unethical Practices**

**A.** Rebates prohibited: The offer, delivery, receipt or acceptance, by any pharmacist or non-pharmacist pharmacy permittee, of any unearned rebate, refund, commission, preference, patronage dividend, discount, or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest of co-ownership in or with any person to whom such patients, clients or customers are referred is prohibited; except for those rebates or premiums that are paid completely and directly to the patient. Among other things, this shall include the following:

1. Payment to medical practitioner: Payment to a medical practitioner in money or other consideration for prescription orders prescribed by the practitioner.
2. Payment to nursing home: Payment to a nursing home or other health care institution in money, discount, rental or other consideration for prescription medication or devices dispensed or sold for the patients or inhabitants of such institution above the prevailing rate which might be considered a rebate.

**B.** Prescription order blanks advertising prohibited: No pharmacist or pharmacy shall furnish, or cause to be furnished to, any medical practitioner prescription order blanks referring to any specific pharmacist or pharmacy in any manner whatsoever. No pharmacist or pharmacy shall actively or passively participate in any arrangement or agreement whereby prescription orders are prepared, written or issued in a manner which refers to a specific pharmacist or pharmacy.

**C.** Claiming professional superiority: No pharmacist shall advertise professional superiority in a manner to reflect adversely on the qualifications of others.

**D.** Fraudulent claim for service: No pharmacist or pharmacy shall claim the performance of a service which he knows or should have known had not been performed; such as, claiming to have dispensed a prescription medication that was not dispensed.

**E.** Fraudulent claim for a fee: No pharmacist or pharmacy shall claim a fee for a service that was not performed or was not earned. It is not fraudulent to divide a prescription order into

two or more portions of prescription medication at the request of the patient, or for some other ethical reason, and charge a dispensing fee for such additional service. It is fraudulent to divide such a prescription order merely to obtain an additional fee.

**F.** Acceptance of prescription order and distribution of prescription medication: No pharmacist shall participate in any arrangement or agreement whereby prescription orders or prescription medication may be left at, picked up from, accepted by, or delivered to any place of business not licensed as a pharmacy; provided, however, that nothing in this regulation shall prohibit a pharmacist or pharmacy, by means of its employee or by use of a common carrier, from picking up prescription orders or delivering prescription medications at the office or home of the medical practitioner, at the residence of the patient, or at the hospital or medical care facility in which the patient is confined.

**G.** Prohibiting prescribed drugs from being dispensed over the counter: No drug or device shall be dispensed from the information on a prescription order unless the prescription medication or device is properly dispensed, labeled and the prescription order filed.

**Historical Note**

Former Rules 4.2110, 4.2120, 4.2130, 4.2210, 4.2230, 4.2400, 4.2500, 4.2600, 4.4100, 4.4200, 4.4310, 4.4320, 4.4400, and 4.4500; Amended effective August 10, 1978 (Supp. 78-4); Amended subsection (I) effective August 9, 1983 (Supp. 83-4). Amended by deleting subsections (H) through (M) effective November 18, 1983 (Supp. 83-6).

**R4-23-405. Change of Responsibility**

**A.** A pharmacist designated as the pharmacist-in-charge for a pharmacy, manufacturer, or other establishment shall give immediate written notice of the termination of such responsibility or shall make such a notification of a pending termination whenever the pharmacist-in-charge has such information.

**B.** "Immediate notice" means a notice sent to the executive director within 24 hours of such termination or knowledge of pending termination.

**Historical Note**

Former Rules 4.5100 and 4.5200; Amended effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-406. Substitution for Prescription Drugs**

**A.** All drugs shall comply with federal law.

**B.** Exclusions:

1. The following dosage forms shall not be substituted:
   a. Injectable suspensions other than antibiotics,
   b. Suppositories containing active ingredients of which systemic absorption is necessary for therapeutic activity, and
   c. Different delivery systems for aerosol and nebulizer drugs.
2. The following are not interchangeable:
   a. Creams for ointments or ointments for creams;
   b. Tablets for capsules or capsules for tablets; and
   c. Elixirs for syrups or syrups for elixirs.

**C.** Approved abbreviations. Whenever a substitution is made pursuant to A.R.S. § 32-1963.01, a pharmacist may use the approved abbreviation that accompanies the name of the manufacturer or distributor listed in subsection (D) of this Section.

**D.** Manufacturers and distributors. The names of manufacturers and distributors which have met the requirements of A.R.S. § 32-1963.01(I) are recorded at the Board office.

**Historical Note**

Adopted as an emergency effective January 10, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Amended as an emergency effective April 2, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days. Adopted effective April 10, 1979 (Supp. 79-1). Former Section R4-23-406 repealed, new Section R4-23-406 adopted effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1).

**R4-23-407. Prescription Requirements**

**A.** Prescription orders

1. A prescription order shall include the following information:
   a. Date of issuance;
   b. Name and address of the person to whom, patient for whom or the owner of the animal for which the drug is dispensed;
   c. Name of drug;
   d. Name of the manufacturer or distributor when written generically or a substitution is made;
   e. Strength;
   f. Date of dispensing;
   g. Quantity dispensed;
   h. Name or initials of the pharmacist or medical practitioner dispensing the drug; and
   i. In the case of an oral prescription, the prescriber's instructions written on the face of the prescription by the pharmacist.
2. Records of dispensing prescription-only drugs shall be made and kept for three years by wholesalers, manufacturers, pharmacies and, except when administered to a patient upon whom the medical practitioner personally attends, by medical practitioners.
3. The direct dispensing of a prescription medication shall comply with the packaging requirements of the United States Pharmacopeia and of the Consumer Product Safety Commission.

**B.** The following information shall be recorded on the back of a prescription order when it is refilled:

1. Date refilled;
2. Quantity dispensed;
3. Name of the manufacturer or distributor when written generically or a substitution is made; and
4. The name or initials of the pharmacist or intern.

**C.** A copy of a prescription order is not a valid prescription order and may not be dispensed. A pharmacist may furnish a copy of a prescription order to the patient for whom it was prescribed or to the authorized representative of such patient if such copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY".

**D.** Transfer of prescription information

1. Both the original and the transferred prescription must be maintained for a period of three years from the date of the last refill.
2. Pharmacies electronically accessing the same prescription record must satisfy all the information requirements of a manual mode for the prescription transferral.
3. Original prescription information may be transferred one time during the life of the prescription in the case of Schedule III, IV and V controlled substances and without limitation up to the number of originally authorized refills in the case of non-controlled prescription-only drugs.
4. Transfer within Arizona

a. Transfer of original prescription information for non-controlled prescription-only drugs must meet the following conditions:
   i. Transfer of information is communicated directly between two licensed pharmacists;
   ii. The following information is recorded by the transferring pharmacist:
      (1) The word "void" is written on the face of the invalidated prescription;
      (2) The name and address of the pharmacy to which the prescription was transferred, the name of the pharmacist receiving the prescription information, the date of transfer and the name of the pharmacist who transfers the information is written on the back of the prescription.
   iii. The following information is recorded by the pharmacist receiving the transferred prescription:
      (1) The word "transfer" is written on the face of the transferred prescription;
      (2) The following information is recorded on the transferred prescription:
         (a) Date of issuance of original prescription;
         (b) Original number of refills authorized on the original prescription;
         (c) Date of original dispensing;
         (d) Number of valid refills remaining and the date of the last refill;
         (e) Name, address and original prescription number of the pharmacy from which the prescription was transferred;
         (f) Name of transferring pharmacist; and
         (g) Name of pharmacist receiving the prescription.

b. Transfer of original prescription information for Schedule III, IV and V controlled substances must meet the following conditions:
   i. Transfer of information is communicated directly between two licensed pharmacists;
   ii. The following information is recorded by the transferring pharmacist:
      (1) The word "void" is written on the face of the invalidated prescription;
      (2) The name, address and DEA number of the pharmacy to which the prescription was transferred, the name of the pharmacist receiving the prescription information, the date of transfer and the name of the pharmacist who transfers the information is written on the back of the prescription.
   iii. The following information is recorded by the pharmacist receiving the transferred prescription:
      (1) The word "transfer" is written on the face of the transferred prescription.
      (2) The following information is recorded on the transferred prescription:
         (a) Date of issuance of original prescription;
         (b) Original number of refills authorized on the original prescription;
         (c) Date of original dispensing;
         (d) Number of valid refills remaining and the date of the last refill;
         (e) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription was transferred.

5. Transfer from out of state:
   a. Transfer of original prescription information for non-controlled prescription-only drugs must meet the conditions set forth in (D)(4)(a)(i) and (D)(4)(a)(iii) of this rule.
   b. Transfer of original prescription information for Schedule III, IV and V controlled substances must meet the conditions set forth in (D)(4)(b)(i) and (D)(4)(b)(iii) of this rule.

**Historical Note**

Adopted effective November 18, 1983 (Supp. 83-6).

**R4-23-408. Computer Requirements**

**A.** As an alternative to the procedures set forth in R4-23-407, an automated data processing system ("system") may be used for the storage and retrieval of refill information for prescription orders, patient profiles and drug interactions if the following conditions have been met:
1. A system must provide for the retrieval (via CRT display or hard-copy printout) of original prescription order information for those prescription orders which are currently authorized for refilling. Such information shall include, but not be limited to:
   a. Date of issuance of the original prescription order;
   b. Full name and address of the patient;
   c. Name and address of the practitioner;
   d. DEA registration number of the practitioner in the case of Schedule III and IV controlled substances;
   e. Name, strength, dosage form and quantity prescribed;
   f. Quantity dispensed; and
   g. Total number refills authorized.
2. A system must provide for the retrieval (via CRT display or hard-copy printout) of the current refill history of prescription orders. Refill history shall include, but not be limited to:
   a. Name of drug;
   b. Date of refill;
   c. Quantity dispensed;
   d. Name or identification code of manufacturer or distributor in the case of a generically written prescription or a generic substitution;
   e. Name or initials of the dispensing pharmacist for each refill; and
   f. Total number of refills dispensed to date.
3. Documentation of the correctness of refill information entered into a system must be provided by the pharmacist using a system. Documentation includes one of the following:
   a. A hard-copy printout of each days' refill data which has been verified, dated and signed by each refilling pharmacist; or
   b. A bound log book or separate file of daily statements which have been signed by each refilling pharmacist and which state that refill data has been reviewed by him and is correct.
4. The documentation referred to in (A)(3)(a) above must be provided to the pharmacy using a system by a refilling pharmacist within 72 hours of the date of dispensing.

5. A pharmacy using a system shall keep its hard-copy printout, bound log book or separate file for a period of three years from the date of dispensing.
6. A system must provide for retrieval (via CRT display or hard copy printout) shall include the following:
   a. Name of prescribing practitioner;
   b. Name and address of the patient;
   c. Quantity dispensed for each refill;
   d. Date of dispensing for each refill;
   e. Name or identification code of the dispensing pharmacist; and
   f. Number of the original prescription order.
7. A system which has a central record keeping location must be capable of transmitting information to a user pharmacy within 48 hours of its request. A user pharmacy shall verify the transmittal capability of its system upon request.
8. A user pharmacy shall have an auxiliary procedure for documentation of refill data to be used in the event of system down-time. Such a procedure shall insure that all refill data is retained for on-line data entry as soon as the system is available for use again.

**B.** Any pharmacist who intends to use a system must notify D.E.A. of his intent.

**C.** A system must be approved by the Board prior to its use. The filling and refilling of prescriptions shall comply with the requirements of R4-23-402(A)(9) and subsection (A) of this rule prior to system approval by the Board.

**Historical Note**
Adopted effective November 18, 1983 (Supp. 83-6).

**R4-23-409. Returning Drugs and Devices**

**A.** After it has been taken from the premises where sold, distributed or dispensed, no drug shall be accepted for return or exchange for resale unless the following conditions have been met:
1. It is in the original, unopened container; and
2. The container has not been subjected to contamination or deterioration.

**B.** The provisions of subsection (A) do not apply to drugs dispensed to hospital inpatients (see R4-23-659(B)) or to nursing home residents.

**C.** After it has left the premises of the seller, no device shall be accepted for return or exchange for resale or reuse unless the following conditions have been met:
1. It is found to be free of defects after inspection;
2. It is rendered incapable of transferring disease; and
3. It is not claimed to be new or unused.

**Historical Note**
Adopted effective November 18, 1983 (Supp. 83-6).

**R4-23-410. Current Good Compounding Practices**

**A.** This rule establishes the current good compounding practices to be used by a pharmacist licensed by the Board, in a pharmacy permitted by the Board, and in compliance with applicable federal and state law governing the practice of pharmacy.

**B.** A pharmacy permittee shall ensure compliance with the provisions in this subsection.
1. All drug substances for compounding that are received, sorted, or used by the pharmacy permittee:
   a. Meet official compendium requirements;
   b. Are of high quality, such as Chemically Pure (CP), Analytical Reagent (AR), certified American Chemical Society (ACS), or Food Chemical Codex (FCC) grade; or
   c. Are obtained from a source that, in the professional judgment of the pharmacist, is acceptable and reliable.
2. A pharmacist, employed by the pharmacy permittee, compounds a drug in limited quantity in anticipation of receiving valid prescriptions for the drug, only after establishing a history of compounding valid prescriptions for the drug.
3. Neither the pharmacy permittee nor a pharmacist employed by the pharmacy permittee provides a compounded drug to a pharmacy, medical practitioner, or other person for dispensing or distributing except that a compounded drug may be provided to a medical practitioner to administer to a patient of the medical practitioner.
4. A pharmacy or pharmacist may advertise or otherwise promote the fact that the pharmacy or pharmacist provides prescription compounding services.

**C.** A pharmacy permittee shall ensure compliance with the organization, training, and personnel issues in this subsection.
1. Before dispensing a compounded drug, a pharmacist:
   a. Inspects and approves or rejects, or assumes responsibility for inspecting and approving or rejecting, components, drug product containers and closures, in-process materials, and labeling;
   b. Prepares or assumes responsibility for preparing all compounding records;
   c. Reviews all compounding records to ensure that no errors occur in the compounding process; and
   d. Ensures the proper use, cleanliness, and maintenance of all compounding equipment.
2. A pharmacist engaged in compounding:
   a. Complies with the current good compounding practices and applicable state pharmacy laws;
   b. Maintains compounding proficiency through current awareness, training, and continuing education; and
   c. Ensures that personnel engaged in compounding wear:
      i. Clean clothing appropriate to the work performed; and
      ii. Protective apparel, such as coats, aprons, gowns, gloves, or masks to protect the personnel from chemical exposure and prevent drug product contamination.

**D.** A pharmacy permittee shall ensure the security, safety, and quality of a compounded drug by conforming with the following standards:
1. Implement procedures to exclude from direct contact with components, drug product containers and closures, in-process materials, labeling, and drug products, any person with an apparent illness or open lesion that may adversely affect the safety or quality of a compounded drug, until the illness or lesion, as determined by competent medical personnel, does not jeopardize the safety or quality of a compounded drug; and
2. Require all personnel to inform a pharmacist of any health condition that may adversely affect a compounded drug.

**E.** A pharmacy permittee shall provide compounding facilities that conform with the standards in this subsection.
1. In addition to the minimum area requirements of R4-23-609, R4-23-655, or R4-23-673, the compounding area:
   a. Complies with the requirements in R4-23-604(C)(1) and R4-23-611; and

b. Has sufficient space to permit efficient pharmacy practice, free movement of personnel, and visual surveillance by a pharmacist.

2. If sterile pharmaceutical or radiopharmaceutical compounding is performed, provide a separate compounding area that complies with the rules governing sterile pharmaceuticals and radiopharmaceuticals.

3. A clean, dry, and temperature-controlled area and, if required, a refrigerated area, in which to store properly labeled containers of bulk drugs, chemicals, and materials used in compounding, that complies with state statutes and rules.

**F.** To protect drug product safety, identity, strength, quality, and purity, a pharmacy permittee shall ensure that equipment and utensils used in drug compounding conform with the standards in this subsection:

1. Are of appropriate design, adequate size, and suitably located for proper operation, cleaning, and maintenance;
2. Are made of material that is not reactive, additive, or absorptive when exposed to components, in-process materials, or drug products;
3. Are cleaned and sanitized before use;
4. If previously cleaned:
   a. Are protected from contamination before use; and
   b. Are inspected and determined suitable for use, by a pharmacist, immediately before initiation of compounding operations;
5. Are routinely inspected, calibrated, or checked to make proper performance certain.

**G.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements procedures to prevent cross-contamination when drug products that require special precautions to prevent cross-contamination, such as penicillin, are used in a compounding procedure. The procedures shall include either the dedication of equipment or the meticulous cleaning of contaminated equipment before its use in compounding other drugs.

**H.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements control procedures for components and drug product containers and closures, either written or electronically stored with printable documentation, that conform with the standards in this subsection.

1. Components and drug product containers and closures are:
   a. Stored off the floor,
   b. Handled and stored to prevent contamination, and
   c. Rotated so the oldest approved stock is used 1st.
2. Container closure systems comply with official compendium standards.
3. Drug product containers and closures are clean and made of material that is not reactive, additive, or absorptive.
4. Drug product containers and closures used for compounded sterile pharmaceuticals and radiopharmaceuticals are handled, sterilized, and stored in compliance with R4-23-670, R4-23-681, and R4-23-682.

**I.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements drug compounding controls that conform with the standards in this subsection.

1. Drug compounding procedures are available in either written form or electronically stored with printable documentation:
   a. To ensure that a finished drug product has the identity, strength, quality, and purity it is purported or represented to possess, the procedures include, for each drug compounded, a description of;
      i. The components, their amounts, the order of component addition, and the compounding process;
      ii. The required equipment and utensils; and
      iii. The drug product container and closure system proper for the sterility and stability of the drug as it is intended to be used.
   b. To test the product being compounded, the procedures monitor the output and validate the performance of compounding processes that may cause variability in the final drug product, including assessing:
      i. Dosage form weight variation;
      ii. Adequacy of mixing to ensure uniformity and homogeneity; and
      iii. Clarity, completeness, or pH of solutions.
2. Components for drug compounding are accurately weighed, measured, or subdivided. To ensure that each weight, measure, or subdivision is correct as stated in the compounding procedures, a pharmacist checks and rechecks, or assumes responsibility for checking and rechecking, the operations at each stage of the compounding process.
3. When a component is removed from its original container and transferred to another container, the new container label contains, in full text or an abbreviated code system, the following:
   a. The component name,
   b. The lot or control number,
   c. The weight or measure,
   d. The beyond-use date, and
   e. The transfer date.

**J.** A pharmacy permittee shall ensure that the pharmacist-in-charge stores any quantity of compounded drug produced in excess of the quantity dispensed in accordance with subsection (B).

1. In an appropriate container with a label that contains:
   a. A complete list of components or the drug product name;
   b. The preparation date;
   c. The assigned lot or control number; and
   d. A beyond-use date based upon the pharmacist's professional judgment, but not more than the maximum guidelines recommended in the Pharmacy Compounding Practices chapter of the official compendium unless there are published data based on testing that show a longer period is appropriate; and
2. Under conditions, dictated by the drug's composition and stability characteristics, that ensure its strength, quality, and purity.

**K.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements recordkeeping procedures that comply with this subsection:

1. Drug compounding procedures and other records required by this Section are retained in the pharmacy for not less than 3 years; and
2. Drug compounding procedures and other records required by this Section are readily available for inspection by the Board or its designee.

**Historical Note**
Adopted effective August 5, 1997 (Supp. 97-3).

## ARTICLE 5. DRUG CLASSIFICATION

**R4-23-501. Vitamins and Other Substances**
Classification of vitamin products.

1. Any vitamin product which is marketed only for the purpose of supplementing the diet is a non-drug product if the following requirements are met:
   a. The label supplies adequate information as to the normal intake of each vitamin contained in the product;
   b. The label supplies adequate information as to the amount of each vitamin contained in the product;
   c. The product is not held out for the treatment or prevention of any disease but merely as a food accessory.
2. Any vitamin preparation which is held out to be a treatment for any deficiency disease, or for the correction of any symptom of disease, or for the prevention, mitigation or cure of disease, either by direct statement or by inference, is a drug.

**Historical Note**
Former Rule 5.2110; Amended effective August 9, 1983 (Supp. 83-4).

**R4-23-502. Veterinary**
Veterinary preparation: Veterinary preparations distributed by manufacturers of veterinary supplies which do not contain the caution label shall be classified as patent or proprietary medicines and thus may be distributed by any person or firm licensed in this category in addition to being distributed by licensed pharmacies.

**Historical Note**
Former Rule 5.2510.

**R4-23-503. Repealed**

**Historical Note**
Former Rules 5.3500, 5.3520, 5.3540, 5.3550, 5.3560, 5.3570, 5.3580, 5.3590, 5.4110, and 5.6110; Repealed effective August 2, 1982 (Supp. 82-4).

**R4-23-504. Repealed**

**Historical Note**
Former Rule 5.7010; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4).

**R4-23-505. Repealed**

**Historical Note**
Former Rules 5.7100, 5.8100, 5.8500, 5.9100, and 5.9500; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4).

**R4-23-506. Repealed**

**Historical Note**
Adopted effective December 3, 1974 (Supp. 75-1). Repealed effective August 24, 1992 (Supp. 92-3).

## ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

**R4-23-601. General Provisions**

**A.** Permit required to sell drugs: No drugs may be sold in Arizona except by a person having a permit from the Board; except medical practitioners may administer drugs for the emergency needs of their patients.

**B.** Out-of-state firms: Out-of-state firms shall not be required to have a permit if licensed in the state from which the drugs are shipped, if drugs are not warehoused in Arizona, and if there is no district office in Arizona.

**C.** Permit fee: Permits are issued biennially on an odd- and even-year expiration based on the permit number assigned. The fee is not refunded under any circumstances.

**D.** Fire- or water-damaged drugs or devices: No person shall expose, sell or offer to sell any drug or device which has been damaged by water, fire, or from human or animal consumption or use.

**E.** Sale of drugs, including proprietary or patent medicines by mechanical devices or vending machines prohibited: The use of any mechanical device or vending machine in connection with the sale of any drug, including proprietary or patent medicine, is unlawful.

**Historical Note**
Former Rules 6.1100, 6.1200, 6.1300, 6.1400, and 6.1500. Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Amended subsection (C) effective August 12, 1988 (Supp. 88-3).

**R4-23-602. Permit Application Process and Time-frames**

**A.** A person applying for a permit shall submit to the Board Office an application packet consisting of:
   1. A completed application form for the desired permit signed by the applicant;
   2. A cashier's, certified, business, or personal check, or money order for the applicable biennial permit fee; and
   3. Other information or documents required by R4-23-603, R4-23-604, R4-23-605, R4-23-606, or R4-23-671.

**B.** The Board Office shall deem an application packet received on the date that the Board Office stamps on the packet as the packet is delivered to the Board Office.

**C.** The Board Office shall finish an administrative completeness review within 20 days from the date of receipt of an application packet.
   1. The Board Office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application packet.
   2. If the application packet is incomplete, the Board Office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 20-day time-frame for the Board Office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board Office with all missing information.
   3. If the Board Office does not provide the applicant with notice regarding administrative completeness, the application packet shall be deemed complete 20 days after receipt by the Board Office.

**D.** An applicant with an incomplete application packet shall submit to the Board Office all of the missing information within 60 days of service of the notice of incompleteness.
   1. If an applicant cannot submit all missing information within 60 days of service of the notice of incompleteness, the applicant may obtain an extension by submitting a written request to the Board Office postmarked or delivered within 60 days of service of the notice of incompleteness.
   2. The written request for an extension shall document the reasons the applicant is unable to meet the 60-day deadline.
   3. The Board Office shall review the request for an extension of the 60-day deadline and grant the request if the Board Office determines that an extension of the 60-day deadline will enable the applicant to assemble and submit the missing information. An extension of the 60-day deadline shall be for no more than 60 days. An applicant that requires an additional extension shall submit an additional written request in accordance with this subsection.

The Board Office shall notify the applicant in writing of its decision to grant or deny the request for an extension.

**E.** If an applicant fails to submit a complete application packet within the time allowed, the Board Office shall close the applicant's file. An applicant whose file has been closed and who later wishes to obtain a permit shall apply again in accordance with subsection (A).

**F.** For a nonprescription drug permit applicant, the Board Office shall issue a permit on the day that the Board Office determines an administratively complete application packet is received.

**G.** Except as described in subsection (F), from the date on which the administrative completeness review of an application packet is finished, the Board Office shall complete a substantive review of the applicant's qualifications in no more than 120 days.

1. If an applicant is found to be ineligible, the Board Office shall issue a written notice of denial to the applicant;
2. If an applicant is found to be eligible, the Board Office shall recommend to the Board that the applicant be issued a permit. Upon receipt of the Board Office's recommendation, the Board shall either issue a permit to the applicant or if the Board determines the applicant does not meet eligibility requirements, return the matter to the Board Office.
3. If the Board Office finds deficiencies during the substantive review of the application packet, the Board Office shall issue a written request to the applicant for additional documentation.
4. The 120-day time-frame for a substantive review for the issuance or denial of a permit is suspended from the date of the written request for additional documentation until the date that all documentation is received.
5. When the applicant and the Board Office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 35 days.

**H.** For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for permits.

1. Administrative completeness review time-frame: 20 days.
2. Substantive review time-frame:
   a. Nonprescription drug permit: none;
   b. Except as described in subsection (H)(2)(a):120 days.
3. Overall time-frame:
   a. Nonprescription drug permit: 20 days;
   b. Except as described in subsection (H)(3)(a): 140 days.

**Historical Note**

Former Rules 6.2100, 6.2200, 6.2300, 6.2400, 6.2500, 6.2600, 6.2610, 6.2620, 6.2630, 6.2640, and 6.2650. Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Repealed effective August 12, 1988 (Supp. 88-3). New Section adopted effective August 5, 1997 (Supp. 97-3).

**R4-23-603. Nonprescription Drugs, Retail**

**A.** Permit. General: A person may not sell a nonprescription drug except by obtaining a nonprescription drug permit, a pharmacy permit, a manufacturer permit, a nonprescription drug wholesale permit, or wholesale drug permit, or by being a medical practitioner exempted by A.R.S. § 32-1921. Grocers and other non-pharmacy retail outlets that want to sell over-the-counter or nonprescription drugs shall obtain a nonprescription drug permit.

**B.** Application: To obtain a permit to sell nonprescription drugs, a person shall submit a completed application, on a form furnished by the Board, that includes, among other requirements, an address for mailing and inspection and a telephone number. An applicant may obtain a permit for a mobile or non-fixed location, such as a swap-meet vendor.

**C.** Original package of manufacturer. Nonprescription drug permittees shall not repackage drugs but shall sell drugs only in the original container packaged and labeled by the manufacturer.

**D.** Inspection: A nonprescription drug permittee shall consent to inspection by the Board or its designee during business hours.

**E.** All drugs stocked, sold, or offered for sale shall be kept clean and protected from contamination and from excessive heat, cold, sunlight, and other deteriorating factors and shall comply with federal law. Any drug that exceeds its expiration date or does not comply with federal law shall be destroyed or returned to its source of supply.

**Historical Note**

Adopted effective August 10, 1978 (Supp. 78-4). Amended subsection (D) paragraph (1) and added subsection (G) effective April 20, 1982 (Supp. 82-2). Amended effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 5, 1997 (Supp. 97-3).

**R4-23-604. Manufacturers**

**A.** Permits:

1. No manufacturing of a drug shall be commenced or take place before a manufacturing permit has been approved, a final inspection approved by a drug inspector and the permit is issued to the permittee.
2. The permittee applicant, manager and other employees at the Board's request shall furnish to the Board character references, fingerprints, education, experience and such other information as the Board may require. Records of employees shall be kept for two years and furnished to the Board on request.
3. The owner, responsible officers and/or manager, and pharmacist-in-charge shall appear before the Board before the permit can be issued.
4. An application shall be completed on a form furnished by the Board, showing, among other things, the pharmacist-in-charge as required by A.R.S. §§ 32-1929 and 32-1961. The application shall be completed and in the Board's office at least 15 days before a Board meeting before it will be considered by the Board.
5. Applications shall list drugs that are to be manufactured. Drugs may be listed by categories unless more detail is required by the Board. If other drugs are desired to be manufactured at a later date, an amendment shall be made and no distribution of such additional drugs shall be made until the Board has been notified in writing.
6. Manufacturing permits are subject to suspension or revocation for violation of state or federal laws and rules pertaining to drugs, including controlled substances.
7. Manufacturing permittees shall comply with the registering and drug listing requirement of the Food and Drug Administration.

**B.** Finished pharmaceuticals; manufacturing practice:

1. The criteria in R4-23-604(D) through (J)(4) inclusive shall apply in determining whether the methods used in, or the facilities or controls used for, the manufacture, processing, packing, or holding of a drug conform to or are operated or administered in conformity with current good manufacturing practice to assure that a drug meets the

requirements of the act as to safety, and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

2. The regulations in this part permit the use of precision automatic mechanical or electronic equipment in the production and control of drugs when adequate inspection and checking procedures are used to assure proper performance.

**C.** Buildings. Buildings shall be maintained in a clean and orderly manner and shall be of suitable size, construction, and location to facilitate adequate cleaning, maintenance, and proper operations in the manufacturing, processing, packing, labeling, or holding of a drug. The building shall:

1. Provide adequate space for:
   a. Orderly placement of equipment and materials to minimize any risk of mix-ups between different drugs, drug components, in-process materials, packaging materials, or labeling, and to minimize the possibility of contamination.
   b. The receipt, storage, and withholding from use of components pending sampling, identification, and testing prior to release by the materials approval unit for manufacturing or packaging.
   c. The holding of rejected components prior to disposition to preclude the possibility of their use in manufacturing or packaging procedures for which they are unsuitable.
   d. The storage of components, containers, packaging materials, and labeling.
   e. Any manufacturing and processing operations performed.
   f. Any packaging or labeling operations.
   g. Storage of finished products.
   h. Control and production laboratory operations.
2. Provide adequate lighting, ventilation, and screening and, when necessary for the intended production or control purposes, provide facilities for adequate air-pressure, microbiological, dust, humidity, and temperature controls to:
   a. Minimize contamination of products by extraneous adulterants, including cross-contamination of one product by dust or particles of ingredients arising from the manufacture, storage, or handling of another product.
   b. Minimize dissemination of microorganisms from one area to another.
   c. Provide suitable storage conditions for drug components, in-process materials, and finished drugs in conformance with stability information as derived under R4-23-604(I)(2).
3. Provide adequate locker facilities and hot- and cold-water washing facilities, including soap or detergent, air drier or single service towels, and clean toilet facilities near working areas.
4. Provide an adequate supply of potable water under continuous positive pressure in a plumbing system free from defects that could cause or contribute to contamination of any drug. Drains shall be of adequate size and, where connected directly to a sewer, shall be equipped with traps to prevent back-siphonage.
5. Provide suitable housing and space for the care of all laboratory animals.
6. Provide for safe and sanitary disposal of sewage, trash, and other refuse within and from the buildings and immediate premises.

**D.** Equipment. Equipment used for the manufacture, processing, packing, labeling, holding, testing, or control of drugs shall be maintained in a clean and orderly manner and shall be of suitable design, size, construction, and location to facilitate cleaning, maintenance, and operation for its intended purpose. The equipment shall:

1. Be so constructed that all surfaces that come into contact with a drug product shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.
2. Be so constructed that any substances required for operation of the equipment, such as lubricants or coolants, do not contact drug products so as to alter the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.
3. Be constructed and installed to facilities adjustment, disassembly cleaning and maintenance to assure the reliability of control procedures, uniformity of production and exclusion from the drugs of contaminants from previous and current operations that might affect the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.
4. Be of suitable type, size, and accuracy for any testing, measuring, mixing, weighing, or other processing or storage operations.

**E.** Personnel:

1. The personnel responsible for directing the manufacture and control of the drug shall be adequate in number and background of education, training, and experience, or combination thereof, to assure that the drug has the safety, identity, strength, quality, and purity that it purports to possess. All personnel shall have capabilities commensurate with their assigned functions, a thorough understanding of the manufacturing or control operations they perform, the necessary training or experience, and adequate information concerning the reason for application of pertinent provisions of this part to their respective functions.
2. Any person shown at any time (either by medical examination or supervisory observation) to have an apparent illness or open lesions that may adversely affect the safety or quality of drugs shall be excluded from direct contact with drug products until the condition is corrected. All employees shall be instructed to report to supervisory personnel any conditions that may have such an adverse effect on drug products.
3. The pharmacist responsible for directing the manufacture and control of drugs shall furnish to the Board a completed fingerprint card. Fingerprint cards may also be required of other personnel at the Board's discretion.
4. Character references shall be furnished by the pharmacist responsible for the manufacture and control of drugs and other personnel as requested by the Board. There shall be a notarized statement by such personnel concerning any and all charges of drug laws violations, past, present or pending, whether convicted or not.

**F.** Production:

1. Any and all manufacturing of drugs shall be under the supervision of an Arizona pharmacist as required in A.R.S. § 32-1961.
2. Manufacturing processes required to be under the supervision of a pharmacist shall include, but not be limited to,

such processes as weighing, mixing, compounding, tableting, packaging, and labeling.

3. Components: All components and other materials used in the manufacture, processing, and packaging of drug products, and materials necessary for building and equipment maintenance, upon receipt shall be stored and handled in a safe, sanitary, and orderly manner. Adequate measures shall be taken to prevent mix-ups and cross-contamination affecting drugs and drug products. Components shall be withheld from use until they have been identified, sampled, and tested for conformance with established specifications and are released by a materials approval unit. Control of components shall include the following:
   a. Each container of component shall be examined visually for damage or contamination prior to use, including examination for breakage of seals when indicated.
   b. An adequate number of samples shall be taken from a representative number of component containers from each lot and shall be subjected to one or more tests to establish the specific identity.
   c. Representative samples of components liable to contamination with filth, insect infestation, or other extraneous contaminants shall be appropriately examined.
   d. Representative samples of all components intended for use as active ingredients shall be tested to determine their strength in order to assure conformance with appropriate specifications.
   e. Representative samples of components liable to microbiological contamination shall be subjected to microbiological tests prior to use. Such components shall not contain microorganisms that are objectionable in view of their intended use.
   f. Approved components shall be appropriately identified and retested as necessary to assure that they conform to appropriate specifications of identity, strength, quality, and purity at time of use. This requires the following:
      i. Approved components shall be handled and stored to guard against contaminating or being contaminated by other drugs or components.
      ii. Approved components shall be rotated in such a manner that the oldest stock is used first.
      iii. Rejected components shall be identified and held to preclude their use in manufacturing or processing procedures for which they are unsuitable.
   g. Appropriate records shall be maintained, including the following:
      i. The identity and quantity of the component, the name of the supplier, the supplier's lot number, and the date of receipt.
      ii. Examinations and tests performed and rejected components and their disposition.
      iii. An individual inventory and record for each component used in each batch of drug manufactured or processed.
   h. An appropriately identified reserve sample of all active ingredients consisting of at least twice the quantity necessary for all required tests, except those for sterility and determination of the presence of pyrogens, shall be retained for at least two years after distribution of the last drug lot incorporating the component has been completed or one year after the expiration date of this last drug lot, whichever is longer.
4. Master production and control records, batch production and control records:
   a. To assure uniformity from batch to batch, a master production and control record for each drug product and each batch size of drug product shall be prepared, dated, and signed or initialed by a competent and responsible individual and shall be independently checked, reconciled, dated, and signed or initialed by a second competent and responsible individual. The master production and control record shall include:
      i. The name of the product, description of the dosage form, and a specimen or copy of each label and all other labeling associated with the retail or bulk unit, including copies of such labeling signed or initialed and dates by the person or persons responsible for approval of such labeling.
      ii. The name and weight or measure of each active ingredient per dosage unit or per unit of weight or measure of the finished drug, and a statement of the total weight or measure of any dosage unit.
      iii. A complete list of ingredients designated by names or codes sufficiently specific to indicate any special quality characteristic; an accurate statement of the weight or measure of each ingredient regardless of whether it appears in the finished product, except that reasonable variations may be permitted in the amount of components necessary in the preparation in dosage form provided that provisions for such variations are included in the master production and control record; an appropriate statement concerning any calculated excess of an ingredient; an appropriate statement of theoretical weight or measure at various stages of processing; and a statement of the theoretical yield.
      iv. A description of the containers, closures, and packaging and finishing materials.
      v. Manufacturing and control instructions, procedures, specifications, special notations, and precautions to be followed.
   b. The batch production and control record shall be prepared for each batch of drug produced and shall include complete information relating to the production and control of each batch. These records shall be retained for at least two years after the batch distribution is complete or at least one year after the batch expiration date, whichever is longer. These records shall identify the specific labeling and lot or control numbers used on the batch and shall be readily available during such retention period. The batch record shall include:
      i. An accurate reproduction of the appropriate master formula record checked, dated, and signed or initialed by a competent and responsible individual.
      ii. A record of each significant step in the manufacturing, processing, packaging, labeling, testing, and controlling of the batch, including: dates; individual major equipment and lines employed; specific identification of each batch of components used; weights and measures of

components and products used in the course of processing; in-process and laboratory control results; and identifications of the individual(s) actively performing and the individual(s) directly supervising or checking each significant step in the operation.

iii. A batch number that identifies all the production and control documents relating to the history of the batch and all lot or control numbers associated with the batch.

iv. A record of any investigation made according to R4-23-604(G)(5)(h).

5. Miscellaneous control procedures: Production and control procedures shall include all reasonable precautions, including the following, to assure that the drugs produced have the safety, identity, strength, quality, and purity they purport to possess:

a. Each significant step in the process, such as the selection, weighing, and measuring of components, the addition of ingredients during the process, weighing and measuring during various stages of the processing, and the determination of the finished yield, shall be performed by a competent and responsible individual and checked by a second competent and responsible individual; or, if such steps in the processing are controlled by precision automatic, mechanical, or electronic equipment, their proper performance is adequately checked by one or more competent and responsible individuals. The written record of the significant steps in the process shall be identified by the individual performing these tests and by the individual charged with checking these steps. Such identification shall be recorded immediately following the completion of such steps.

b. All containers, lines, and equipment used during the production of a batch of a drug shall be properly identified at all times to accurately and completely indicate their contents and, when necessary, the stage of processing of the batch.

c. To minimize contamination and prevent mix-ups, equipment, utensils, and containers shall be thoroughly and appropriately cleaned and properly stored and have previous batch identification removed or obliterated between batches or at suitable intervals in continuous production operations.

d. Appropriate precautions shall be taken to minimize microbiological and other contamination in the production of drugs purporting to be sterile or which by virtue of their intended use should be free from objectionable microorganisms.

i. Microbiological cultures and specimens to be discarded, and all other potentially infectious materials, shall be sterilized before disposal by either steam under pressure, dry heat, chemical disinfection, or in an incinerator approved by the air pollution control officer having jurisdiction.

e. Appropriate procedures shall be established to minimize the hazard of cross-contamination of any drugs while being manufactured or stored.

f. To assure the uniformity and integrity of products, there shall be adequate in-process controls, such as checking the weights and disintegration times of tablets, and the adequacy of mixing, the homogeneity of suspensions, and the clarity of solutions. In-process sampling shall be done at appropriate intervals using suitable equipment.

g. Representative samples of all dosage form drugs shall be tested to determine their conformancy with the specifications of the product before distribution.

h. Procedures shall be instituted whereby review and approval of all production and control records, including packaging and labeling, shall be made prior to the release or distribution of a batch. A thorough investigation of any unexplained discrepancy or the failure of a batch to meet any of its specifications shall be undertaken whether or not the batch has already been distributed. This investigation shall be undertaken by a competent and responsible individual and shall extend to other batches of the same drug and other drugs that may have been associated with the specific failure. A written record of the investigation shall be made and shall include the conclusions and follow-up.

i. Returned goods shall be identified as such and held. If the conditions under which returned goods have been held, stored, or shipped prior to or during their return, or the condition of the product, its container, carton, or labeling as a result of storage or shipping, cast doubt on the safety, identity, strength, quality, or purity of the drug, the returned goods shall be destroyed or subjected to adequate examination or testing to assure that the material meets all appropriate standards or specifications before being returned to stock for warehouse distribution or repacking. If the product is neither destroyed nor returned to stock, it may be reprocessed provided the final product meets all its standards and specifications. Records of returned goods shall be maintained and shall indicate the quantity returned, date, and actual disposition of the product. If the reason for returned goods implicates associated batches, an appropriate investigation shall be made in accordance with the requirements of subparagraph (h) above.

**G.** Product containers and labeling:

1. Product containers and their components: Suitable specification, test methods, cleaning procedures, and when indicated, sterilization procedures shall be used to assure that containers, closures, and other component parts of drug packages are suitable for their intended use. Product containers and their components shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug or its components beyond the official or established requirements and shall provide adequate protection against external factors that can cause deterioration or contamination of the drug.

2. Packaging and labeling: Packaging and labeling operations shall be adequately controlled: to assure that only those drug products that have met the standards and specifications established in their master production and control records shall be distributed; to prevent mix-ups between drugs during filling, packaging, and labeling operations; to assure that correct labels and labeling are employed for the drug; and to identify the finished product with a lot or control number that permits determination of the history of the manufacturer and control of the batch. An hour, day, or shift code is appropriate as a lot or control number for drug products manufactured or processed in continuous production equipment. Packaging and labeling operations shall:

a. Be separated (physically or spatially) from operations on other drugs in a manner adequate to avoid mix-ups and minimize cross-contamination. Two or more packaging or labeling operations having drugs, containers, or labeling similar in appearance shall not be in process simultaneously on adjacent or nearby lines unless these operations are separated either physically or spatially.

b. Provide for an inspection of the facilities prior to use to assure that all drugs and previously used packaging and labeling materials have been removed.

c. Include the following labeling controls:

i. The holding of labels and package labeling upon receipt pending review and proofing against an approved final copy by a competent and responsible individual to assure that they are accurate regarding identity, content, and conformity with the approved copy before release to inventory.

ii. The maintenance and storage of each type of label and package labeling representing different products, strength, dosage forms, or quantity of contents in such a manner as to prevent mix-ups and provide proper identification.

iii. A suitable system for assuring that only current labels and package labeling are retained and that stocks of obsolete labels and package labeling are destroyed.

iv. Restriction of access to labels and package labeling to authorized personnel.

v. Avoidance of gang printing of cut labels, cartons, or inserts when the labels, cartons, or inserts are for different products or different strengths of the same products or are of the same size and have identical or similar format and/or color schemes. If gang printing is employed, packaging and labeling operations shall provide for added control procedures. These added controls should consider sheet layout, stacking, cutting, and handling during and after printing.

d. Provide strict control of the package labeling issued for use with the drug. Such issue shall be carefully checked by a competent and responsible person for identity and conformity to the labeling specified in the batch production record. Said record shall identify the labeling and the quantities issued and used and shall reasonably reconcile any discrepancy between the quantity of drug finished and the quantities of labeling issued. All excess package labeling bearing lot or control numbers shall be destroyed. In event of any significant unexplained discrepancy, an investigation should be carried out according to R4-23-604(G)(5)(h).

e. Provide for adequate examination or laboratory testing of representative samples of finished products after packaging and labeling to safeguard against any errors in the finishing operations and to prevent distribution of any batch until all specified tests have been met.

3. Any and all master labeling and package inserts, other printed materials and representations shall be filed with the Board before sale or distribution of the drug. All such material must comply with the federal laws as well as the Arizona laws. This is not intended to require approval by the Board before distribution.

**H.** Quality:

1. Laboratory controls: Laboratory controls shall include the establishment of scientifically sound and appropriate specifications, standards, and test procedures to assure that components, in-processed drugs, and finished products conform to appropriate standards of identity, strength, quality, and purity. Laboratory controls shall include:

a. The establishment of master records containing appropriate specifications for the acceptance of each lot of drug components, product containers, and their components used in drug production and packaging and a description of the sampling and testing procedures used for them. Said samples shall be representative and adequately identified. Such records shall also provide for appropriate retesting of drug components, product containers, and their components subject to deterioration.

b. A reserve sample of all active ingredients as required by R4-23-604(G)(3).

c. The establishment of master records, when needed, containing specifications and a description of sampling and testing procedures for in-process drug preparations. Such samples shall be adequately representative and properly identified.

d. The establishment of master records containing a description of sampling procedures and appropriate specifications for finished drug products. Such samples shall be adequately representative and properly identified.

e. Adequate provisions for checking the identity and strength of drug products for all active ingredients and for assuring:

i. Sterility of drugs purported to be sterile and free from objectionable microorganisms for those drugs which should be so by virtue of their intended use.

ii. The absence of pyrogens for those drugs purporting to be pyrogen free.

iii. Minimal contamination of ophthalmic ointments by foreign particles and harsh or abrasive substances.

iv. That the drug release pattern of sustained release products is tested by laboratory methods to assure conformance to the release specifications.

f. Adequate provision for auditing the reliability, accuracy, precision, and performance of laboratory test procedures and laboratory instruments used.

g. A properly identified reserve sample of the finished product (stored in the same immediate container-closure system in which the drug is marketed) consisting of at least twice the quantity necessary to perform all the required tests, except those for sterility and determination of the absence of pyrogens, and stored under conditions consistent with product labeling shall be retained for at least two years after the drug distribution has been completed or at least one year after the drug's expiration date, whichever is longer.

h. Provision for retaining complete records of all laboratory data relating to each batch or lot of drug to which they apply. Such records shall be retained for at least two years after distribution has been completed or one year after the drug's expiration date, whichever is longer.

i. Provision that animals shall be maintained and controlled in a manner that assures suitability for their intended use. They shall be identified and appropriate records maintained to determine the history of use.

j. Provision that firms which manufacture nonpenicillin products (including certifiable antibiotic products) on the same premises or use the same equipment as that used for manufacturing penicillin products, or that operate under any circumstances that may reasonably be regarded as conducive to contamination of other drugs by penicillin, shall test such nonpenicillin products to determine whether any have become cross-contaminated by penicillin. Such products shall not be marketed if intended for use in man and the product is contaminated with an amount of penicillin equivalent to 0.05 unit or more of penicillin G per maximum single dose recommended in the labeling of a drug intended for parenteral administration, or an amount of penicillin equivalent to 0.5 unit or more of penicillin G per maximum single dose recommended in the labeling of a drug intended for oral use.

2. Stability: There shall be assurance of the stability of finished drug products. This stability shall be:
   a. Determined by reliable, meaningful, and specific test methods.
   b. Determined on products in the same container-closure systems in which they are marketed.
   c. Determined on any dry drug product that is to be reconstituted at the time of dispensing (as directed in its labeling), as well as on the reconstituted product.
   d. Recorded and maintained in such manner that the stability data may be utilized in establishing product expiration dates.
3. Expiration dating: To assure that drug products liable to deterioration meet appropriate standards of identity, strength, quality, and purity at the time of use, and the label of all such drugs shall have suitable expiration dates which relate to stability tests performed on the product:
   a. Expiration dates appearing on the drug labeling shall be justified by readily available data from stability studies such as described in R4-23-604(I)(2).
   b. Expiration dates shall be related to appropriate storage conditions stated on the labeling wherever the expiration date appears.
   c. When the drug is marketed in the dry state for use in preparing a liquid product, the labeling shall bear expiration information for the reconstituted product as well as an expiration date for the dry product.

**I.** Distribution records:
1. Finished goods warehouse control and distribution procedures shall include a system by which the distribution of each lot of drug can be readily determined to facilitate its recall if necessary. Records within the system shall contain the name and address of the consignee, date and quantity shipped, and lot or control number of the drug. Records shall be retained for at least two years after the distribution of the drug has been completed or one year after the expiration date of the drug, whichever is longer.
2. To assure the quality of the product, finished goods warehouse control shall also include a system whereby the oldest approved stock is distributed first whenever possible.
3. Records required for controlled substances shall be complied with.
4. Complaint files: Records shall be maintained of all written and oral complaints regarding each product. An investigation of each complaint shall be made in accordance with R4-23-604(G)(5)(h). The record of each investigation shall be maintained for at least two years after distribution of the drug has been completed or one year after the expiration date of the drug, whichever is longer.

**J.** Permit to manufacture radioactive pharmaceuticals:
1. Minimum requirements: The following minimum requirements, in addition to regulations pertaining to the manufacturing of other drugs, shall be met before manufacturing a radioactive pharmaceutical. These requirements are in addition to the regulatory requirements of the Arizona Radiation Regulatory Agency and the U.S. Nuclear Regulatory Commission and the federal Food and Drug Administration regulations.
   a. Space: The radiopharmaceutical manufacturing or preparation area, separate and apart from other areas, shall be an undivided area of not less than 300 square feet with an additional minimum of 80 square feet for the hot lab and storage area. The area shall contain adequate sink with hot and cold water facilities.
   b. Minimum equipment and accessory standards:
      i. Fume hood, approved by the Arizona Radiation Regulatory Agency,
      ii. Laminar flow hood,
      iii. Dose calibrator,
      iv. Refrigerator,
      v. Electronic balance,
      vi. Spectrophotometer,
      vii. Drawing station,
      viii. Radiochromatic strip scanner, well scintillation counter, scaler and multichannel analyser,
      ix. Microscope,
      x. Incubator oven,
      xi. Autoclave,
      xii. Pyrogen oven,
      xiii. Other equipment necessary for the radiopharmaceutical quality control for products manufactured as required by the Arizona Radiation Regulatory Agency.
   c. Glassware:
      i. 6 beakers 50 ml,
      ii. 6 beakers 150 ml,
      iii. 2 beakers 500 ml,
      iv. 4 volumetric flasks 50 ml,
      v. 12 volumetric flasks 100 ml,
      vi. 4 graduated cylinders 10 ml.
   d. Supplies:
      i. Disposable syringes 1, 3 and 5 cc,
      ii. Multidose vials 10, 20 and 30 cc,
      iii. Disposable alcohol swabs and gloves,
      iv. Appropriate labels for radioactive drugs,
      v. Other supplies necessary for drugs to be manufactured.
   e. Reference books:
      i. A.R.S. §§ 30-651 through 30-687 pertaining to the Arizona Radiation Regulatory Agency,
      ii. Rules of the Arizona Radiation Regulatory Agency,
      iii. Regulations of the federal Food and Drug Administration pertaining to radioactive drugs,

iv. United States Pharmacopeia and National Formulary, or Remington, or United States Dispensatory, the latest edition and supplements,
v. American Hospital Formulary Service,
vi. Arizona Pharmacy Act and regulations,
vii. Arizona Narcotic Act,
viii. Radiological Health Handbook.

**K.** Education and experience: In addition to the education and experience required by the Arizona Radiation Regulatory Agency, a permittee to manufacture radioactive pharmaceuticals shall present to the Board certification from an accredited college of pharmacy that the pharmacist-in-charge for the manufacturing of radioactive pharmaceuticals has completed courses of 90 or more clock hours of formal academic training in nuclear pharmacy and certification that he has completed a minimum of three months on-the-job training under a program approved by the Board and further shall pass an examination given by the Board on good manufacturing practices.

**L.** Food and Drug Administration registration: A manufacturer of radioactive pharmaceuticals shall register with the federal Food and Drug Administration.

**Historical Note**

Former Rules 6.4001, 6.4002, 6.4003, 6.4004, 6.4005, 6.4006, 6.4007, 6.4008, 6.4009, 6.4100, 6.4110, 6.4111, 6.4115, 6.4116, 6.4120, 6.4122, 6.4190, 6.4191, 6.4200, 6.4250, 6.4300, 6.4350, 6.4355, 6.4360, 6.4400, 6.4401, 6.4403, 6.4410, 6.4430, 6.4450, 6.4500, 6.4510, 6.4530, 6.4533, 6.4600, 6.4610, 6.4640, 6.4660, 6.4700, 6.4710, and 6.4750. Adopted effective December 3, 1974 (Supp. 75-1). Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) paragraph (2) effective April 20, 1982 (Supp. 82-2). Amended subsections (B), (G), (K) and (L) effective August 12, 1988 (Supp. 88-3). Amended effective August 24, 1992 (Supp. 92-3). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-605. Drug Wholesaler Permit**

**A.** Permit:

1. Application procedure: No person may operate a full service or nonprescription wholesale drug firm before the Board has approved the application, interviewed the applicant and the responsible person, if different from the applicant, inspected the premises, and a full service or nonprescription wholesale drug permit has been issued. No permit shall be issued unless permitted by local zoning regulations.
2. Ownership and responsible person: The application for a full service or nonprescription wholesale drug permit shall be made on a form furnished by the Board which, when properly executed, shall indicate the ownership, trustee, receiver, corporation officers or other person or persons desiring the permit, including the name of the individual approved by and responsible to the Board for the operation of the wholesale facility, as well as the location, including the street name and number and the mailing address.
3. Qualifications of responsible person: The applicant for a wholesale drug permit shall have the person responsible for purchasing, storing, transporting and selling narcotic and other controlled substances, prescription-only drugs, chemicals, prescription-only devices or nonprescription drugs submit his educational and experience qualifications to the Board for approval. Only persons possessing the scientific and technical training or experience requisite to protect the public health and safety and who have not been convicted of a felony related to the sale or distribution of a nonprescription, prescription only, controlled substance or illicit drug shall be approved.

**B.** Distribution restrictions:

1. Records:
   a. Records shall be kept to insure full accountability of prescription-only and controlled substance medications transactions including dates of receipt and sales, names and addresses of suppliers or sources of merchandise and customer names and addresses.
   b. The records of receipt and sales of all full service and nonprescription drug wholesalers shall be filed in a readily retrievable manner and available for review by the staff of the Board.
   c. Lack of such records shall be grounds for the suspension or revocation of the wholesale drug permit.
2. Drugs sold only to drug permittees:
   a. No prescription-only drug or device, narcotic or other controlled substance shall be wholesaled, sold, offered for sale, given away or otherwise disposed of by a full service wholesale drug permittee, except to a properly licensed firm or person, as specified in A.R.S. § 32-1929(A), (B), and (C). Such permit number shall be entered in the record of each such person or firm.
   b. No nonprescription drug shall be wholesaled, sold, offered for sale, given away or otherwise disposed of by a nonprescription drug wholesale permittee, except to a properly licensed firm or person. Such permit number shall be entered in the record of each such person or firm.
   c. Nothing in this paragraph shall be construed as to prevent the return of drugs or devices to the original source of supply.
   d. Records of receipt and disposition of all drug merchandise shall be kept for a minimum of two years in a readily retrievable fashion and be made available upon request during regular business hours to the staff of the Board or other law enforcement officers in the course of official business. Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two working days.
3. Out-of-state sales: No prescription-only drug or device, narcotic or other controlled substance may be wholesaled, sold, offered for sale, given away or otherwise disposed of by a wholesale drug permittee except to a properly licensed or certified firm or person in another jurisdiction. Such license or certification number shall be entered in the record of each person or firm. The compliance officers or other authorized persons, as defined in A.R.S. § 32-1901(4), shall have access to all such records of licensure or certification upon request.
4. Cash-and-carry sales: No prescription-only drug or device, controlled substance or nonprescription drug shall be furnished by a wholesale drug permittee on a cash-and-carry basis, until the validity of each such order and the identity of each such pick-up messenger is, upon each such occasion, checked with the person or firm represented as placing such an order.

**C.** Premises:

1. The premises occupied by a full service or nonprescription wholesale drug permittee shall be: of suitable size and construction, well lighted inside and outside, adequately ventilated, and kept clean, uncluttered and sanitary at all times.

2. Warehouse facilities shall be secure from unauthorized entry; a security system designed to provide protection against theft and diversion shall be installed and operating. Only authorized personnel may enter areas where prescription medications are kept. All thermolabile drugs shall be stored in areas where room temperature is maintained in compliance with storage conditions prescribed on the product label.
3. The premises occupied by a full service or nonprescription drug wholesale permittee shall be made available for inspection by the staff of the Board during regularly scheduled office hours.
4. There shall be a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated, misbranded or adulterated or that are in containers that have been opened.

**D.** Quality controls:
1. No fire, flood, or otherwise damaged or deteriorated drug, medicine, medicinal chemical or device shall be sold, distributed, or delivered at wholesale to any person or firm engaged in furnishing drugs for human or other animal consumption.
2. Manufacturing, including packaging and repackaging prohibited: No full service or nonprescription wholesale drug permittee shall manufacture, package or repackage, label or relabel any drug.
3. All drugs and devices stocked, sold or offered for sale shall be kept clean and protected from contamination and from other deteriorating environmental factors and shall comply with applicable federal and state law and official compendium storage requirements. Manual or automatic temperature/humidity recording devices or logs shall be maintained to document conditions in areas where drugs are stored.
4. All expiration-dated items shall be reviewed regularly. Items having less than 120 days remaining on their dating shall be removed from sale, as shall any deteriorated or damaged item.

**Historical Note**

Former Rules 6.5110, 6.5120, 6.5130, 6.5140, 6.5210, 6.5220, 6.5230, 6.5240, 6.5310, 6.5320, 6.5410, and 6.5420. Amended effective August 10, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsection (A) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 24, 1992 (Supp. 92-3).

**R4-23-606. Pharmacy Permit, Community, Hospital, and Limited Service.**

**A.** Pharmacy permit in general: No person may operate a pharmacy before the Board has approved the application, inspected the premises, and issued a permit.

**B.** Qualifications for applicants for pharmacy permit: Any person, including firm or corporation, applying for a pharmacy permit shall submit to the Board satisfactory proof, that the owner and manager has not been convicted or not then under any charges of a felony or of an offense involving moral turpitude or of the laws pertaining to drugs, devices, and poisons. A non-pharmacist manager shall be requested to appear before the Board with his pharmacist-in-charge before approval of the permit. Fingerprints shall be furnished at request of Board.

**C.** Pharmacy permit not issued under certain conditions: A pharmacy permit shall not be issued whereby a medical practitioner may receive compensation for his prescription orders whether directly or indirectly. This shall not include instances where sporadic prescription orders of a medical practitioner may be filled.

**D.** Lease may be required: A pharmacy permittee or an applicant for a pharmacy permit may be required to reveal their lease to the Board upon request to prove that a medical practitioner is not receiving more than the prevailing rent which might be considered a rebate.

**E.** Approval of plans: The pharmacy area, waiting area, storerooms, restrooms and all partitions, doors, windows, and fixtures pertaining thereto shall be indicated on floor plans showing appropriate elevations and shall be submitted to the Board at the time the application for a new pharmacy is filed or prior to remodeling. Such plans shall be submitted prior to proceeding with new construction. Before a pharmacy permit shall be issued, the plans submitted must meet the approval of the Board.

**F.** Patent or proprietary permit required outside pharmacy area: If any drugs are sold outside the pharmacy area when the pharmacist is not in attendance, a patent or proprietary medicine permit or a general dealer's permit shall be required.

**G.** New pharmacies: Whenever it is desired to open a new pharmacy, it shall be necessary for the ownership to apply in advance to the Board on a form prescribed and furnished by the Board. The application shall be accompanied by a biennial fee which shall be collected in accordance with the provisions of A.R.S. § 32-1931. Renewals will not be granted for a period less than 24 months. Fees are not refunded under any circumstances.

**H.** Change of ownership: Whenever there are any changes in ownership in a pharmacy, except for changes due to death of an individual owner or of a partner, as in subsection (J) below, it shall be necessary for the new ownership to apply in advance of the change on a form prescribed and furnished by the Board, the same as for a new pharmacy, accompanied by a biennial fee as required by subsection (G) of this Section for a new pharmacy. It shall be considered a change of ownership if there is a change of stock ownership involving 30 percent or more of the voting stock of a corporation, except in an existing and continuing corporation which is actively traded on any securities market or in any over-the-counter market. Fees are not refunded under any circumstance.

**I.** Change of officers in a corporation: The Board shall be notified whenever there is a change of officers in a corporation owning a pharmacy permit, listing the new officers, and their home addresses, and additional information if required.

**J.** Change due to death of owner or partner: If there is a death of an individual owner or of a partner and it is desired to continue the operation of the pharmacy, the estate or heirs or a partnership consisting of the estate or heirs of the deceased partner and the remaining partners must file an application upon a form prescribed and furnished by the Board, for which there shall be no fee, indicating the changes which have taken place and supplying any other requested information.

**K.** Change of location: Whenever a pharmacy is to be moved to a new location, it shall be necessary to apply on a form prescribed and furnished by the Board, indicating the new location and submitting plans for approval similarly to application for a new pharmacy, except there shall be no fee. The new premises shall be inspected before beginning operations.

**L.** Procedure for closing a pharmacy:
1. Ten days prior to closing, a written notice shall be sent to the Board office and to the Drug Enforcement Administration (D.E.A.). The notice shall contain, as a minimum, the following information:

a. Name, address, pharmacy permit number, and D.E.A. registration number of the pharmacy discontinuing business.
b. Name, address, pharmacy permit number (if applicable), and D.E.A. registration number of the licensee or registrant to whom the prescription drugs will be transferred.
c. The name and address of the location at which the records of the purchase and disbursement of controlled substances and prescription drugs will be kept. These records must be retained for a minimum of three years from the date of the last entry.
d. The name and address of the location at which the prescription files, patient and/or family records will be kept.
e. The proposed date of discontinuing business.

2. All drug signs and symbols must be removed from both the inside and outside of the premises.
3. All state permits and certificates of registration shall be returned to the Board office. D.E.A. registration certificates and unused D.E.A. Schedule II order forms should be returned to the D.E.A. Regional Office in Phoenix.
4. No one except the pharmacist-in-charge of the pharmacy discontinuing business shall have access to the prescription drugs until they are transferred to the new owner. When the pharmacy has been closed and the pharmacy permit has been surrendered, the prescription drugs must be removed from the premises.
5. Drugs shall be transferred in accordance with the following procedures:
   a. An inventory of all controlled drugs being transferred shall be taken as of the close of business. A copy shall be used to adjust the purchaser's inventory.
   b. The inventory of all Schedule II drugs shall be an accurate count. All other controlled drugs may be estimated unless quantities exceed 1,000 each, in which case an accurate count shall be made. A D.E.A. form 222 must be provided by the purchaser for Schedule II drugs.
   c. The inventory shall list the name, strength, dosage form and quantity of all controlled drugs transferred.
   d. Drugs to be destroyed shall be transferred in the same manner as all other drugs. The new owner shall then contact the Board office requesting an inspection for the purpose of drug destruction.
   e. A copy of the inventory shall be included by the Board in the records of both the pharmacy discontinuing business and the new owner.
6. Statistical information pertaining to prescriptions, drug records, and other information pertaining to the pharmacy discontinuing business shall be furnished to the Board upon request by the individuals referred to in R4-23-606(L)(1)(c) and (d).

**Historical Note**

Former Rules 6.6010, 6.6020, 6.6030, 6.6040, 6.6050, 6.6060, 6.6071, 6.6072, 6.6073, 6.6074, 6.6075, and 6.6076. Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (G) and (H) effective April 20, 1982 (Supp. 82-2). Amended subsection (L) effective July 2, 1982 (Supp. 82-4). Amended subsections (G) and (H) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Section heading amended effective April 5, 1996 (Supp. 96-2).

**R4-23-607. Repealed**

**Historical Note**

Former Rules 6.6110, 6.6120, and 6.6130; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective July 24, 1985 (Supp. 85-4).

**R4-23-608. Change of Personnel and Responsibility**

**A.** The owner or management of a pharmacy shall notify the Board of a change of pharmacists within ten days and shall notify the Board of a change of the pharmacist-in-charge within 24 hours.

**B.** Responsibility of ownership and management: The owner and management of a pharmacy are responsible for the acts of the pharmacists, interns, and other employees similar to the laws pertaining to agents. An owner or manager is obligated to impress upon his employees that the laws must be observed; but he shall not overrule the pharmacist-in-charge upon questions of ethics and interpretations of the laws pertaining to the practice of pharmacy and the distribution of drugs and devices. Unprofessional conduct or conduct contrary to the public's interest by personnel of a pharmacy shall be cause for the suspension or revocation of the pharmacy permit.

**Historical Note**

Former Rules 6.6140 and 6.6150; Amended subsection (A) effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-609. Pharmacy Area of Community Pharmacy**

**A.** Minimum area of community pharmacy: The minimum area of a community pharmacy, the actual area primarily devoted to stocking drugs restricted to pharmacists, and to the compounding and dispensing of prescription medication, exclusive of office area or other support function area, shall not be less than 300 square feet when a maximum of three pharmacy personnel are practicing or working simultaneously. For each additional pharmacist or intern or clerical personnel who may practice or work simultaneously, an additional 60 square feet of floor area shall be provided. All of the allotted square footage area, including adequate shelving, shall lend itself to efficient pharmaceutical practice and permit free movement and visual surveillance of personnel by the pharmacist.

**B.** Compounding and dispensing counter: There shall be a compounding and dispensing counter which shall provide a minimum of 10 square feet of unobstructed working area of not less than 16 inches in depth for the practice of one pharmacist. For each additional pharmacist or intern practicing simultaneously, there shall be an additional 10 square feet of unobstructed counter working area of not less than 16 inches in depth.

**C.** Working area for dispensing counter: The floor area to be occupied by the pharmacist or intern at the compounding and dispensing counter shall extend the full length of the counter and be clear and unobstructed for a minimum of 36 inches therefrom.

**D.** Area for oral communication: Any pharmacy permit issued or pharmacy remodeled after April 1, 1995, shall provide an area for the purpose of patient oral communication. This rule shall not apply to a pharmacy that is exempt from the requirements of R4-23-402(B).

**E.** Narcotic cabinet or safe: Narcotics and other controlled substances may be housed in a separate locked cabinet or safe, or they may be dispersed throughout the pharmacy to prevent diversion according to the requirements of the federal laws and regulations pertaining thereto.

**F.** Building security standard of community pharmacy area: In order for the pharmacy area to be left without a pharmacist on

duty when other people are in the store, it shall be secured by either a complete physical barrier with suitable locks or a partial physical barrier with an electronic security barrier to detect entry at a time the pharmacist is not present. Such electronic security barrier, prior to use, must be approved by the Board or its designee.

1. Complete physical barrier: The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter to structural ceiling or roof, with entry doors that can be securely locked. The barrier shall be so designed that only a pharmacist shall have access to the area where prescription-only drugs, narcotics, and other controlled substances restricted to sales by pharmacists are stored, compounded and dispensed. If a pharmacy area is continually attended by a pharmacist while other people are in the store, it need not be enclosed by a permanent barrier. Where the permanent barrier is required, it may be constructed of other than a solid material. If constructed of a material other than a solid, the openings or interstices of the material shall not be large enough to permit removal of items in the pharmacy area by any means. Any material used in the construction of the permanent barrier must be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The plans and specifications of the permanent barrier shall be submitted to the Board for approval that it affords the security as required in this Section.
2. Partial physical barrier: The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter to the false or drop ceiling, with entry doors that can be securely locked. The permanent physical barrier shall be a minimum 84 inches high. A pharmacy area enclosed by a partial physical barrier shall also be enclosed by an electronic security barrier approved by the Board or its designee.
3. Electronic pharmacy security: An electronic pharmacy security system shall provide sound and motion detection or be a system that provides intrusion protection of equal or greater effectiveness as determined by the Board or its designee. The system shall provide direct notification to a local law enforcement office or security organization that provides continuous monitoring. The specifications of the electronic systems shall be submitted to the Board for approval with the appropriate fee prior to installation to ensure the system affords security required in the section. After installation the system shall be inspected by the Board or its designee and certified provided that the system compiles with the previously approved plans and specifications. A quarterly report of system inspections and an entry log shall be available for inspection by the Board or its designee. Nothing in this Section shall prevent a pharmacy with a complete physical barrier from utilizing an electronic security system.

**G.** Drug storage and security: All areas where drugs and devices are stored shall be dry, adequately lighted and ventilated, and maintained in a clean and orderly condition. Storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the official compendium as defined in A.R.S. § 32-1901(43) or the manufacturer's or distributor's labeling. When an additional storage area is required for drugs that are restricted to pharmacists, the area shall also be contained by a permanent barrier from floor or counter to structural ceiling or roof. All doors or gates to the storage area shall be able to be locked and only a pharmacist with a key shall be permitted to enter the storage area, except in an extreme emergency.

**H.** The prescription working counter shall be separated from the public by a barrier not less than 66 inches in height.

**Historical Note**

Former Rules 6.6210, 6.6220, 6.6230, 6.6240, 6.6250, 6.6310, 6.6320, and 6.6330; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1).

**R4-23-610. Community Pharmacy Personnel and Security Procedures**

**A.** Pharmacist-in-charge:

1. Every pharmacy shall have a pharmacist designated as the "pharmacist-in-charge". The pharmacist-in-charge shall see that directives from the Board are communicated to the management, other pharmacists, and interns of the pharmacy and that they are complied with.
2. The pharmacist-in-charge shall prepare a manual to include the job description and list of functions supportive personnel may be expected to perform. The job description and function shall conform to this Chapter. The manual shall be available within the pharmacy and available for reference by supportive personnel and for inspection by the Board or its designee. A model of the manual is available on request from the Board office.

**B.** Personnel permitted in pharmacy area of a community pharmacy include pharmacists, interns, drug inspectors, peace officers when acting in their official capacity, and supportive personnel. Interns and supportive personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency. No more than two supportive personnel are permitted in the pharmacy area per pharmacist.

1. The pharmacist-in-charge shall comply with the area requirements as described in R4-23-609 for minimum areas both of a community pharmacy and of the area for the compounding and dispensing counter.
2. All pharmacists employed by a pharmacy shall be responsible for physical and electronic pharmacy security while on duty.

**C.** Pharmacy area and storage shall be kept locked: In a community pharmacy, the pharmacy area, and any additional storage area for drugs restricted to a pharmacist, except in an extreme emergency, shall be kept locked when a pharmacist is not on duty.

**D.** Only pharmacist permitted to unlock pharmacy: The pharmacist shall be the only person permitted to unlock the pharmacy area or any additional storage area for drugs restricted to a pharmacist, except in an extreme emergency.

**E.** Receiving and checking area for drugs. The area where prescription-only drugs, narcotics, other controlled substances, and drugs which are primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors thereof are opened and marked shall be under the immediate supervision of a pharmacist or pharmacy intern and immediately thereafter be kept or moved into the secured area of the pharmacy.

**F.** Leaving prescription orders: Written prescription orders or prescription medication containers to be refilled may be left in the prescription area through a small opening or slot when the pharmacist is not in attendance, providing the name, address, and telephone number (if available) are checked to see that it is legible.

**G.** Prescription medication to be left in pharmacy area or delivered: To avoid mistakes in identity, errors in directions, and lack of professional consultation, prescription medication shall

either be delivered to the patient or be kept locked in the prescription area when the pharmacist is not present. Prescription medication shall not be left outside the prescription area to be picked up by the patient when the pharmacist is not in attendance.

**Historical Note**

Former Rules 6.6410, 6.6420, 6.6430, 6.6440, 6.6450, 6.6460, 6.6470, 6.6480, and 6.6490; Amended subsection (F), deleted subsection (I) effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1).

**R4-23-611. Sanitation -- Quality**

**A.** Sanitary facilities must comply with laws: All sanitary facilities shall be constructed in accordance with the laws and ordinances applying thereto.

**B.** The walls, ceilings, windows, floors, shelves, and equipment shall be kept clean and in good repair and order. The counters, shelves, aisles and open spaces shall not be cluttered.

**C.** Trash: Adequate trash receptacles shall be provided. No waste material shall be permitted to collect in the pharmacy area.

**D.** Toilet: Any pharmacy permit issued or pharmacy remodeled after April 1, 1995, shall provide toilet facilities either within the pharmacy area or no further than 50 feet from the pharmacy area. The toilet shall be maintained in a sanitary condition and in good repair at all times.

**E.** Personnel's apparel: All professional personnel and staff shall be required to keep themselves and their apparel neat and clean while in the pharmacy area.

**F.** Animals: No animals, except man, shall be allowed in the pharmacy, other than guide dogs for the blind and guard dogs.

**G.** Insects and rodents: The pharmacy shall be kept free of insects and rodents.

**H.** Hot and cold running water: There shall be a sink with hot and cold running water within the pharmacy area for pharmaceutical purposes only. A sink in the lavatory shall not be considered satisfactory.

**I.** Supply of drugs and chemicals:

1. Reasonable supply required: A pharmacy shall have a stock of pharmaceuticals and chemicals to reasonably meet the normal demands of the trading area. Such drugs and chemicals shall meet all standards of strength and purity as established by the official compendiums.
2. Must be free of contamination: All stock and materials held for ultimate sale or supply to the consumer shall be free of contamination.
3. Expiration date: All stock and material which has exceeded its expiration date shall be removed from stock and returned to the source of supply or destroyed.
4. Deteriorated stock: All stock and material that appears and can be presumed to have deteriorated by reason of age, heat, light, cold, moisture, crystallization, chemical reaction, rupture of coating, disintegration, solidification, separation, discoloration, change of odor, precipitation, or other change that can be determined by organoleptic examination or by other means shall be removed from stock and returned to the source of supply or destroyed.
5. Improper labels: All stock and materials that are improperly labeled shall be removed from stock and returned to the source of supply or destroyed.
6. Defective container: All stock and material the container of which is defective shall be removed from stock and returned to the source of supply or destroyed.

**Historical Note**

Former Rules 6.6510, 6.6520, 6.6530, 6.6540, 6.6550, 6.6560, 6.6570, 6.6580, 6.6600, 6.6610, 6.6620, 6.6630, 6.6640, 6.6650, and 6.6660; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1).

**R4-23-612. Equipment**

Each pharmacy shall contain the following:

1. Adequate refrigeration storage equipment for operation of the pharmacy.
2. Equipment to produce a typed or mechanically printed label.
3. Equipment to produce mechanically printed numbers.
4. Poison register wherever poisons are sold.
5. A C-V controlled substance register, if C-V controlled substances are sold without an order of a medical practitioner.
6. Graduates in assorted sizes.
7. One mortar and pestle.
8. Spatulas of assorted sizes including one non-metallic.
9. Prescription balance, Class A, and weights.
10. One ointment tile or equivalent.
11. Arizona Pharmacy Act and regulations and Arizona Controlled Substance Act.
12. A professional reference library consisting of a minimum of 1 current reference or text addressing the following subject areas:
    a Pharmacology or toxicology,
    b. Therapeutics,
    c. Drug compatibility, and
    d. Drug product equivalency.
13. An assortment of labels, including prescription labels, transfer labels for controlled substances, and cautionary and warning labels.
14. A "C" stamp as required by the federal Act for controlled substances, if using other than the three file systems.
15. Current antidote and drug interaction information.
16. Regional poison control phone number prominently displayed in the pharmacy area.

**Historical Note**

Former Rule 6.6670; Former Section R4-23-612 repealed, new Section R4-23-612 adopted effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective April 5, 1996 (Supp. 96-2).

**R4-23-613. Reserved (for Community Pharmacy)**
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**R4-23-650. Reserved (for Community Pharmacy)**

**R4-23-651. Definitions**

The following definitions apply to R4-23-651 through R4-23-659:

"Administration" means the giving of a unit dose of medication to a patient as a result of an order of a medical practitioner.

"Direct copy" means an electronic, facsimile or carbonized copy.

"Dispensing for hospital inpatients" means the issuing to authorized hospital personnel of one or more doses of medication in a suitable container with appropriate label for subsequent administration to, or use by, an inpatient (hereinafter referred to as "dispensing").

"Drug distribution" means the delivery of drugs other than "administering" or "dispensing".

"Floor stock" means a minimum supply of essential drugs not labeled for a specific patient which is maintained and controlled by the pharmacy at a patient care area for the purpose of timely administration to a patient of the hospital.

"Formulary" means a continually revised compilation of pharmaceuticals (plus important ancillary information) that reflects the current clinical judgment of the medical staff.

"Hospital" means any institution for the care and treatment of the sick and injured which is approved and licensed as a hospital by the state Department of Health Services.

"Hospital pharmacy" means a pharmacy, as defined in A.R.S. § 32-1901, that holds a current permit issued by the Board pursuant to A.R.S. § 32-1931, and is located in a hospital, as defined in A.R.S. § 32-1901.

"Inpatient" means a patient who is registered as such by the hospital.

"Intravenous admixture" means a sterile parenteral solution to which one or more additional drug products have been added in the hospital.

"Medication order" means a written or verbal order from a medical practitioner or his authorized agent for administration of a drug.

"On call" means to be available for anything about, or for dispensing of, medications.

"Patient care area" means any area whose primary purpose is to provide a physical environment, owned or operated in conjunction with a hospital, for patients to obtain health care services, except those places where physicians, dentists, veterinarians, osteopaths, or other medical practitioners engage primarily in private practice.

"Repackaged drug" means a drug product which is transferred from original manufacturer's container to another container properly labeled for subsequent dispensing.

"Satellite pharmacy" means a work area in a hospital setting under the direction of a pharmacist that is a remote extension of the centrally licensed hospital pharmacy but within the same facility and dependent upon the licensed hospital pharmacy for administrative control, staffing and drug procurement.

"Single unit" means a package of medication which contains one discrete pharmaceutical dosage form.

"Supervision" means the process by which a pharmacist observes and directs the activities of a pharmacy intern, technician or clerk to a sufficient degree to ensure that all such activities are performed accurately, safely, and without risk of harm to patients.

"Unit dose" means a package of medication which contains the particular dose of a drug ordered for the patient. A single unit package is a unit dose package if it contains that particular dose of drug ordered for the patient.

**Historical Note**

Former Rules 6.7110, 6.7120, and 6.7130; Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) effective April 20, 1982 (Supp. 82-2). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 5, 1996 (Supp. 96-2).

**R4-23-652. Application/Registration**

**A.** The following rules are applicable to all Hospitals and Hospital Pharmacies as defined by R4-23-651 herein above.

**B.** All hospital pharmacies shall obtain a pharmacy permit for which a biennial fee set by the Board shall be required and shall be collected in accordance with the provisions of A.R.S. § 32-1931. Renewals shall not be granted for a period of less than 24 months. Fees are not refunded under any circumstances.

**C.** Discontinued hospitals: Whenever a hospital license is discontinued by the state Department of Health Services, the pharmacy permit shall be returned to the Board of Pharmacy for cancellation and all drug signs removed from the premises. The drugs shall be adequately secured until legally disposed of. In addition, records and reports shall be furnished concerning drugs and prescription orders if required by the Board.

**Historical Note**

Former Rules 6.7210, 6.7220, 6.7230, 6.7231, 6.7232, and 6.7233. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).

**R4-23-653. Personnel: Professional, Supportive, or Technician**

**A.** Each hospital pharmacy shall be directed by a pharmacist, hereinafter referred to as the Director of Pharmacy, who is licensed to engage in the practice of pharmacy in Arizona, and who is knowledgeable in and thoroughly familiar with the specialized functions of hospital pharmacies, as a result of satisfactory completion of a hospital pharmacy residency program or as a result of no less than two years' experience in a hospital pharmacy. The Director of a hospital pharmacy shall be a full-time employee of the hospital facility in which the pharmacy is located, except that the Director may be a part-time employee and may be exempt from the education and experience requirements above upon written request by the hospital and with express permission of the Board.

1. The Director of Pharmacy shall be the pharmacist-in-charge, as defined in A.R.S. § 32-1901.
2. The Director of Pharmacy shall be responsible for all the activities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules.
3. Contractual providers of pharmacy services shall meet the same requirements as for the Director of Pharmacy.

**B.** Hospitals with 50 or more beds. In hospitals with 50 beds or more, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services, except in case of emergencies. Pharmacy services shall be provided for a minimum or 40 hours per week, unless an exception is made upon written request by the hospital and with express permission of the Board.

**C.** Hospital with less than 50 beds. In hospitals with less than 50 beds, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services. Upon written request by the hospital and with the express permission of the Board, the services of a pharmacist shall be required on a part-time basis, according to the needs of the hospital. The services of a pharmacist shall be required as follows:

1-25 beds -- minimum of 5 hours per week
26-49 beds -- minimum of 20 hours per week

**D.** Other personnel. The Director of Pharmacy may be assisted by other personnel approved by the Director in order to operate the pharmacy competently, safely and adequately to meet the needs of the patients of the hospital.

1. Pharmacists. Pharmacists shall assist the Director of Pharmacy in meeting the responsibilities for all the activ-

ities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules. The following professional practices shall be performed only by a pharmacist or a pharmacy intern under the supervision of a pharmacist:

a. Receipt and transaction of all verbal medication orders other than refill approval by the prescriber.
b. Verification of the legal, pharmaceutical and therapeutic feasibility of dispensing, including an assessment of patient condition, allergies, pharmaceutical and therapeutic incompatibilities, unusual quantities of dangerous drugs and controlled substances and frequency of refills.
c. Verification that the dosage is in proper limits.
d. Interpretation and evaluation of the medication order.
e. Compounding, admixing, combining, measuring, counting or otherwise preparing and packaging the medication needed for dispensing, except in accordance with written policies and procedures approved by the Board or its designee, for pharmacy technicians, whereby the accuracy, correct procedure and preparation and safety of pharmaceutical constituents can be verified by the pharmacist.
f. Supervising the repackaging of drugs and checking the completed repackaging procedure and product.
g. Training and educating in aseptic technique and incompatibilities for all personnel involved in the admixture of parenteral products within the hospital. When any part of these processes is not under direct pharmacist supervision, the pharmacist shall have the responsibility for providing and approving written guidelines and procedures to assure that all pharmaceutical requirements are met.
h. Consultation with the prescriber regarding the patient's drug therapy or medical condition.
i. Consultation with the patient regarding the medication order and/or overall drug therapy, both prior to and after the medication is delivered to the patient or patient's agent.
j. Interpretation of data in the patient's medication profile and/or medical record.
k. Determination of the factors necessary for the pharmacist monitoring and evaluating the patient's therapeutic response.
l. Provision of drug information to patients and health care professionals.
m. Overseeing all of the activities of pharmacy technicians, clerks and other personnel to insure that all such activities are performed accurately, safely and without risk of harm to patients.
n. Final checking and responsibility for all aspects of the completed medication order including but not limited to the accuracy of drug, strength, labeling and appropriate container.
o. Compliance with a quality assurance program developed by the pharmacist-in-charge.

2. Pharmacy Technicians
   a. Pharmacy technicians shall not perform duties which may be performed only by a pharmacist.
   b. Pharmacy technicians, under the supervision of a pharmacist, may assist in all activities not defined as professional practices as outlined in Section R4-23-653(D)(1) above.
   c. Pharmacy technicians must be 18 years or older and have a high school diploma or equivalent.
   d. Pharmacy technicians shall complete a training program at the pharmacy of employment. The training program shall be developed by the pharmacist-in-charge and shall be based on the needs of the individual pharmacy. The training program shall include written guidelines that define the specific tasks the technician shall be expected to perform and how the technician's competency is to be assessed. A copy of the training guidelines shall be kept in the pharmacy at all times. The pharmacist-in-charge shall certify that the technician has successfully completed the training program. Pharmacy technicians may perform only those tasks for which they have been trained and in which competency has been demonstrated.
   e. Pharmacy technicians may prepare parenteral products in accordance with written policies and procedures, whereby the preparation, accuracy and safety of the final product is verified by the pharmacist prior to dispensing or administration to the patient.
   f. The pharmacist-in-charge shall implement written policies and procedures to specify the duties to be performed by pharmacy technicians in that pharmacy and the quality assurance procedures to be used to assure the accuracy and safety of the technician's activities.
   g. Pharmacy technicians may perform the duties of a pharmacy clerk.
3. Pharmacy clerk
   a. Pharmacy clerks may not perform the tasks of a pharmacist, pharmacy intern or pharmacy technician.
   b. Pharmacy clerks, under the supervision of a pharmacist, may perform clerical duties associated with the practice of pharmacy including but not limited to typing, filing, refiling, bookkeeping, pricing, stocking, delivery, non-professional telephone inquires and documentation of third party reimbursement.
4. Secretarial personnel. Secretarial support may be provided as required to assist with record keeping, report submission and other administrative duties.
5. Supervision. All of the activities and operations of the hospital pharmacy shall be supervised by its Director or designee. All functions and activities of other personnel shall be supervised by pharmacists to insure that all such functions and activities are performed competently, safely and without risk of harm to patients.

**Historical Note**

Former Rules 6.7310 and 6.7320; Amended effective August 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-654. Absence of Pharmacist**

**A.** Procedure in the absence of a pharmacist. During times that a pharmacist is not on duty in the hospital, arrangements shall be made in advance by the Director for provision of drugs to the medical staff and other authorized personnel of the hospital by use of night cabinets and in emergency circumstances, by access to the pharmacy. A pharmacist shall be "on call" during all absences.

1. Night cabinets. If night cabinets are used when the pharmacist is not on duty in the hospital, the locked cabinets or other enclosures shall be constructed and located outside the Pharmacy area, accessed only by specifically authorized personnel and securely locked to deny access

to unauthorized persons by force or otherwise. The Director shall, in conjunction with the appropriate committee of the hospital, develop inventory listing of those drugs to be included in such cabinets and shall insure that:

a. Such drugs are available therein, properly labeled;
b. Only drugs packaged in amounts sufficient for immediate therapeutic requirements are available therein;
c. Whenever access to such cabinet shall have been gained, written physician's orders and a record of withdrawal are provided;
d. All drugs therein are inventoried no less than once per week;
e. A complete audit of all activity concerning such cabinets is conducted no less than once per month; and
f. Written policies and procedures shall be established to implement the requirements of this subsection.

**B.** Access to Pharmacy. Whenever any drug is not available from night cabinets and such drug is required to treat the immediate needs of a patient whose health may otherwise be compromised, such drug may be obtained from the pharmacy in accordance with the requirements of this subsection. One supervisory nurse in any given shift is responsible for removing drugs therefrom. The responsible nurse may, in times of emergency, delegate this duty to another nurse. The responsible nurse shall be designated by position in writing by the appropriate committee of the hospital and shall, prior to being permitted to obtain access to the Pharmacy, receive thorough education and training in the proper methods of access, removal of drugs, and records and procedures required. Such education and training shall be given by the Director of Pharmacy.

**C.** Record of drug removal. Removal of any drug from the night cabinet or the Pharmacy by an authorized nurse shall be recorded on a suitable form showing:

1. Patient's name;
2. Name of the drug, strength and dosage form;
3. Dose prescribed;
4. Amount removed;
5. Time and date of removal;
6. Signature of the authorized nurse removing the drug; and
7. The original or a direct copy of the medication order.

The record of drug removal shall be placed conspicuously in the night cabinet or pharmacy and must be verified within four hours of the pharmacist returning to duty in the hospital or a maximum of 72 hours.

**Historical Note**

Former Rules 6.7410, 6.7420, 6.7430, 6.7440, 6.7450, and 6.7460; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).

### R4-23-655. Physical Requirements

**A.** General. Each hospital pharmacy shall have sufficient equipment and physical facilities for proper compounding, dispensing and storage of drugs, including parenteral preparations.

**B.** Minimum area of hospital pharmacy. The minimum area of a hospital pharmacy shall depend on the type of hospital, the number of beds, and the pharmaceutical services to be performed. The minimum floor space for any hospital pharmacy shall not be less than that required in Table 1. Plans for new construction shall be submitted to the Board for approval.

## Table 1:

Bed Size of Hospital
Square Feet Per Bed for Pharmacy

| | 1 to 50 beds | 51 to 100 beds | 101 to 200 beds | 201 to 500 beds | Over 500 beds |
|---|---|---|---|---|---|
| Dispensing | 4.4 | 3.2 | 3.25 | 2.1 | 1.77 |
| Storage | 1.4 | 1.7 | 1.3 | 1.44 | 1.2 |
| Preparations | 0.6 | 1.85 | 1.0 | 0.6 | 0.6 |
| Administrative | | 0.8 | 0.8 | 1.12 | 0.93 |
| TOTAL SQUARE FEET PER BED | 6.4* | 7.55 | 6.35 | 5.26 | 4.5 |

* The minimum area of any hospital pharmacy shall not be less than 220 square feet. Satellite pharmacy areas my be included in this minimum area upon the approval of the Board of Pharmacy.

These are minimum area requirements, not including unutilizable area, unless variations are approved by the Board for out-of-the-ordinary conditions.

The Board may also require more than the minimum area in instances where equipment, inventory, personnel, or other factors cause crowding to such a degree as to interfere with safe pharmacy practice. Storage and dispensing areas may be required to be enlarged because of increased number of specific drugs prescribed per day, the increased use of intravenous and irrigating solutions and the increased use of disposable and prepackaged products. Additional service areas may be required to handle investigational drugs, emergency drug kits, and radioisotopes, and to accommodate quality control procedures. More office space may be required to provide for an increased number of personnel, a drug information library, a poison information library, for research support, teaching and conferences, and a waiting area. Conversely, the Board may approve a reduction in the size of the pharmacy for innovative systems that require less space.

**C.** Description of hospital pharmacy area. All of the required space for a hospital pharmacy, including adequate shelving and cabinets, shall lend itself to efficient pharmaceutical practice. The pharmacy shall be enclosed by a permanent barrier or partition from floor to ceiling with entry doors that can be securely locked, constructed similarly to R4-23-609(G), for community pharmacies.

**D.** Hospital pharmacy storage areas. All drugs shall be stored in designated areas within the hospital pharmacy or other locked areas under the control of the pharmacist which are sufficient

to insure proper sanitation, temperature, light, ventilation, moisture control, segregation and security.

**E.** Storage of alcohol and flammables. Alcohol and flammables shall be stored in areas that shall, at a minimum, meet basic local fire and building code requirements for volatiles and such other laws, ordinances or regulations that may apply.

**Historical Note**

Former Rules 6.7471, 6.7472, 6.7473, 6.7474, and 6.7490; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Table 1 ("spare feet" changed to "square feet") (Supp. 91-1).

**R4-23-656. Other Standards**

**A.** The hospital pharmacy shall have a professional reference library consisting of at least one reference/text from each of the following subject areas; pharmacology/toxicology, theoretical and practical pharmacy, therapeutics, sterilization and disinfection in intravenous admixtures practice, drug compatibility/interaction and other references appropriate for the scope of pharmacy services provided by the institution.

**B.** The hospital pharmacy shall be arranged in an orderly fashion and shall be kept clean. All equipment shall be clean and in good condition.

**C.** A sink with hot and cold running water shall be available to all pharmacy personnel and shall be maintained in a sanitary condition at all times.

**D.** The hospital pharmacy shall be properly lighted and ventilated.

**E.** The temperature of the hospital pharmacy shall be maintained within a range compatible with the proper storage of drugs. The temperature of the refrigerator and freezer shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration or freezing.

**F.** The hospital pharmacy shall have locked storage for Schedule II controlled substances and other controlled drugs requiring additional security.

**G.** The hospital pharmacy shall have a designated area for the laminar air flow hood required for the preparation of sterile products. This area shall include facilities for handwashing, be designed to minimize personnel traffic, have non-porous and cleanable surfaces, be ventilated to not interfere with air-flow of the laminar hood, and be cleaned and disinfected routinely.

**H.** The hospital pharmacy shall have a designated area for the storage of poisons and external preparations.

**Historical Note**

Former Rule 6.7480. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).

**R4-23-657. Security**

**A.** Personnel security standards. No one shall be permitted in the pharmacy unless the pharmacist is present except as provided in this Section. If the pharmacist must leave the pharmacy for an emergency or patient care duties, pharmacy technicians may remain to perform duties as outlined in R4-23-653(D)(2), provided that all C-II controlled drugs are secured in such a manner as to prohibit access by other than a pharmacist, and that the pharmacist remain available in the hospital.

**B.** All hospital pharmacy areas shall be capable of being locked by key or programmable lock, so as to prevent access by unauthorized personnel. The Director shall designate in writing, by title and specific area, those persons who shall have access to particular pharmacy areas.

**C.** Each pharmacist on duty shall be responsible for the security of the hospital pharmacy, including provisions for adequate safeguards against theft or diversion of drugs including controlled substances and the records thereof.

**D.** Personnel identification. Pharmacists, pharmacy interns and other personnel working in the pharmacy shall wear identification badges, including name and position, whenever on duty.

**E.** Prescription blank security. The Director of Pharmacy shall be responsible for policies and procedures for the safe distribution and control of prescription blanks bearing identification of the hospital.

**Historical Note**

Former Rule 6.7500; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).

**R4-23-658. Drug Distribution and Control**

**A.** General. The Director of Pharmacy shall establish and implement written policies and procedures for the effective operation of a drug distribution system which optimize patient safety. These policies and procedures shall be available in the pharmacy for inspection by the Board or its designee. These policies and procedures will be developed with the advice of the medical staff and shall be reviewed and revised at least biennially. The written policies and procedures shall include, but not be limited to, the following:

1. Physicians orders
2. Authorized abbreviations
3. Formulary system
4. Procurement and distribution of inpatient medications
5. Controlled substances
6. Stop orders
7. Pass/Discharge medications
8. Adverse drug reaction reports
9. Drug recall
10. Outdated drugs
11. Medication error and dispensing error monitoring

These policies and procedures shall be available in the pharmacy for inspection.

**B.** Responsibility. The Director shall be responsible for the safe and efficient procurement, dispensing, distribution, administration, and control of drugs. Other professional, technical and clerical staff may assist the Director in meeting this responsibility. The Director shall be responsible for, at a minimum, the following:

1. Establishment of specifications for procurement of all materials, including drugs, chemicals and biologicals;
2. Participation in the development of a formulary for the hospital;
3. Compounding and repackaging of drugs;
4. Preparation and sterilization of parenteral medications within the hospital;
5. Admixture of parenteral products;
6. Filling and labeling all containers from which drugs are to be distributed, dispensed or administered;
7. Proper handling of investigational drugs;
8. Dispensing and distribution of drugs to be administered to inpatients and outpatients;
9. Ensuring the availability of an effective and efficient means for transportation of medications and orders within the hospital;
10. Records of all transactions of the hospital pharmacy as may be necessary to maintain accurate control over and accountability for all pharmaceutical services;
11. Inspection of drug storage and preparation areas within the hospital;

12. Maintaining and making available a sufficient inventory of floor stock drugs, antidotes and other emergency drugs both in the pharmacy and in patient care areas;
13. Participation in those aspects of the hospital quality assurance program relevant to pharmaceutical services; and
14. Participation of pharmacy personnel in relevant training and education programs including orientation of new employees.

**C.** Physicians orders. Drugs shall be dispensed from the hospital pharmacy only upon written orders, direct copies or facsimiles thereof, or verbal orders of an authorized medical practitioner. The pharmacist shall review the original order or direct copy before the initial dose of medication is dispensed, except in an emergency.

1. Authorization. The medical staff shall designate those medical practitioners who are authorized to prescribe medications for hospital patients.
2. Abbreviations. Orders employing abbreviations and chemical symbols shall be processed only if such abbreviations and symbols appear on a published approved list of accepted abbreviations for the hospital.
3. Requirements - Orders for drugs for use by inpatients. Orders for drugs for use by inpatients at a minimum shall contain: patient name and location, drug name, dose, frequency, directions for use, date and medical practitioner's signature (or that of his authorized representative).
4. Requirements - Orders for drugs for self-administration by outpatients. Orders for drugs to be self-administrated by outpatients become prescriptions and shall meet all applicable requirements of the Arizona Pharmacy Act and these rules.

**D.** Formulary. Under the direction of the proper hospital committee, the pharmacist-in-charge shall make available for inspection by the Board or its designee a medication formulary that addresses such subjects as:

1. Information of hospital policies and procedures concerning drugs;
   a. Categories of drugs;
   b. Description of the hospital pharmacy and therapeutics committee;
   c. Hospital regulations governing the prescribing, dispensing and administration of drugs;
   d. Pharmacy operating procedures;
   e. Information on using the formulary;
2. Drug products listing;
3. Formulary item entries;
4. Indexes to the drug products listing;
5. Special information;

**E.** Labeling. All drugs distributed or dispensed by a hospital pharmacy shall be packaged in appropriate containers and labeled as follows:

1. For use inside the hospital;
   a. Labels for all single unit packages shall contain at a minimum, the following information:
      i. Drug name, strength and dosage form;
      ii. Lot number and beyond use date where applicable;
      iii. Appropriate auxiliary labels.
   b. Labels for repackaged or compounded preparations shall contain at a minimum the following information:
      i. Identification of the hospital pharmacy;
      ii. Drug name, identification, or list of active ingredients;
      iii. Strength of drug or amount of active ingredients;
      iv. Lot number and beyond use date where applicable;
      v. Appropriate auxiliary labels;
      vi. Mechanism to identify pharmacist accountability for preparation or packaging.
   c. Labels for all intravenous admixture preparations shall contain at a minimum the following information:
      i. Patient's name and location;
      ii. Name and quantity of the basic parenteral solutions;
      iii. Name and amount of drugs added;
      iv. Date and, if appropriate, time of preparation;
      v. Beyond use date and time;
      vi. Date, time and guidelines for administration;
      vii. Ancillary labels or precautionary statements as appropriate;
      viii. Initials of pharmacist responsible for admixture preparation.
2. For use outside the hospital. All drugs dispensed to a patient by a hospital pharmacy which are intended for self-administration outside of the hospital shall be labeled with, at a minimum, the following information:
   a. Name, address and telephone number of hospital pharmacy;
   b. Date and identifying serial number;
   c. Full name of the patient;
   d. Name of drug, strength and number of units;
   e. Directions for use to the patient;
   f. Name of prescribing physician;
   g. Initials of pharmacist dispensing;
   h. Required precautionary information regarding controlled substances;
   i. Name of manufacturer or distributor of the dispensed generic equivalent drug or abbreviations of such information approved by the board; and
   j. Such other and further accessory cautionary information as may be required or desirable for proper use and safety to the patient.

**F.** Records. The Director shall maintain appropriate records which document the selection, repackaging, manufacturing, distribution, dispensing and quality assurance processes for drug products and physician medication orders. Such documentation shall be maintained as required by law or for a minimum of one year. All records and labeling shall be devised in such a manner that professional responsibility can be traced to a pharmacist.

**G.** Controlled substance accountability. The hospital shall establish effective procedures and maintain adequate records regarding the use and accountability of controlled substances. If controlled drugs are stored in patient care areas, there shall be locked storage areas.

**H.** Discontinued drugs. Discontinued or outdated drugs and containers or packages of drugs with worn, illegible or missing labels shall be returned to the pharmacy for proper and safe destruction in accordance with written policies and procedures.

**I.** Emergency care center dispensing. If the hospital permits dispensing of drugs from the Emergency Care Center when the pharmacy is unable to provide these services, the Director, in conjunction with the appropriate department personnel and medical staff committee shall develop and supervise written policies and procedures which shall be used in dispensing

drugs from a hospital for outpatient use. Such procedures shall include but not be limited to:

1. Drugs may only be dispensed to patients who have been admitted to the emergency care center;
2. Drugs may only be dispensed by authorized medical practitioners, not their designee or agent;
3. The nature and type of drugs available for dispensing shall be designed to meet the immediate needs of the patients treated within the hospital;
4. Drugs shall only be dispensed in quantities sufficient to meet patient needs until such time as outpatient pharmacy services are available;
5. Such drugs shall be prepackaged by a pharmacist in suitable containers and appropriately prelabeled with the drug name, strength, dosage form, quantity, manufacturer, lot number, beyond use date and any necessary auxiliary labels.
6. Upon dispensing, the authorized medical practitioner shall complete the label on the prescription container which shall comply with the requirements of R4-23-658(D).

**Historical Note**
Former Rules 6.7610, 6.7620, and 6.7710; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to subsection (I)(5) ("unnecessary" changed to "necessary") (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-659. Non-distributive Roles of the Pharmacist**

The non-distributive roles of the pharmacist may include, but are not limited to, chart review, audits, drug therapy monitoring, committee participation, drug information, in-service training of pharmacy and other health professionals, poison control and patient care area inspections.

**Historical Note**
Former Rules 6.7720, 6.7730, 6.7740, 6.7760, 6.7770, 6.7780, 6.7800, 6.7810, 6.7820, 6.7830, 6.7840, 6.7850, 6.7871, 6.7872, and 6.7873; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Section heading ("rules" changed to "roles") (Supp. 91-1).

**R4-23-660. Administration of Drugs**

**A.** General. Drugs shall be administered at a hospital only upon the order of authorized medical practitioners. Drugs shall be administered only by authorized hospital personnel in accordance with policies and procedures developed in accordance with R4-23-660(B).

**B.** Policies. The Director of Pharmacy shall develop in conjunction with the medical staff and other disciplines in the hospital written policies and procedures that govern the safe administration of drugs.

**C.** Record of Administration. Each dose of medication administered shall be recorded in the patient's medication record and shall show the date, time, dosage and method of administration and a method of identifying the person who administered drug. When initials are used, the name identification shall be noted on each medication record.

**D.** Self-administration. If permitted in the hospital, self-administration of medications by patients shall be allowed only when specifically ordered by the physician and provided that patients are educated and trained in the proper manner of self-administration. If self-administration is allowed, policies and procedures shall be developed.

**Historical Note**
Former Rules 6.7881, 6.7882, and 6.7883; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).

**R4-23-661. Drugs from Outside Sources**

**A.** Drugs brought in by patients. If patients are permitted to bring their own drugs into the hospital, these drugs shall not be administered unless they can be identified by the pharmacist or medical practitioner and until the medical practitioner's order is written to administer these specific drugs. If the drug brought in by the patient is not to be used during the patient's hospitalization, it shall be packaged and sealed and given to the patient's agent or stored and returned to the patient at the time of discharge.

**B.** Drug samples. Receipt, distribution and accountability of drug samples shall be under the direct control of the pharmacy department.

**Historical Note**
Former Rules 6.7910, 6.7920, 6.7930, 6.7940, and 6.7950. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).

**R4-23-662. Quality Assurance**

**A.** General. The Director of Pharmacy shall be responsible for developing procedures for an ongoing Quality Assurance Program of pharmaceutical services that includes a mechanism for reviewing and evaluating dispensing, distribution, control and use of drugs in relation to patient care.

**B.** Sterile product preparation. The Director of Pharmacy shall be responsible for developing procedures for quality assurance in all areas where sterile product preparation takes place. Such procedures shall include the selection, education, training and evaluation of personnel, duties of personnel involved, handwashing technique, safe handling of antineoplastics, housekeeping of the intravenous admixture area, in-process controls and end-product verification. An annually certified laminar air flow hood is required for the preparation of sterile products by pharmacy personnel. Documentation of hood maintenance, including HEPA filter inspection, prefilter maintenance, disinfecting, and cleaning shall be kept in the pharmacy for a one-year period.

**Historical Note**
Adopted effective February 7, 1990 (Supp. 90-1).

**R4-23-663. Investigational Drugs**

**A.** The pharmacist-in-charge shall obtain and make available to hospital personnel the following information concerning investigational drugs in use at the hospital:
1. Composition,
2. Pharmacology,
3. Adverse reactions,
4. Administration guidelines,
5. All other available information concerning the drug.

**B.** Investigational drugs shall be stored in the pharmacy and shall be properly labeled.

**C.** The pharmacist-in-charge shall not permit the dispensing of investigational drugs unless such drugs have been approved by the appropriate medical staff committee of the hospital.

**Historical Note**
Adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4).

**R4-23-664. Inspections**

Patient care area inspections. The pharmacist-in-charge or designee shall perform periodic inspections of all drug storage areas. These

areas shall be well lighted and shall be located in a place where the nursing personnel are not interrupted when preparing drugs for administration to the patient. Records shall be maintained that verify compliance with current requirements as defined by the Board.

**Historical Note**
Adopted effective February 7, 1990 (Supp. 90-1). Subsection label removed (Supp. 91-1).

**R4-23-665. Reserved**

**R4-23-666. Reserved**

**R4-23-667. Reserved**

**R4-23-668. Reserved**

**R4-23-669. Reserved**

**R4-23-670. Sterile Pharmaceutical Products Pharmacy**

**A.** Prior to compounding sterile pharmaceutical products, the owner shall obtain a pharmacy permit in compliance with R4-23-606.

**B.** In addition to the space requirement of R4-23-609(A) and R4-23-655(B), there shall be a minimum 60 square feet of contiguous floor space dedicated to the purpose of compounding sterile pharmaceutical products. The sterile-compounding area shall be isolated from other pharmacy functions, have restricted entry or access, and be free from unnecessary disturbances in air flow. This area shall have nonporous and cleanable surfaces. The Board may also require more than the minimum area in instances where equipment, inventory, personnel, or other factors cause crowding to such a degree as to interfere with safe pharmacy practice.

**C.** Equipment required to compound sterile products shall, in addition to the requirements in R4-23-611 and R4-23-612, include:

1. Environmental control devices capable of maintaining a compounding area environment equivalent to "class 100 conditions" as described in the Federal Standard 209 Clean Room and Work Station Requirements: Controlled Environment, publication FED-STD-209D, June 15, 1988, edition which includes January 28, 1991, changes, incorporated herein by reference and on file with the Office of the Secretary of State. Devices capable of meeting these standards include but are not limited to: laminar airflow hoods, hepa-filtered zonal airflow devices, and biological safety cabinets.
2. Disposal containers designed for needles, syringes, and other material used in compounding sterile products and, if applicable, separate containers to dispose of cytotoxic, chemotherapeutic, and infectious waste products.
3. Freezer/storage units with thermostatic control and thermometer; temperature-controlled delivery containers.
4. Infusion devices and accessories, if applicable.
5. Reference library shall, in addition to the requirements of R4-23-612, include current references pertinent to the preparation of sterile pharmaceutical products.

**D.** Prior to compounding sterile pharmaceutical products, the pharmacist-in-charge shall prepare and have available for inspection by the Board or its designee a policy and procedure manual addressing the following subjects:

1. Clinical services and drug monitoring;
2. Controlled substances;
3. Cytotoxics handling, storage, and disposal;
4. Disposal of unused supplies and medications;
5. Drug administration, including guidelines for the first dosing of the medication;
6. Drug product procurement;
7. Drug compounding, dispensing, and storage;
8. Duties and qualifications of professional and support staff;
9. Equipment maintenance and inventory;
10. Handling of infectious wastes;
11. Infusion devices and drug delivery systems;
12. Investigational drugs and their protocols;
13. Patient profiles;
14. Patient education and safety which includes, but is not limited to, provisions for the assessment of the living environment of patients receiving sterile products;
15. Quality assurance procedures which, in addition to the requirements set forth in R4-23-662, shall include:
    a. Recall procedures;
    b. Storage and beyond-use dating as defined in R4-23-110;
    c. Educational procedures for professional staff, support staff, and patient;
    d. Sterile procedures including a log of the temperature of the refrigerator/freezer, routing maintenance, and record of hood certification;
    e. Sterility testing with documentation of end product and process testing;
16. Recordkeeping;
17. Sanitation;
18. Security;
19. Delivery of sterile products:
    a. Transportation;
    b. Emergency provision.

**E.** The nondistributive roles of the pharmacist may include but are not limited to chart reviews, audits, drug therapy monitoring, committee participation, drug information, in-service training of pharmacy and other health professionals.

**Historical Note**
Adopted effective November 1, 1993 (Supp. 93-4).

**R4-23-671. General Requirements for Limited-service Pharmacy**

**A.** Before opening a limited-service pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

**B.** The limited-service pharmacy permittee shall secure the limited-service pharmacy by conforming with the following standards:

1. Permit no one to be in the limited-service pharmacy unless a pharmacist authorized by the pharmacist-in-charge pursuant to R4-23-672(B) or R4-23-673(E) is present;
2. Require the pharmacist-in-charge to designate in writing, by name, title, and specific area, those persons who will have access to particular areas of the limited-service pharmacy;
3. Implement procedures to guard against theft or diversion of drugs, including controlled substances; and
4. Require all persons working in the limited-service pharmacy to wear badges, with their names and titles, while on duty.

**C.** To obtain permission to deviate from the minimum area requirement set forth in R4-23-609 or R4-23-673, a limited-service pharmacy permittee shall submit a written request to the Board and include documentation that the deviation will facilitate experimentation or technological advances in the practice of pharmacy as defined in A.R.S. § 32-1901. If the Board determines the requested deviation from the minimum area requirement will enhance the practice of pharmacy and

benefit the public, the Board shall grant the requested deviation.

**D.** The Board shall require more than the minimum area in a limited-service pharmacy when the Board determines that equipment, personnel, or other factors in the limited-service pharmacy cause crowding that interferes with safe pharmacy practice.

**E.** Before dispensing from a limited-service pharmacy, the pharmacist-in-charge shall:

1. Prepare written policies and procedures for pharmacy operations and drug distribution,
2. Submit a copy of the written policies and procedures to the Board office with the original permit application,
3. Conduct a biennial review and revision of the policies and procedures and submit a copy of any revision to the Board office, and
4. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.

**Historical Note**

Adopted effective April 5, 1996 (Supp. 96-2).

**R4-23-672. Limited-service Correctional Pharmacy**

**A.** The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy complies with the standards for area, personnel, security, sanitation, equipment, drug distribution and control, administration of drugs, drug source, quality assurance, investigational drugs, and inspections as set forth in R4-23-608, R4-23-609(A) through (D) and (F) through (H), R4-23-610(A), R4-23-611, R4-23-612, R4-23-653(D), except (2)(e), R4-23-658(B) through (H), and R4-23-660 through R4-23-664.

**B.** The pharmacist-in-charge of a limited-service correctional pharmacy shall authorize only pharmacists, interns, drug inspectors, peace officers, and correctional officers acting in their official capacities, supportive personnel, and other designated personnel to be in the limited-service correctional pharmacy.

**C.** When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have access to drugs in remote drug storage areas or, if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient, in the limited-service correctional pharmacy.

1. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that remote drug storage areas:
   a. Contain only properly labeled drugs that might reasonably be needed and can be administered safely during the absence of a pharmacist,
   b. Contain drugs packaged only in amounts sufficient for immediate therapeutic requirements,
   c. Are accessible only with a physician's written order,
   d. Provide a written record of each drug withdrawn,
   e. Are inventoried at least once each week, and
   f. Are audited for compliance with the requirements of this rule at least once each month.
2. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that access to the limited-service correctional pharmacy when no pharmacist is on duty conforms to the following requirements:
   a. Is delegated to only 1 nurse, who is in a supervisory position;
   b. Is communicated in writing to medical staff of the correctional facility;
   c. Is delegated only to a nurse who has received training from the pharmacist-in-charge in proper methods of access, removal of drugs, and records and procedures required; and
   d. Is delegated by the supervisory nurse to another nurse only in emergencies.
3. When a nurse to whom authority to access the limited-service correctional pharmacy is delegated removes a drug from the limited-service correctional pharmacy, the nurse shall:
   a. Record the following information on a form:
      i. Patient's name,
      ii. Name of the drug and its strength and dosage form,
      iii. Dose prescribed,
      iv. Amount of drug removed, and
      v. Date and time of removal;
   b. Sign the form recording the drug removal;
   c. Attach the original or a direct copy of a physician's written order for the drug to the form recording the drug removal; and
   d. Place the form recording the drug removal conspicuously in the limited-service correctional pharmacy.
4. Within 4 hours after a pharmacist in the limited-service correctional pharmacy returns to duty following an absence in which the limited-service correctional pharmacy was accessed by a nurse to whom authority had been delegated, the pharmacist shall verify all records of drug removal in accordance with R4-23-402.

**D.** When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have telephone access to a pharmacist.

**E.** The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy is without a pharmacist on duty for no more than 96 consecutive hours.

**F.** In addition to the requirements of R4-23-671, the limited-service pharmacy permittee shall secure the limited-service correctional pharmacy by conforming with the following standards:

1. Permit no one to be in the limited-service correctional pharmacy unless a pharmacist is on duty except:
   a. As provided in subsection (C)(3) when no pharmacist is on duty; or
   b. Pharmacy technicians may remain to perform duties outlined in R4-23-653(D)(2), except subsection (D)(2)(e), when a pharmacist is on duty and available in the correctional facility but temporarily absent from the pharmacy, provided all controlled substances are secured in a manner that prohibits access by persons other than a pharmacist; and
2. Provide keyed or programmable locks to all areas of the limited-service correctional pharmacy.

**G.** The pharmacist-in-charge of a limited-service correctional pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution within the correctional facility include the following:

1. Physicians' orders, prescription orders, or both;
2. Authorized abbreviations;
3. Formulary system;

4. Clinical services and drug utilization management including:
   a. Participation in drug selection,
   b. Drug utilization reviews,
   c. Inventory audits,
   d. Patient outcome monitoring,
   e. Committee participation,
   f. Drug information, and
   g. Education of pharmacy and other health professionals;
5. Duties and qualifications of professional and support staff;
6. Products of abuse and contraband medications;
7. Controlled substances;
8. Drug administration;
9. Drug product procurement;
10. Drug compounding, dispensing, and storage;
11. Stop orders;
12. Pass/Discharge medications;
13. Investigational drugs and their protocols;
14. Patient profiles;
15. Quality management procedures for:
    a. Adverse drug reactions;
    b. Drug recalls;
    c. Expired and beyond-use-date drugs;
    d. Medication or dispensing errors;
    e. Drug storage; and
    f. Education of professional staff, support staff, and patients;
16. Recordkeeping;
17. Sanitation;
18. Security;
19. Access to remote drug storage areas by non-pharmacists; and
20. Access to limited-service correctional pharmacy by non-pharmacists.

**Historical Note**
Adopted effective April 5, 1996 (Supp. 96-2).

**R4-23-673. Limited-service Mail-order Pharmacy**

**A.** The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
2. A dispensing area of at least 300 square feet if 3 or fewer persons work in the dispensing area simultaneously;
3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of 3 persons if more than 3 persons work in the dispensing area simultaneously;
4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or

**B.** The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
2. A contiguous area of at least 300 square feet if 3 or fewer persons work in the area simultaneously;
3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of 3 persons if more than 3 persons work in the area simultaneously; and
4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.

**C.** The limited-service pharmacy permittee shall allow no more than 4 supportive personnel per pharmacist to be in the limited-service mail-order pharmacy.

**D.** The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards for area, personnel, security, sanitation, and equipment set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610 (A) and (C) through (F), R4-23-611(A) through (I), and R4-23-612.

**E.** The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, drug inspectors, peace officers acting in their official capacities, supportive personnel, and other designated personnel to be in the limited-service mail-order pharmacy.

**F.** The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.

**G.** In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than 6 days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.

**H.** The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
1. Prescription orders;
2. Clinical services and drug utilization management for:
   a. Drug utilization reviews,
   b. Inventory audits,
   c. Patient outcome monitoring,
   d. Drug information, and
   e. Education of pharmacy and other health professionals;
3. Duties and qualifications of professional and support staff;
4. Controlled substances;
5. Drug product procurement;
6. Drug compounding, dispensing, and storage;
7. Patient profiles;
8. Quality management procedures for:
   a. Adverse drug reactions,
   b. Drug recalls,
   c. Expired and beyond-use-date drugs,
   d. Medication or dispensing errors, and
   e. Education of professional and support staff;
9. Recordkeeping;
10. Sanitation;
11. Security;
12. Drug delivery requirements for:
    a. Transportation,
    b. Security,
    c. Temperature and other environmental controls,

d. Emergency provisions, and
13. Patient education.

**Historical Note**
Adopted effective April 5, 1996 (Supp. 96-2).

**R4-23-674. Reserved**

**R4-23-675. Reserved**

**R4-23-676. Reserved**

**R4-23-677. Reserved**

**R4-23-678. Reserved**

**R4-23-679. Reserved**

**R4-23-680. Reserved**

**R4-23-681. General Requirements for Limited-service Nuclear Pharmacy**

**A.** To be an authorized nuclear pharmacist, a pharmacist shall:
1. Hold a current pharmacist license issued by the Board; and
2. Be certified as a nuclear pharmacist by:
   a. The Board of Pharmaceutical Specialties, or
   b. A similar group recognized by the Arizona State Board of Pharmacy; or
3. Satisfy each of the following requirements:
   a. Meet minimal standards of training for status as an authorized user of radioactive material, as specified by the Arizona Radiation Regulatory Agency and the United States Nuclear Regulatory Commission;
   b. Submit certification of completion of a Board-approved nuclear pharmacy training program or other training program recognized by the Arizona Radiation Regulatory Agency, with 200 hours of didactic training in the following areas:
      i. Radiation physics and instrumentation,
      ii. Radiation protection,
      iii. Mathematics pertaining to the use and measurement of radioactivity,
      iv. Radiation biology, and
      v. Radiopharmaceutical chemistry;
   c. Submit evidence of a minimum of 500 hours of clinical/practical nuclear pharmacy training under the supervision of an authorized nuclear pharmacist in the following areas:
      i. Procuring radioactive materials;
      ii. Compounding radiopharmaceuticals;
      iii. Performing routine quality control procedures;
      iv. Dispensing radiopharmaceuticals;
      v. Distributing radiopharmaceuticals;
      vi. Implementing basic radiation protection procedures; and
      vii. Consulting and educating the nuclear medicine community, patients, pharmacists, other health professionals, and the general public; and
   d. Submit written certification, signed by a preceptor who is an authorized nuclear pharmacist, that the above training was satisfactorily completed.

**B.** Radiopharmaceuticals are prescription-only drugs that require specialized techniques in their handling and testing, to obtain optimum results and minimize hazards.
1. A person shall not sell, barter, or otherwise dispose of, or be in possession of any radiopharmaceutical except under the conditions detailed in A.R.S. § 32-1929.
2. A person shall not manufacture, compound, sell, or dispense any radiopharmaceutical unless the person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist in accordance with A.R.S. § 32-1961 and these rules, with the exception of the following, if the following are licensed by the Arizona Radiation Regulatory Agency to use radiopharmaceuticals in compliance with A.R.S. § 30-673;
   a. A medical practitioner who administers a radiopharmaceutical to the medical practitioner's patient as provided in A.R.S. § 32-1921(A),
   b. A hospital nuclear medicine department, and
   c. A medical practitioner's office.
3. The Board shall cooperate with the Arizona Radiation Regulatory Agency and other interested state and federal agencies, in the enforcement of these rules for the protection of the public. This cooperation may include exchange of licensing and other information, joint inspections, and other activities where indicated.

**C.** In addition to compliance with all the applicable federal and state laws and rules governing drugs, whether radioactive or not, a limited-service nuclear pharmacy permittee shall comply with all laws and rules of the Arizona Radiation Regulatory Agency and the U.S. Nuclear Regulatory Commission, including emergency and safety provisions.

**D.** A limited-service nuclear pharmacy permittee shall comply with the education, experience, and licensing requirements of the Arizona Radiation Regulatory Agency.

**E.** A limited-service nuclear pharmacy permittee shall ensure that radiopharmaceuticals are transferred only to a person or firm that holds a current Radioactive Materials License issued by the Arizona Radiation Regulatory Agency.

**Historical Note**
Adopted effective Dec. 3, 1974 (Supp. 75-1). Amended subsections (A), (C) and (D) effective Aug. 12, 1988 (Supp. 88-3). Amended effective July 8, 1997 (Supp. 97-3).

**R4-23-682. Limited-service Nuclear Pharmacy**

**A.** Before operating a limited-service nuclear pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, and 32-1931, and A.A.C. R4-23-606.

**B.** A permit to operate a limited-service nuclear pharmacy shall be issued only to a person who is or employs an authorized nuclear pharmacist and holds a current Arizona Radiation Regulatory Agency Radioactive Materials License. A limited-service nuclear pharmacy permittee that fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License shall be immediately suspended pending revocation by the Board. A limited-service nuclear pharmacy permittee shall have copies of Arizona Radiation Regulatory Agency inspection reports available upon request for Board inspection.
1. A limited-service nuclear pharmacy permittee shall designate an authorized nuclear pharmacist as the pharmacist-in-charge. The pharmacist-in-charge shall be responsible to the Board:
   a. For the operations of the pharmacy related to the practice of pharmacy and distribution of drugs and devices;
   b. For communicating Board directives to the management, pharmacists, interns, and other personnel of the pharmacy; and
   c. For the pharmacy's compliance with all federal and state pharmacy laws and rules.
2. An authorized nuclear pharmacist shall directly supervise all personnel performing tasks in the preparation and distribution of radiopharmaceuticals and ancillary drugs.

3. An authorized nuclear pharmacist shall be present whenever the limited-service nuclear pharmacy is open for business.

**C.** A limited-service nuclear pharmacy permittee shall ensure that the limited-service nuclear pharmacy complies with the standards for personnel, area, security, sanitation, and general requirements in R4-23-608, R4-23-609, R4-23-610, R4-23-611, and R4-23-671.
1. A limited-service nuclear pharmacy shall contain separate areas for:
   a. Preparing and dispensing radiopharmaceuticals,
   b. Receiving and shipping radiopharmaceuticals,
   c. Storing radiopharmaceuticals, and
   d. Decaying radioactive waste.
2. The Board may require more than the minimum area in instances where equipment, inventory, personnel, or other factors cause crowding to a degree that interferes with safe pharmacy practice.

**D.** The pharmacist-in-charge shall designate in writing, by title and specific area, the persons who may have access to particular pharmacy areas.

**E.** A limited-service nuclear pharmacy permittee shall maintain records of acquisition, inventory, and disposition of radiopharmaceuticals, other radioactive substances, and other drugs in accordance with federal and state statutes and rules.
1. A prescription order, in addition to the requirements in A.R.S. § 32-1968(C) and A.A.C. R4-23-407(A), shall contain:
   a. The date and time of calibration of the radiopharmaceutical,
   b. The name of the procedure for which the radiopharmaceutical is prescribed, and
   c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product.
2. The lead container used to store and transport a radiopharmaceutical shall have a label that, in addition to the requirements in A.R.S. § 32-1968(D), includes:
   a. The date and time of calibration of the radiopharmaceutical,
   b. The name of the radiopharmaceutical,
   c. The molybdenum 99 content to USP limits,
   d. The name of the procedure for which the radiopharmaceutical is prescribed,
   e. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product,
   f. The words "Caution: Radioactive Material", and
   g. The standard radiation symbol.
3. The radiopharmaceutical container shall have a label that includes:
   a. The date and time of calibration of the radiopharmaceutical;
   b. The name of the patient, recorded before dispensing, if the radiopharmaceutical is therapeutic or for a blood product;
   c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product;
   d. The name of the radiopharmaceutical;
   e. The dose of radiopharmaceutical;
   f. The serial number;
   g. The words "Caution: Radioactive Material"; and
   h. The standard radiation symbol.

**F.** The following minimum requirements are in addition to the requirements of the Arizona Radiation Regulatory Agency, the applicable U.S. Nuclear Regulatory Commission regulations, and the applicable regulations of the federal Food and Drug Administration. A limited-service nuclear pharmacy permittee shall provide:
1. In addition to the minimum pharmacy area requirements in R4-23-609:
   a. An area for the storing, compounding, and dispensing of radiopharmaceuticals completely separate from pharmacy areas for nonradioactive drugs;
   b. A minimum of 80 sq. ft. for a hot lab and storage area; and
   c. A minimum of 300 sq. ft. of compounding and dispensing area;
2. The following equipment:
   a. Fume hood, approved by the Arizona Radiation Regulatory Agency;
   b. Laminar flow hood;
   c. Dose calibrator;
   d. Refrigerator;
   e. Prescription balance, Class A, and weights;
   f. Well scintillation counter;
   g. Incubator oven;
   h. Microscope;
   i. Equipment to produce a typed or mechanically printed label;
   j. Equipment to produce mechanically printed numbers;
   k. An assortment of labels, including prescription labels and cautionary and warning labels;
   l. Glassware necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
   m. Other equipment necessary for radiopharmaceutical quality control for products compounded or dispensed as required by the Arizona Radiation Regulatory Agency;
   n. Current antidote and drug interaction information; and
   o. Regional poison control phone number prominently displayed in the pharmacy area;
3. Supplies necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
4. A professional reference library consisting of a minimum of 1 current reference or text addressing each of the following subject areas:
   a. Therapeutics,
   b. Nuclear pharmacy practice, and
   c. Imaging;
5. Current editions and supplements of:
   a. A.R.S. §§ 30-651 through 30-696 pertaining to the Arizona Radiation Regulatory Agency,
   b. Rules of the Arizona Radiation Regulatory Agency,
   c. Regulations of the federal Food and Drug Administration pertaining to radioactive drugs,
   d. Arizona Pharmacy Act and rules,
   e. Arizona Uniform Controlled Substances Act, and
   f. Radiological Health Handbook.

**G.** The pharmacist-in-charge of a limited-service nuclear pharmacy shall prepare and implement written policies and procedures for pharmacy operations and drug distribution.

**H.** The written policies and procedures of a limited-service nuclear pharmacy shall include the following:
1. Prescription orders;
2. Clinical services and drug utilization management including:

a. Drug utilization reviews,
b. Inventory audits,
c. Patient outcome monitoring,
d. Drug information, and
e. Education of pharmacy and other health professionals;
3. Duties and qualifications of professional and support staff;
4. Radioactive material handling, storage, and disposal;
5. Drug product procurement;
6. Drug compounding, dispensing, and storage;
7. Investigational drugs and their protocols;
8. Patient profiles;
9. Quality management procedures for:
a. Adverse drug reaction reports;
b. Drug recall;
c. Expired and beyond-use-date drugs;
d. Medication or dispensing errors;
e. Radiopharmaceutical quality assurance;
f. Radiological health and safety;
g. Drug storage and disposition; and
h. Education of professional staff, support staff, and patients;
10. Recordkeeping;
11. Sanitation;
12. Security;
13. Drug delivery requirements for:
a. Transportation,
b. Security,
c. Radiological health and safety procedures,
d. Temperature and other environmental controls, and
e. Emergency provisions; and
14. Patient education.

**Historical note**
Adopted effective July 8, 1997 (Supp. 97-3).

**R4-23-683. Reserved**

**R4-23-684. Reserved**

**R4-23-685. Reserved**

**R4-23-686. Reserved**

**R4-23-687. Reserved**

**R4-23-688. Reserved**

**R4-23-689. Reserved**

**R4-23-690. Reserved**

**R4-23-691. Repealed**

**Historical Note**
Adopted effective Dec. 3, 1974 (Supp. 75-1). Amended effective Aug. 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Repealed effective July 8, 1997 (Supp. 97-3).

**R4-23-692. Compressed Medical Gas Distributor**

**A.** Permit:
1. A person shall not manufacture, process, transfill, package, or label a compressed medical gas before a compressed medical gas distributor permit is issued by the Board or its designee following a satisfactory final inspection by a Board compliance officer.
2. Before operating as a compressed medical gas distributor, a person shall register with the FDA as a medical gas manufacturer and comply with the drug listing requirements of the federal act.
3. To obtain a compressed medical gas distributor permit a person shall submit a completed application, on a form furnished by the Board, to the Board's office.
4. A compressed medical gas distributor permittee shall distribute a compressed medical gas only:
a. Pursuant to a compressed medical gas order; and
b. If the compressed medical gas is listed on the distributor's permit application. To receive approval to distribute an additional compressed medical gas, the permittee shall request that the permit application be amended.
i. The permittee shall send a written request to amend the permit application to the Board office.
ii. The request shall include documentation that the FDA has approved manufacture of the additional compressed medical gas not listed on the original permit application.
iii. If a request to amend an original permit application includes the documentation referenced in subsection (A)(4)(b)(ii) and if the Board or its designee determines that the amendment is in the interest of public health and safety, the Board or its designee shall approve the request to amend within 30 days of receipt.
5. A compressed medical gas distributor permit is subject to denial, suspension, or revocation under A.R.S. § 32-1932.

**B.** Current Good Manufacturing Practice: A compressed medical gas distributor permittee shall comply with the current good manufacturing practice requirements of 21 CFR 210 through 211, published April 1, 1996, (and no future amendments or editions), incorporated by reference and on file with the Board and the office of the Secretary of State.

**C.** Records: A compressed medical gas distributor permittee shall establish and implement written procedures for maintaining records pertaining to production, transfilling, process control, labeling, packaging, quality control, distribution, complaints, and any information required by federal or state law.
1. A permittee shall retain the records required by this Article and 21 CFR 210 through 211 for at least 2 years after distribution of the compressed medical gas or 1 year after the expiration date of the compressed medical gas, whichever is longer.
2. A permittee shall make the records required by this Article and 21 CFR 210 through 211 available within 48 hours for review by the Board, its compliance officers, or the FDA.

**D.** Inspections: A permittee shall make the compressed medical gas distributor's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.

**Historical Note**
Adopted effective January 12, 1998 (Supp. 98-1).

**R4-23-693. Compressed Medical Gas Supplier**

**A.** Permit:
1. A person shall not supply a compressed medical gas before a compressed medical gas supplier permit is issued by the Board or its designee following a satisfactory final inspection by a Board compliance officer.
2. To obtain a compressed medical gas supplier permit a person shall submit a completed application, on a form furnished by the Board, to the Board's office.
3. A compressed medical gas supplier permittee shall supply a compressed medical gas only:
a. Pursuant to a compressed medical gas order, and

b. To the consumer, patient, or agent of the consumer or patient for whom the compressed medical gas order is written.

4. A compressed medical gas supplier permittee shall not manufacture, process, transfill, package, or label a compressed medical gas, except as set forth in subsection (B)(2).

**B.** Records: A compressed medical gas supplier permittee shall establish and implement written procedures for maintaining records pertaining to acquisition and distribution of, and complaints related to, compressed medical gases.

1. A permittee shall ensure that a compressed medical gas order is obtained and filed for each compressed medical gas container supplied by the permittee.
2. A permittee shall ensure that each compressed medical gas container supplied by the permittee contains a label bearing the name and address of the compressed medical gas supplier.
3. A permittee shall retain the records required by this Article for at least 2 years after supplying the compressed medical gas or 1 year after the expiration date of the compressed medical gas, whichever is longer.
4. A permittee shall make the records required by this Article available within 48 hours for review by the Board or its compliance officers.

**C.** Inspections: A permittee shall make the compressed medical gas supplier's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.

**Historical Note**
Adopted effective January 12, 1998 (Supp. 98-1).

## ARTICLE 7. NON-PHARMACY LICENSED OUTLETS -- GENERAL PROVISIONS

### R4-23-701. Long-term Care Facilities Pharmacy Services: Consultant Pharmacist

**A.** The long-term care consultant pharmacist as defined in R4-23-110 shall establish written procedures for the safe and efficient receipt, distribution and storage of pharmaceutical products. Such documents shall be available for review during inspections. These written procedures shall, at a minimum, include:

1. Specification for the storage, distribution, and procurement of medications and biologicals.
2. Resident evaluation programs which relate to monitoring the therapeutic response and utilization of all medications prescribed or administered to residents, utilizing as guidelines the most current indicators established by the Health Care Financing Administration/United States Department of Health and Human Services as provided in 42 CFR 431 et seq. published in 56 Fed. Reg. 48875 (No. 187, September, 26, 1991; § 483.60) incorporated herein by reference and on file with the Office of the Secretary of State.
3. Pharmacist assistance in medication-related emergency situations on a 24-hour basis.
4. Security and temperature control for all medications.
5. Key control of locked medication storage areas.
6. Guidelines to ensure that all discontinued or outdated, prescription-only medicines or containers with worn, illegible or missing labels are destroyed or disposed of under the supervision of either the long-term care consultant or provider pharmacist, witnessed by the administrator or his designee. All medication destruction shall be done in a timely manner using procedures consistent with state and local requirements or regulations and subject to review by the Board of Pharmacy.
7. Identifying and reporting to proper authorities drug irregularities and dispensing errors.

**B.** A pharmacist shall evaluate the prescription order or a copy thereof and at a minimum verify the following:

1. Only medical practitioners as defined in A.R.S. § 32-1901, authorized by law to prescribe medications, may prescribe for the practitioner's patient in a long-term care facility.
2. Only symbols and abbreviations that are customarily used in the practice of medicine and pharmacy or those placed on an approved list agreed to by the long-term care consultant pharmacist and medical staff shall be acceptable on long-term care facility medical orders.
3. Prescription orders for use by residents of the facility shall, at a minimum, contain: resident's name, medication name and strength, directions for use, date of order, and name of prescriber.
4. That during such time at the long-term care facility when the provider pharmacist is not available, arrangements shall be made in advance by the long-term care consultant pharmacist for providing medications to the licensed nursing staff of the facility using an emergency medication box located at the facility.
5. Medications should be dispensed for a specific duration within the parameters defined by the policy and procedure manual developed by the long-term care consultant pharmacist.

**C.** The long-term care consultant pharmacist shall establish and implement procedures designed to assure that controlled substance accountability records are in conformity with requirements found in A.R.S. § 36-2501 et seq. and A.A.C. Title 4, Chapter 23, Article 10. In addition to general accountability, the procedures shall address: the name of the persons administering the controlled substance, documentation and verification of any wasted doses or partial doses, and exception reporting for refused doses.

**D.** The long-term care consultant pharmacist shall assure that records and reports are designed to provide the date necessary to evaluate the drug utilization of each resident. The following shall be included in such records and reports:

1. Pharmacy medication profiles and medication administration records.
2. Records of suspected adverse medication reactions.
3. Inspections of medication storage area with emphasis on detecting outdated medications.
4. Accountability reports, including all destruction forms for controlled substance medications.

**E.** The label and packaging of all prescription and nonprescription medications intended for use within the facility shall comply with definitions as set forth in A.R.S. § 32-1901 and in accordance with state and federal regulations.

**F.** Pharmacists, when dispensing controlled substances, shall alert nursing home personnel that laws governing such medications require that long-term care facilities keep them double-locked in a separate cabinet and accurate records be kept of their administration or ultimate disposition.

**Historical Note**
Former Rules 6.8110, 6.8120, 6.8130, 6.8140, 6.8150, 6.8160, and 6.8170; Amended effective Aug. 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective December 18, 1992 (Supp. 92-4).

### R4-23-701.01. Long-term Care Facilities Pharmacy Services: Provider Pharmacist

**A.** The provider pharmacist shall provide medications only pursuant to a prescription order for an individual resident, properly

labeled for that resident, as addressed in R4-23-701(E), except for nonprescription medications. Nothing in this Section shall prevent the provider pharmacist from supplying emergency medications as addressed in R4-23-701.02.

**B.** The provider pharmacist shall affix labels to each container of medication for residents in long-term care facilities, in compliance with A.R.S. §§ 32-1963.01(C) and (I), 32-1968, and 36-2525 and the applicable parts of R4-23-658(E).

**C.** Only pharmacists shall, at their professional discretion, relabel medications. A pharmacist is permitted to label or relabel only medication originally dispensed from the provider pharmacy.

**D.** The provider pharmacist shall develop a medication recall procedure that protects the health and safety of the resident including immediate discontinuation of any recalled medication and notification of the prescriber and director of nursing of the facility.

**E.** The provider pharmacist shall not pay any rebate pursuant to R4-23-404 and A.R.S. § 32-1932(C).

**Historical Note**
Adopted effective December 18, 1992 (Supp. 92-4).

**R4-23-701.02. Long-term Care Facilities Pharmacy Services: Emergency Medications**

**A.** Medications necessary to meet the immediate therapeutic needs of residents and which are not readily available shall be supplied by the provider pharmacist.

**B.** In consultation with physicians from the facility, the long-term care consultant pharmacist shall initially prepare and quarterly revise, a list of medications by name, strength and quantity to be included in the emergency supply. Only properly packaged and labeled medications shall be available therein and only in quantities sufficient for immediate therapeutic needs of residents.

**C.** Emergency medications shall be stored in temperature- controlled areas suitable to prevent unauthorized access.

**D.** The exterior of an emergency medication storage unit shall be labeled to indicate that it is for emergency use only. Such label shall also contain a listing of the name, strength, expiration date and quantity of the medications, and the name of the provider pharmacy. Additionally, the exterior of the storage unit shall indicate the name of the provider pharmacist and the date of the last inspection. All medications included in the emergency supply shall be labeled to include the name, strength, manufacturer, lot number and expiration date.

**E.** Medications shall be removed from the emergency supply pursuant to a valid prescriber order.

**F.** Provider pharmacist shall replace used or outdated emergency medications within 48 hours of being notified of the need.

**Historical Note**
Adopted effective December 18, 1992 (Supp. 92-4).

**R4-23-701.03. Long-term Care Facilities Pharmacy Services: Emergency Medication Order**

In cases where an emergency medication order is written when pharmacy services are unavailable, the medication order shall be evaluated for legal and therapeutic appropriateness by a pharmacist within 72 hours.

**Historical Note**
Adopted effective December 18, 1992 (Supp. 92-4).

**R4-23-702. Repealed**

**Historical Note**
Former Rules 6.8210, 6.8211, 6.8212, 6.8213, 6.8214, 6.8221, 6.8222, 6.8223, 6.8824, 6.8231, 6.8232, 6.8233, 6.8241, 6.8242, and 6.8243; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective December 18, 1992 (Supp. 92-4).

**R4-23-703. Sheltered Care Homes**

**A.** Sheltered care homes licensed by state Department of Health Services: Sheltered care homes are licensed by state Department of Health Services and are subject to that Department's rules and regulations for licensing of sheltered care homes, Article 4, Part 5. Section 4-5-12 pertains to medical care, nursing and other services. Section 4-5-13 pertains to supervision and care of medication and patient records.

**B.** Drugs in sheltered care home on prescription orders for individual patient, except for simple household medicines: Pharmacists shall not sell or deliver drugs to sheltered care homes, other than simple household medication, except on prescription order for the individual, dispensed, serially numbered and labeled for that individual.

**C.** Label of prescription medication: The label on prescription medication for patients in sheltered care homes shall bear the name of drug, strength, and quantity in container, in addition to ordinarily required prescription order number, patient's name, date dispensed, medical practitioner's name, name and address of pharmacy and directions for use.

**D.** Pharmacists required to relabel medication: Pharmacists shall, at their professional discretion, relabel medications with damaged or soiled labels in sheltered care homes. Only a pharmacist is permitted to label or alter a label.

**E.** Pharmacists should assist sheltered care homes in drug control: Pharmacists should assist sheltered care home personnel in questions concerning the storage, record keeping, classification of drugs, security requirements, pharmaceutical action, drug interaction, dosage, laws, and other information concerning drugs that nursing homes should have for safe and effective administration of drugs.

**F.** No rebates to sheltered care homes: The pharmacist shall not pay any rebate to a sheltered care home according to R4-23-404 and A.R.S. § 32-1932(B)(1).

**G.** Security of drugs: Pharmacists, when dispensing narcotics or dangerous drugs, shall alert sheltered care home personnel that laws governing such drugs require that the sheltered care home personnel keep them locked in a separate cabinet, and accurate records be kept of their administration or ultimate disposition.

**Historical Note**
Former Rules 6.8310, 6.8320, 6.8330, 6.8340, 6.8350, 6.8360, and 6.8370; Amended effective August 10, 1978 (Supp. 78-4).

**R4-23-704. Repealed**

**Historical Note**
Former Rules 6.8410, 6.8411, 6.8412, 6.8413, 6.8414, 6.8415, 6.8416, and 6.8417. Section R4-23-704 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

**R4-23-705. Repealed**

**Historical Note**
Former Rules 6.8420, 6.8421, 6.8422, 6.8423, 6.8424, 6.8425, 6.8426, 6.8427, 6.8428, and 6.8429. Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 24, 1992 (Supp. 92-3). Repealed effective December 18, 1992 (Supp. 92-4).

**R4-23-706. Repealed**

**Historical Note**
Former Rules 6.8431, 6.8432, 6.8433, 6.8434, 6.8435, 6.8436, and 6.8437; Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (C), (E), (F), and (G)

effective April 20, 1982 (Supp. 82-2). Section R4-23-706 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

**R4-23-707. Repealed**

**Historical Note**
Former Rules 6.8441, 6.8442, 6.8450, 6.8451, 6.8452, 6.8453, 6.8454, 6.8455, 6.8456, and 6.8457. Section R4-23-707 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

**R4-23-708. Repealed**

**Historical Note**
Former Rules 6.8461, 6.8462, 6.8463, and 6.8464. Section R4-23-708 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

**R4-23-709. Repealed**

**AHistorical Note**
Former Rules 6.8471, 6.8472, and 6.8473. Section R4-23-709 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

## ARTICLE 8. REPEALED

**R4-23-801. Repealed**

**Historical Note**
Former Rules 7.1110, 7.1120, and 7.1130. Repealed effective November 4, 1998 (Supp. 98-4).

**R4-23-802. Repealed**

**Historical Note**
Former Rules 7.1210, 7.1220, and 7.1230. Repealed effective November 4, 1998 (Supp. 98-4).

**R4-23-803. Repealed**

**Historical Note**
Former Rules 7.1300, 7.1400, 7.1500, and 7.1000. Repealed effective November 4, 1998 (Supp. 98-4).

**R4-23-804. Repealed**

**Historical Note**
Former Rules 7.2100, 7.2200, 7.2300, 7.2410, 7.2420, and 7.2430. Repealed effective November 4, 1998 (Supp. 98-4).

## ARTICLE 9. PENALTIES AND MISCELLANEOUS

**R4-23-901. Penalty for Violations**
Any person, firm or corporation violating any of the provisions of these regulations shall be subject to the penalties in A.R.S. 32-1996, as amended and effective August 11, 1970. In addition, persons licensed and permits issued under the provisions of the Pharmacy Act shall be subject to suspension or revocation for violations of these regulations.

**Historical Note**
Former Rule 9.0000.

## ARTICLE 10. UNIFORM CONTROLLED SUBSTANCES AND DRUG OFFENSES

**R4-23-1001. Character and Fingerprint Identification Required**
Information concerning character and fingerprint identification shall be furnished at the request of the Board for persons responsible for ordering, storing, handling, distributing or directly dispensing controlled substances to show that each is of good moral character and has not violated laws and regulations pertaining to drugs or devices.

**Historical Note**
Adopted effective August 2, 1982 (Supp. 82-4).

**R4-23-1002. Repealed**

**Historical Note**
Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4).

**R4-23-1003. Records and Order Forms**

**A.** Records
1. Inventory upon change of pharmacist-in-charge. An inventory of all controlled substances shall be taken by a pharmacist-in-charge within ten days of assuming such responsibility.
2. Reporting losses of controlled substances. Losses of controlled substances shall be reported within ten days by the pharmacist-in-charge to the federal Drug Enforcement Administration (DEA), Narcotic Division of the Department of Public Safety (DPS), and the Board of Pharmacy. A copy of the report shall be kept on file by the registrant. The report shall show whether the police investigated the loss.
3. Records of receipts and disposal of controlled substances.
   a. Every person manufacturing any controlled substances, including the repackaging and relabeling thereof, shall prepare and retain the date of manufacture for each drug manufactured.
   b. Every person selling, delivering or otherwise disposing of any controlled substance shall prepare or obtain and retain for not less than three years the following information:
      i. An adequate record of the kind and quantity of each drug received, sold, delivered or otherwise disposed of;
      ii. The name and address of the person from whom it was received;
      iii. The name and address of the person to whom it was sold, delivered or otherwise disposed of; and
      iv. The date of each transaction.

**B.** Order form. For purposes of A.R.S. § 36-2524, "Order Form" means DEA Form 222c.

**Historical Note**
Adopted effective August 2, 1982 (Supp. 82-4).
Amended effective November 1, 1993 (Supp. 93-4).
Amended effective April 1, 1995; filed January 31, 1995 (Supp. 95-1).

**R4-23-1004. Repealed**

**Historical Note**
Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4).

**R4-23-1005. Substances Excepted from the Schedules of Controlled Substances**

**A.** Excepted over-the-counter drugs. A list of all non-narcotic substances containing limited amounts of controlled substances which are excepted from prescription requirements and which are excluded from all schedules may be obtained from the Office of the Arizona State Board of Pharmacy and is on file in the Office of the Secretary of State.

**B.** Excepted chemical preparations. A chemical preparation or mixture meeting the following requirements is excepted from all schedules:

1. It is intended for accredited laboratory, industrial, educational or special research purposes and is not intended for general administration to a human being or other animal, and which:
   a. Contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse; or
   b. Contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparations or mixtures do not present any potential for abuse, and the narcotic substances cannot in practice be removed; and
2. Are exempt by federal law.

**C.** Excepted prescription only drugs. All prescription only drugs which have been exempted by 21 CFR 1308.32 are hereby excepted from all schedules of controlled substances.

**Historical Note**
Adopted effective August 2, 1982 (Supp. 82-4).

**R4-23-1006. Substances Excepted from Drug Offenses**
The following materials, compounds, mixtures or preparations containing any stimulant or depressant substance included in A.R.S. §§ 13-3401(6)(b) or 13-3401(6)(c) are excepted from the definition of dangerous drugs under the authority of A.R.S. § 32-1904(B)(12):

1. The over-the-counter drugs excepted in A.C.R.R. R4-23-1005(A).
2. The chemical preparations excepted in A.C.R.R R4-23-1005(B).
3. The prescription only drugs excepted in A.C.R.R. R4-23-1005(C).

**Historical Note**
Adopted effective August 2, 1982 (Supp. 82-4).

# TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

# CHAPTER 24. BOARD OF PHYSICAL THERAPY EXAMINERS

(Authority: A.R.S. § 32-2002 et seq.)

## ARTICLE 1. GENERAL PROVISIONS

*Article 1 consisting of Sections R4-24-101 through R4-24-109 adopted effective June 3, 1982 (Supp. 82-3).*

*Former Article 1 consisting of Sections R4-24-01 through R4-24-06 repealed effective June 3, 1982 (Supp. 82-3).*

Section
R4-24-101. Definitions
R4-24-102. Duties of officers
R4-24-103. Renumbered
R4-24-104. Renumbered
R4-24-105. Filing and Investigation of Consumer Complaints
R4-24-106. Hearing Procedures
R4-24-107. Issuance of subpoenas
R4-24-108. Repealed
R4-24-109. Rehearing or Review of Board Decisions

## ARTICLE 2. LICENSING PROVISIONS

*Article 2 consisting of Sections R4-24-201 through R4-24-203 adopted effective June 3, 1982 (Supp. 82-3).*

*Former Article 2 consisting of Sections R4-24-16 through R4-24-26 repealed effective June 3, 1982 (Supp. 82-3).*

Section
R4-24-201. Applications
R4-24-202. Examination Scores
R4-24-203. Renewal of License and Address Changes
R4-24-204. Fees
R4-24-205. Temporary license
R4-24-206. Probationary permit for foreign-trained applicants

## ARTICLE 3. REGULATORY PROVISIONS

*Article 3 consisting of Sections R4-24-301 and R4-24-302 adopted effective April 10, 1986 (Supp. 86-2).*

*Former Article 3 consisting of Sections R4-24-301 through R4-24-303 repealed effective April 10, 1986 (Supp. 86-2).*

Section
R4-24-301. Professional Practice
R4-24-302. Delegation of Tasks to Physical Therapist Assistants and Aides
R4-34-303. Repealed
Appendix A. Repealed
Appendix B. Repealed

## ARTICLE 1. GENERAL PROVISIONS

### R4-24-101. Definitions

"Accredited physical therapy education program" or "physical therapy assistant program" means a program that, at the time of the applicant's graduation, was approved by an agency recognized as qualified to accredit physical therapy or physical therapy assistant programs by either the U.S. Department of Education or the Council on Post-Secondary Accreditation.

"Credentials evaluation" means a written appraisal by International Consultants of Delaware (ICD), International Credentialing Associates (ICA), or an appraisal equivalent to ICD's or ICA's done by another credentialing agency, following review of documentary evidence of a foreign-educated applicant's education to determine whether the applicant's education is substantially equivalent to that of an applicant graduated from an accredited physical therapy education program, pursuant to A.R.S. § 32-2027(A).

"Criterion-referenced passing point" means the minimum acceptable score, calculated using the method determined by the Professional Examination Service, that an applicant must obtain on the physical therapist licensure examination.

"Federation of State Boards of Physical Therapy" means the national organization that comprises physical therapy credentialing boards throughout the United States and that developed the national physical therapy examination.

"Good moral character" means of a nature that conforms to accepted behavioral standards as shown by no conviction for a felony or a misdemeanor relating to the practice of physical therapy or involving moral turpitude.

"Initial evaluation" means an assessment of a patient's physical condition, complaint, and objective findings regarding the patient's diagnosis, if any, to ascertain the patient's need for physical therapy and whether consultation with the referring practitioner or other health care practitioner is necessary before a physical therapy plan of treatment is devised and implemented.

"Licensee" means an individual licensed by Arizona as a physical therapist.

"On-site supervision" means a licensee directing the provision of direct patient care by a physical therapist assistant or aide is on the premises and available within an amount of time that is reasonable considering the condition of the patient, experience of the assistant or aide, and type of therapy being provided.

"Physical therapy assistant or aide" means an individual who provides direct patient care, under on-site supervision, commensurate with the assistant's or aide's training.

"Remedial measures" means a program of study as recommended by the Board.

"Substantially similar" means, for purposes of A.R.S. § 32-2023(A), the requirements for licensure by endorsement include graduating from an accredited physical therapy education program, passing the national licensing examination recognized by the Board with the criterion-referenced passing point required by the Board at the time the examination was taken, and being in good standing in all states in which currently or previously licensed.

"Suspension" means removal of license for a period not to exceed 3 years.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1).

### R4-24-102. Duties of officers

The president shall preside at all Board meetings; but if the president is disqualified or unable to attend, another officer shall be selected to preside at the meeting. The treasurer shall be responsible for the maintenance of records concerning the revenues and expenditures of the Board. The secretary shall be responsible for Board

correspondence and records of proceedings. The officers may utilize the Board staff to assist with their functions.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-102 repealed, former Section R4-24-103 renumbered and amended as Section R4-24-102 effective April 10, 1986 (Supp. 86-2).

**R4-24-103. Renumbered**

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-103 renumbered and amended as Section R4-24-102, former Section R4-24-104 renumbered and amended as Section R4-24-103 effective April 10, 1986 (Supp. 86-2). Former Section R4-24-103 renumbered to Section R4-24-204 effective May 7, 1990 (Supp. 90-2).

**R4-24-104. Renumbered**

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-104 renumbered and amended as Section R4-24-103 effective April 10, 1986 (Supp. 86-2).

**R4-24-105. Filing and Investigation of Consumer Complaints**

**A.** Any individual who, in good faith, believes that a licensee is or may be guilty of unprofessional conduct or incompetence, may file a consumer complaint with the Board. Complaint forms may be obtained from the Board office. The complainant shall provide the following information:
1. Name of the licensee who is the subject of the consumer complaint;
2. Name and address of the person filing the complaint, unless the complainant desires anonymity;
3. Nature of the consumer complaint;
4. Details of the consumer complaint with pertinent dates and copies of any relevant documents;
5. Whether the complainant has contacted another organization concerning the consumer complaint;
6. Whether the complainant has contacted the licensee concerning the consumer complaint and the licensee's response, if any; and
7. Whether the complainant is willing to testify at a hearing.

**B.** The president of the Board, or the president's designee, shall provide notice of the consumer complaint to the licensee, in writing, within 180 days of the Board receiving the complaint. The licensee shall submit a written response, including copies of records that are pertinent to the consumer complaint, to the Board within 10 days from the date that notice of the consumer complaint was mailed or hand-delivered to the licensee. The Board may hire an investigator to conduct investigations relevant to the consumer complaint. The investigator shall submit a written report of all findings to the Board.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (B) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1).

**R4-24-106. Hearing Procedures**

**A.** The Board shall conduct informal interviews pursuant to A.R.S. § 32-2042, in the following manner:
1. The Board shall send a written notice of the informal interview to all parties, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview, containing the following information:
   a. Time, date, and place of the interview;
   b. Explanation of the informal nature of the proceeding;
   c. Licensee's right to appear with or without legal counsel;
   d. Statement of the matters asserted and issues involved; and
   e. Licensee's right to a formal hearing, held pursuant to A.R.S. §§ 32-2042 and 32-2042.01, in lieu of the informal interview.
2. During an informal interview, the following procedure shall be used:
   a. Introduction of the Board members present;
   b. Swearing in of licensee and witnesses;
   c. Optional opening comment by Board or staff;
   d. Optional opening comment by licensee;
   e. Questioning of the licensee and witnesses;
   f. Optional closing statement by licensee;
   g. Deliberations by the Board;
   h. Written findings of fact, conclusions of law, and order of the Board.

**B.** Formal hearing
1. The Board shall send written notice of a formal hearing to all parties, by personal service or certified mail, return receipt requested, at least 30 days before the hearing.
2. The president of the Board may continue, reschedule, or extend a hearing for the performance of acts required by law or the Board.

**C.** Records
1. The Board shall mechanically or stenographically record all hearings.
2. The Board or a party may request that a hearing transcript be prepared.
3. A party that requests a transcript be prepared shall pay transcription costs.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (A) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1).

**R4-24-107. Issuance of subpoenas**

All subpoenas issued in connection with Board disciplinary proceedings pursuant to Title 32, Chapter 19, Arizona Revised Statutes, shall be approved and issued by the secretary of the Board or the administrative secretary.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended effective May 7, 1990 (Supp. 90-2).

**R4-24-108. Repealed**

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Repealed effective May 7, 1990 (Supp. 90-2).

**R4-24-109. Rehearing or Review of Board Decisions**

**A.** Except as provided in subsection (G), a party to a contested case who is aggrieved by the Board's decision in the action may file with the Board a written motion for rehearing or review. The motion shall be filed within 15 days after service of the decision and shall particularly state the grounds for the motion. For purposes of this subsection, a decision is served when personally delivered or sent by certified mail to the party's last known residential or business address.

**B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A response may be filed to a motion or amended motion by any other party, within 10

days of service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of a decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the Board or the prevailing party, or any order or abuse of discretion which deprived the moving party of a fair hearing;
2. Misconduct of the Board or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties or disciplinary action;
6. Error in the admission or rejection of evidence or other errors of law in the original hearing; or
7. A decision that is not justified by the evidence or is contrary to law.

**D.** The Board may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

**E.** No later than 15 days after making a decision, the Board may order a rehearing or review on its own initiative for any of the reasons stated in subsection (C). After giving notice to the parties or their counsel, the Board may grant a motion for rehearing or review on grounds not stated in the motion. In either case, the order granting a rehearing or review shall specifically state the grounds for the rehearing or review.

**F.** When a motion for rehearing or review is based upon affidavits, the affidavits shall be served with the motion. An opposing party may serve opposing affidavits within 10 days of service of the original affidavits. This 10-day period may be extended for not more than 20 days by the Board for good cause shown or by written stipulation of the parties. The Board may permit reply affidavits.

**G.** If the Board makes a specific finding that immediate effectiveness of a particular decision is necessary for the preservation of public health and that rehearing or review is impracticable, unnecessary, or contrary to public interest, the decision may be issued as final without opportunity for rehearing or review. If a decision is issued as final, the time limits for judicial review of the Board's final decisions, which are set forth at A.R.S. § 12-901 et seq., are applicable.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1).

## ARTICLE 2. LICENSING PROVISIONS

### R4-24-201. Applications

**A.** An applicant for licensure shall submit the following information to the Board:
1. An application,
2. The application fee set forth in R4-24-204,
3. An official transcript from an accredited program,
4. An examination application or endorsement form,
5. The completed questionnaire on state statutes and rules applicable to physical therapy, and
6. Official examination scores from the Professional Examination Service.

**B.** Foreign-educated applicants shall also submit a credentials evaluation.

**C.** Applications shall be made only on application forms obtained from the Board office and shall contain the following information:
1. Name and address of applicant;
2. Date of birth;
3. Social security number (optional);
4. Post-high school education;
5. Professional experience;
6. List of states in which applicant has worked or been licensed as a physical therapist;
7. Date and location of professional examination, if previously taken;
8. History of any felony or misdemeanor conviction or violation of federal, state, or local law or rule, other than a minor traffic violation; and
9. Certification that the application is complete and accurate.

**D.** An applicant for licensure by examination shall submit to the Board an examination application and examination fee set forth in R4-24-204 at least 45 days before the examination date. Examination applications may be obtained from the Board office.

**E.** An applicant for licensure shall complete a questionnaire on the state statutes and rules applicable to physical therapy. The Board shall mail this questionnaire with each application requested.

**F.** Applicants shall notify the Board, in writing, within 10 days of a change of address to be used by the Board.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (C) and added subsection (D) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1).

### R4-24-202. Examination Scores

To be licensed as a physical therapist, an applicant for licensure by examination shall obtain a score on the licensure examination that equals or exceeds the criterion-referenced passing point. The criterion-referenced passing point shall be set to equal a scaled score of 600 based on a scale ranging from 200 to 800.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (C) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1).

### R4-24-203. Renewal of License and Address Changes

**A.** Licensees shall renew their licenses at or before the end of each 2-year period. Failure of the Board to inform a licensee of license expiration shall not justify or excuse a licensee's nonrenewal or untimely renewal.

**B.** A licensee shall submit renewal payments to the Board by mail by cashier's check, money order, or personal check, or in person at the Board office by cashier's check, money order, personal check, or cash.

**C.** The Board shall mail a receipt and registration card that signifies the named licensee has a current and valid license to each licensee who renews a license.

**D.** Licensees shall notify the Board, in writing, within 10 days of a change of address to be used by the Board.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (B) effective April 10, 1986 (Supp. 86-2). Amended effective March 14, 1996 (Supp. 96-1).

**R4-24-204. Fees**

**A.** The Board shall charge the following fees relating to licensure and examinations:
1. Original license application - $100;
2. Examination or each re-examination for a physical therapist or physical therapist assistant - $225;
3. Original license:
   a. Twelve months or more - $75;
   b. Less than 12 months - $50;
4. Biennial renewal - $75;
5. Duplicate license - $10;
6. Reinstatement - $75.

**B.** The Board shall charge the following fees for copies of public records:
1. For commercial purposes: 25¢ per name and address and $15 per hour of search time;
2. For noncommercial purposes: 25¢ per page.
3. Requests for copies of public records shall be accompanied by a notarized statement of the purpose for which the documents are requested and prepayment of fees. Official request forms shall be used and may be obtained from the Board office.

**C.** The Board shall charge $5 for each copy of its statutes and rules booklet.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-103 renumbered and amended as Section R4-24-102, former Section R4-24-104 renumbered and amended as Section R4-24-103 effective April 10, 1986 (Supp. 86-2). Former Section R4-24-204 renumbered to R4-24-205, new Section R4-24-204 renumbered from Section R4-24-103 and amended effective May 7, 1990 (Supp. 90-2). Amended effective march 14, 1996 (Supp. 96-1).

**R4-24-205. Temporary license**

**A.** The Board shall issue a temporary license to each qualified applicant bearing:
1. Name of licensee
2. Date of issue
3. Date of expiration

**B.** Temporary licenses shall be numbered consecutively and shall indicate that the license is temporary.

**Historical Note**
Adopted effective April 10, 1986 (Supp. 86-2). Former Section R4-24-205 renumbered to R4-24-206, new Section R4-24-205 renumbered from Section R4-24-204 and amended effective May 7, 1990 (Supp. 90-2).

**R4-24-206. Probationary permit for foreign-trained applicants**

**A.** The Board shall issue a probationary permit to each qualified foreign-trained applicant bearing:
1. Name of licensee
2. Date of issue
3. Date of expiration

**B.** Probationary permits shall be numbered consecutively and shall indicate that the permit is probationary.

**Historical Note**
Section R4-24-205 adopted effective April 10, 1986 (Supp. 86-2). Section R4-24-206 renumbered from Section R4-24-205 and amended effective May 7, 1990 (Supp. 90-2).

**ARTICLE 3. REGULATORY PROVISIONS**

**R4-24-301. Professional Practice**

**A.** A licensee shall provide the referring practitioner, if any, with information that may assist in the determination of an accurate diagnosis. A licensee shall provide this information, verbally or in writing, after a patient is initially evaluated by the licensee.

**B.** A licensee shall not delegate the following responsibilities to an individual who is not a licensee:
1. Initial written evaluation for each patient;
2. Planning each patient's treatment program and determining which elements of the program may be delegated to a physical therapist assistant or aide;
3. Periodic written reevaluation, including observation, and written documentation of the treatment program and the patient's progress; and
4. Written discharge summary of the patient and the patient's response to the treatment at the termination of the treatment program.

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-301 repealed, new Section R4-24-301 adopted effective April 10, 1986 (Supp. 86-2). Amended effective March 14, 1996 (Supp. 96-1).

**R4-24-302. Delegation of Tasks to Physical Therapist Assistants and Aides**

**A.** A licensee shall not delegate to a less qualified person any service that requires the skill, knowledge, and judgment of a licensed physical therapist.

**B.** Adequate supervision by a licensee of physical therapist assistants or aides includes the following:
1. Evaluation of the performance of delegated responsibilities and assigned tasks;
2. Instruction and training in required skills;
3. Maintenance of written documentation of instruction and training provided;
4. Periodic re-evaluation of the performance of delegated tasks;
5. On-site supervision of no more than a combination of 3 physical therapist assistants or aides engaged in direct patient care; and
6. Verification that a physical therapist assistant graduated from a Board-approved, accredited, physical therapy education program.

**C.** Within 10 days of undertaking the supervision of a physical therapist assistant, a licensee shall provide written notice to the Board of the name, address, place of employment, and education verification for each physical therapist assistant.

**D.** A supervising physical therapist shall be responsible for all physical therapy care given by physical therapist assistants.

**Historical Note**
Adopted effective June 1, 1982 (Supp. 82-3). Former Section R4-24-302 repealed, new Section R4-24-302 adopted effective April 10, 1986 (Supp. 86-2). Amended effective March 14, 1996 (Supp. 96-1).

**R4-24-303. Repealed**

**Historical Note**
Adopted effective June 3, 1982 (Supp. 82-3). Repealed effective April 10, 1986 (Supp. 86-2).

**Appendix A. Repealed**

**Historical Note**
Appendix A adopted effective June 3, 1982 (Supp. 82-3).
Amended effective April 10, 1986 (Supp. 86-2).
Repealed effective May 7, 1990 (Supp. 90-2)

**Appendix B. Repealed**

**Historical Note**
Appendix B adopted effective June 3, 1982 (Supp. 82-3).
Amended effective April 10, 1986 (Supp. 86-2).
Repealed effective May 7, 1990 (Supp. 90-2)

# TITLE 4. PROFESSIONS AND OCCUPATIONS

# CHAPTER 25. BOARD OF PODIATRY EXAMINERS

(Authority: A.R.S. § 32-801 et seq.)

*Chapter 25 consisting of Sections R4-25-101 through R4-25-103, R4-25-201 through R4-25-203, R4-25-301 through R4-25-304, R4-25-401, R4-25-501 through R4-25-506 renumbered and amended, and new rules adopted effective November 18, 1986.*

*Former Chapter 25 consisting of Sections R4-25-01 through R4-25-04, R4-25-20, R4-25-30 through R4-25-33, R4-25-40, R4-25-50 through R4-25-53 renumbered and amended effective November 18, 1986.*

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## ARTICLE 3. LICENSES

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## ARTICLE 1. GENERAL PROVISIONS

### R4-25-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "Administer" means the same as the definition "Administer" in A.R.S. § 32-1901.
2. "Administrative completeness review" means the Board's process for determining that an applicant has:
   a. Provided all the information and documents required by Board statute or rule for an application, and
   b. Taken a written examination or oral examination required by the Board.
3. "Applicant" means an individual requesting licensure or registration by the Board.
4. "Application packet" means all forms, documents, and additional information required by the Board to be submitted with an application by an applicant or on the applicant's behalf.
5. "Comity" means the procedure for granting an Arizona license to an applicant who is licensed as a podiatrist in another state of the United States.
6. "Days" means calendar days.
7. "Controlled substance" means the same as the definition in A.R.S. § 32-1901.
8. "Device" means the same as the definition in A.R.S. § 32-1901 and includes the definition of prescription-only device defined in A.R.S. § 32-1901.
9. "Drug" means the same as the definition of drug in A.R.S. § 32-1901 and includes controlled substance, narcotic drug defined in A.R.S. § 32-1901, prescription medication, and prescription-only drug.
10. "Equivalency to 1-year internship program" means a minimum of 5 years of continuous, active, clinical practice prior to filing an application and provided that no disciplinary action has been taken against the applicant in any other state during the 5-year period.
11. "Knee" means the site of articulation of the tibia and fibula and those structures or portions of structures that touch, attach, or articulate at the site with the tibia and fibula.
12. "Lawfully practiced" means the full-time continuous and licensed practice of podiatry by the applicant. Where an applicant practices in more than one place, the practice consuming the greater portion of the applicant's time is deemed the applicant's place of lawful practice.
13. "Nursing care institution" means a health care institution providing inpatient beds or resident beds and nursing services to persons who need nursing services on a continuing basis but who do not require hospital care or direct daily care from a physician.
14. "One-year internship program" means the successful completion of either of the following:
   a. American Podiatric Medical Association-approved 1-year program, or
   b. First-year post-graduate approved residency or preceptorship program in either a medical or surgical clinical science dealing directly with patients.
15. "Packaging" means the act or process of a person placing a drug item in a container for the purpose of dispensing or distributing the item to another person.
16. "Prescription medication" means the same as the definition in A.R.S. § 32-1901.
17. "Prescription-only drug" means the same as the definition in A.R.S. § 32-1901.
18. "Prescription-only device" means the same as the definition in A.R.S. § 32-1901.

19. "Regular podiatry license" means a license issued pursuant to the provisions of A.R.S. § 32-826(A).
20. "Substantive review" means the Board's process for determining that an applicant meets the requirements of A.R.S. §§ 32-801 through 32-871 and this Article.

**Historical Note**

Former Section R4-25-06 renumbered and amended as Section R4-25-01 effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-01 renumbered and amended as Section R4-25-101 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

**R4-25-102. Postdoctoral Training Program Approval**

A list of each official hospital-based internship and residency program approved by the American Podiatric Medical Association shall be retained by the Board. Graduates of any podiatric college accredited by the Council of Podiatric Medical Education who are enrolled in any American Podiatric Medical Association approved programs may qualify for a license exemption pursuant to A.R.S. § 32-821(6). Any program provisionally approved or placed on probation by the American Podiatric Medical Association shall be approved by the Board until the American Podiatric Medical Association makes a final determination of the status of the program.

**Historical Note**

Adopted effective March 16, 1981 (Supp. 81-2). Former Section R4-25-02 renumbered and amended as Section R4-25-102 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3).

**R4-25-103. Fees**

The following fees shall be paid:

1. Application for examination pursuant to A.R.S. §§ 32-822(A) and 32-825, $250.00.
2. Application for examination pursuant to A.R.S. § 32-827, $250.00.
3. License issuance, $100.00.
4. Annual renewal, $200.00.
5. Penalty fee for late renewal after July 30, $150.00 in addition to the regular renewal fee.
6. Certification of a licensee to authorities of another state or country, $10.00.
7. For initial registration to dispense drugs and devices, $200.00.
8. For annual renewal of registration to dispense drugs and devices, $100.00.

**Historical Note**

Former Rule 3; Repealed effective August 30, 1978 (Supp. 78-4). Adopted as an emergency effective December 29, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-6). Former emergency adoption now adopted effective April 9, 1981 (Supp. 81-2). Former Section R4-25-03 repealed, new Section R4-25-03 adopted effective April 18, 1984 (Supp. 84-2). Former Section R4-25-03 renumbered without change as Section R4-25-103 effective November 18, 1986 (Supp. 86-6). Amended effective May 7, 1990 (Supp. 90-2). Amended effective July 27, 1995 (Supp. 95-3).

**R4-25-104. Time-frames for Licensure and Certification Approvals**

**A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.

**B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1.

1. The administrative completeness review time-frame begins:
   a. For approval to take both a written and an oral podiatry examination or only an oral podiatry examination, when the Board receives an application packet required in R4-25-301 or R4-24-302;
   b. For approval of a provisional license, when the Board receives the application packet required in R4-25-303;
   c. For approval of a registration to dispense drugs, when the Board receives the application packet required in R4-25-602; or
   d. For approval or denial of a regular podiatry license, when the applicant sits for both a written and an oral podiatry examination or only an oral examination.
2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
3. If an application packet is complete, the bopard shall send a written notice of administrative completeness to the applicant.
4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

**C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.

1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
2. The Board shall send a written notice approving the applicant to take an examination or granting a license to an applicant who meets the qualifications and requirements in A.R.S. §§ 32-821 through 32-830 and this Chapter.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications and requirements in A.R.S. §§ 32-932 through 32-830 and this Chapter.

**D.** The Board shall consider an application withdrawn if, within 360 days from the application submission date, the applicant fails to:

1. Supply the missing information under subsection (B)(2) or (C)(1), or
2. Take both a written and an oral podiatry examination or only an oral podiatry examination.

**E.** An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.

**F.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day will be considered the time-frame's last day.

**Historical Note**
Former Rule 4; Repealed effective August 30, 1978 (Supp. 78-4). Adopted effective March 13, 1986 (Supp. 86-2). Former Section R4-25-04 renumbered without change as Section R4-25-104 effective November 18, 1986 (Supp. 86-6). Section repealed effective July 27, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

**R4-25-105. Repealed**

**Historical Note**
Former Rule 5; Repealed effective August 30, 1978 (Supp. 78-4). Former Section R4-25-05 renumbered without change as Section R4-25-105 effective November 18, 1986 (Supp. 86-6).

**R4-25-106. Renumbered**

**Historical Note**
Former Rule 6; Former Section R4-25-06 renumbered and amended as Section R4-25-01 effective August 30, 1978 (Supp. 78-4). Former Section R4-25-06 renumbered without change as Section R4-25-106 effective November 18, 1986 (Supp. 86-6).

**R4-25-107. Repealed**

**Historical Note**
Former Rule 7; Repealed effective August 30, 1978 (Supp. 78-4). Former Section R4-25-07 renumbered without change as Section R4-25-107 effective November 18, 1986 (Supp. 86-6).

**Table 1. Time-frames (in Days)**

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Time-frame | Substantive Review Time-frame |
|---|---|---|---|---|
| Approval to Take a Written and Oral Examination or Oral Examination Only (R4-25-301) | A.R.S. § 32-822<br>A.R.S. § 32-823<br>A.R.S. § 32-824 | 90 | 30 | 60 |
| Regular Podiatry License (R4-25-301) | A.R.S. § 32-826 | 60 | 30 | 30 |
| License by Comity (R4-25-302) | A.R.S. § 32-827 | 60 | 30 | 30 |
| Provisional License (R4-25-304) | A.R.S. § 32-826 | 60 | 30 | 30 |
| Dispensing Registration (R4-25-602) | A.R.S. § 32-871 | 60 | 30 | 30 |

**Historical Note**
New Table 1 adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

## ARTICLE 2. EXAMINATIONS

**R4-25-201. Examination of Applicants**

**A.** The state written and oral examination shall be administered twice annually in June and December.

**B.** Applicants who do not meet all of the requirements of A.R.S. § 32-827 shall be required to pass the PMLexis examination approved by the Arizona State Board of Podiatry Examiners as the state written examination with a grade of not less than 75%.

**C.** Applicants who meet all of the requirements of A.R.S. § 32-827 shall pass the state oral examination with a grade of not less than 75%.

**D.** Applicants for licensure who have been licensed by examination in another state shall be required to pass the Arizona state-approved examination. If the examination taken in another state is the PMLexis examination, and the applicant passed the PMLexis examination within five years preceding application for licensure in Arizona with a score of not less than 75%, the applicant shall be deemed to have passed the approved Arizona state examination.

**E.** Applicants shall be required to pass the state oral examination.

**F.** Applicants will be notified in writing, of their examination scores within 60 days after examination.

**Historical Note**
Adopted as an emergency effective April 21, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-2). Adopted effective August 30, 1978 (Supp. 78-4). Amended subsection (A) effective March 16, 1981 (Supp. 81-2). Former Section R4-25-20 renumbered and amended as Section R4-25-201 effective November 18, 1986 (Supp. 86-6). Section repealed, new Section adopted effective July 27, 1995 (Supp. 95-3).

**R4-25-202. Repealed**

**Historical Note**
Adopted effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

**R4-25-203. Conducting Examinations**

**A.** Licensing examinations shall be conducted in accordance with the following requirements:

1. In order to be admitted to the examination, the applicant shall bring the letter of admission from the Board advising the applicant of the time, date, and place of the examination.

2. Applicants shall be present and ready to take the examination at the time and place scheduled. Late arrival shall not justify an extension of the time scheduled for the examination.
3. During the examination, an applicant shall not communicate with any other applicant except with the permission of the examiner. Applicants may, at the outset of the examination, question the examiner or proctor regarding the examination and, at the conclusion of the examination, submit in writing any comments regarding the examination.
4. An applicant shall bring no books, equipment, or help of any kind into the examination room unless directed to do so in the notice of examination.

**B.** Violators of any requirement of subsection (A) shall be considered dismissed from the examination.

**Historical Note**
Adopted effective November 18, 1986 (Supp. 86-6).
Amended effective July 27, 1995 (Supp. 95-3).

## ARTICLE 3. LICENSES

### R4-25-301. Application for a Regular License

**A.** No later than 90 days before a written or oral examination date, an applicant for a regular license shall submit:
1. An application form provided by the Board, signed and dated by the applicant and notarized that contains:
   a. The applicant's name, address, social security number, telephone number, and date of birth;
   b. The name and address of the applicant's employer at the time of application;
   c. The name, address, and type of facility at which the applicant served as an intern or resident in podiatric medicine;
   d. The name and address of each university or college from which the applicant graduated, dates of attendance, date of graduation, and degree received;
   e. The name and address of the podiatric medical school from which the applicant graduated, dates of attendance, and date of graduation;
   f. The name of each state or jurisdiction in which the applicant is currently or has been licensed as a podiatrist and address of the licensing agency;
   g. A statement of whether the applicant has taken and passed a national podiatric examination in any state and date of passage, if applicable;
   h. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude;
   i. A statement of whether the applicant has ever had an application for a license, certification, or registration, other than a driver's license, denied or rejected by any state or jurisdiction;
   j. A statement of whether the applicant has ever had a license, certification, or registration, other than a driver's license, suspended or revoked by any state or jurisdiction;
   k. A statement of whether the applicant has ever entered into a consent agreement or stipulation with any state or jurisdiction;
   l. A statement of whether the applicant has ever been named as a defendant in any medical malpractice matter that resulted in a settlement or judgment against the applicant;
   m. A statement of whether the applicant has any medical condition that in any way impairs or limits the applicant's ability to practice podiatric medicine; and
   n. A statement, verified under oath by the applicant, that the information on the application pertains to the applicant, is true and correct, and was not procured through fraud or misrepresentation.
2. Two passport-type photographs of the applicant no larger than 1 1/2 x 2 inches taken not more than 6 months before the date of application;
3. A photocopy of the diploma issued to the applicant upon completion of podiatric school;
4. A photocopy of the residency certificate issued to the applicant upon completion of residency; and
5. The fee required in R4-25-103.

**B.** An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly to the Board office by the professional examination service preparing the examination. The transcript shall be received by the Board no less than 30 days before the date of an oral examination.

**Historical Note**
Adopted effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-30 renumbered without change as Section R4-25-301 effective November 18, 1986 (Supp. 86-6). Section repealed effective July 27, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

### R4-25-302. Application for a Podiatrist's License by Comity

**A.** Under A.R.S. § 32-827, an applicant for a podiatrist's license by comity shall submit to the Board, a minimum of 90 days before an oral examination date, an application form provided by the Board, signed and dated by the applicant and notarized that contains the information in R4-25-301(A)(1) and the following:
1. A photocopy of a current podiatric license in good standing issued in another state or jurisdiction;
2. Written documentation of having been engaged in the practice of podiatric medicine for 5 of 7 years immediately preceding the application;
3. Two passport-type photographs of the applicant no larger than 1 1/2 x 2 inches taken not more than 6 months before the date of application;
4. The fee required in R4-25-103.

**B.** An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly to the Board office by the professional examination service preparing the examination. The transcript shall be received by the Board no less than 30 days before the date of an oral examination.

**Historical Note**
Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-31 renumbered and amended as Section R4-25-302 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

### R4-25-303. Application for a Provisional Licensee

Under A.R.S. § 32-326, an applicant for a regular license who receives a passing grade on the written examination and intends to practice podiatry in Arizona but has not yet completed a 1-year internship, shall apply to the Board for a provisional license within 30 days from the date the Board issues the notice of approval under R4-25-104(C). The applicant shall submit to the Board an applica-

tion form provided by the Board, signed and dated by the applicant and notarized that contains:

1. The applicant's name, address, social security number, telephone number, and date of birth;
2. The name and address of the facility at which the applicant will be serving as an intern in podiatric medicine;
3. The name and address of each university or college from which the applicant graduated, dates of attendance, date of graduation, and degree received;
4. A statement of whether the applicant has passed a podiatric national board examination and date of passage;
5. A statement of whether the applicant has taken and passed the oral examination in Arizona; and
6. A notice of intent to practice podiatry in Arizona.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective February 5, 1979 (Supp. 79-1). Former Section R4-25-32 renumbered and amended as Section R4-25-303 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). former Section R4-25-303 renumbered to R4-25-305, new Section R4-25-303 adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

**R4-25-304. Repealed**

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-33 renumbered without change as Section R4-25-304 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

**R4-25-305. Supervision of a Provisional Licensee**

**A.** A provisional licensee shall, each month, personally submit to the Board a cumulative and detailed log of all podiatry activity in which the provisional licensee has been engaged over the previous month and shall be ready and available to discuss individual patient medical records, treatment, diagnosis and progress with the Board or a designated Board member. The log of podiatry activity shall be personally submitted at a time and place specified by the Board, which time shall be no later than the 20th day of the month following the most recent complete month of activity. The log shall include the following information:

1. Initials, age and gender of each patient.
2. Date of initial examination.
3. Patient's chief complaint.
4. Detailed working and supplemental diagnosis of the patient's condition.
5. Detailed and specific type and manner of treatment including all medications prescribed, administered or dispensed.
6. Copies of all informed consents from patients prior to the performance of any surgical procedure on the patient.
7. Copies of pathology reports and operative reports described in detail.
8. The facility in which patients are located including the hospital, nursing home, outpatient surgical facility, or office setting.

**B.** Prior to the expiration of the provisional license, the provisional licensee shall appear before the Board, at the time and place specified by the Board, for a conference and final disposition of future licensure status.

**C.** At this conference the Board will examine and review the cumulative log of podiatry activity of the provisional licensee to ascertain and determine whether the podiatry experience of the provisional licensee during the provisional period was of a quality and content to correspond to the experience acquired in an internship program. Such determination will be based upon the following considerations:

1. The number of patients treated during the provisional period.
2. The diversity and complexity of podiatry activity engaged in by the provisional licensee during the provisional period.
3. The degree of expertise, judgment and sophistication of the provisional licensee in diagnosing, treating and operating on his or her patients.
4. Evaluation from the provisional licensee of the necessity for procedures and treatments being performed.

**D.** Upon request of the Board, the provisional licensee shall be available to personally appear before the Board at a time and place specified to discuss and explain individual patient medical records, treatment, and progress and shall open his or her office and all patient records for inspection by the Board or any member designated thereof.

**E.** If the provisional licensee fails to comply with any rule or regulation governing the supervision of provisional licensees, including, but not limited to, the failure to attend any requested or required meeting or conference with either the Board or its designated member, or if the experience acquired by the provisional licensee during the provisional licensing period is of an inferior quality or is found not to have been equivalent to the experience attainable in a 1-year internship program, such will constitute sufficient grounds for Board refusal to substitute said provisional practice for the 1-year internship requirement of A.R.S. § 32-826(A) for regular license to practice podiatry.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective February 5, 1979 (Supp. 79-1). Section R4-25-305 renumbered from R4-25-303 by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

## ARTICLE 4. REHEARING

**R4-25-401. Rehearings**

**A.** Except as provided in subsection (G), any party in a contested case before the Board of Podiatry Examiners who is aggrieved by a decision rendered in such case may file with the Board of Podiatry Examiners, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this Section, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the party's last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board of Podiatry Examiners. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board of Podiatry Examiners may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
2. Misconduct of the Board of Podiatry Examiners or its hearing officer or the prevailing party.

3. Accident or surprise which could not have been prevented by ordinary prudence.
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board of Podiatry Examiners may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board of Podiatry Examiners for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board of Podiatry Examiners makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board of Podiatry Examiners' final decisions.

**H.** For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Board of Podiatry Examiners, such statutory provisions shall govern.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-40 renumbered and amended as Section R4-25-401 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3).

## ARTICLE 5. CONTINUING EDUCATION

### R4-25-501. Continuing education hours required

**A.** In order to meet the continuing education requirements of A.R.S. § 32-829, every licensee must have attended at least 25 hours of Board-approved courses or programs relating to the practice of podiatry in the year preceding application for license renewal.

**B.** Any licensee who cannot complete at least 25 hours of approved continuing education during the preceding year will be ineligible for renewal unless the licensee obtains a waiver pursuant to R4-25-505.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-50 renumbered and amended as Section R4-25-501 effective November 18, 1986 (Supp. 86-6).

### R4-25-502. Approval of Courses

**A.** Every year, each person holding an active license to practice podiatry in this state shall complete 25 credit hours of the continuing medical education required by A.R.S. § 32-829. One hour of credit will be allowed for each clock hour of participation in approved continuing medical education activities, unless otherwise designated in subsection (B) below.

**B.** Approved continuing medical education activities include the following:
1. Podiatry educational programs designed to provide understanding of current developments, skills, procedures, or treatment related to the practice of podiatry.
2. Up to 10 credit hours may be earned by completion of a podiatric educational program based on self-instruction which may include videotapes, films, filmstrips, slides, plus written materials.
3. The Board may approve courses in podiatric or medical education that are sponsored by other health-related associations or privately sponsored education programs provided the subject matter and material have been approved by the Arizona Board of Podiatry Examiners.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-51 renumbered and amended as Section R4-25-502 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3).

### R4-25-503. Documentation

**A.** Each application for renewal must be accompanied by a written report which affirms the applicant's attendance of 25 hours of Board-approved courses and programs in continuing education. The report shall include the date, course, title, subject matter, hours attended, location, and sponsor of the continuing education courses attended and be signed by the applicant.

**B.** Any material false statement in this report will be grounds for revocation or suspension or refusal to renew a license under the provisions of A.R.S. § 32-852(2).

**C.** Each year, the Board will select continuing education reports to be audited. The reports will be selected randomly or on the basis of previous unsatisfactory reports from particular applicants. Applicants selected for audit will be required to provide the Board with evidence which documents continuing education attendance.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-52 renumbered and amended as Section R4-25-503 effective November 18, 1986 (Supp. 86-6).

### R4-25-504. Credit Hours

**A.** One hour of credit shall be recorded for each hour of participation in the educational or scientific portion of programs approved pursuant to R4-25-502.

**B.** No credit shall be recorded for attending any committee or noneducational hospital meeting.

**Historical Note**

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-53 renumbered and amended as Section R4-25-504 effective November 18, 1986 (Supp. 86-6).

Amended effective July 27, 1995 (Supp. 95-3).

**R4-25-505. Waiver of Continuing Education Requirement**

**A.** If a renewal applicant is unable to complete the continuing education requirement of R4-25-501 for one of the reasons specified in A.R.S. § 32-829(C), the renewal application shall contain a request for a waiver or postponement. The request shall include the report specified in R4-25-503(A) concerning those courses that have been completed and an explanation of why courses or programs sufficient to complete the requirement could not have been met during the year preceding renewal. If the request is for postponement, it shall also include the applicant's plan for completing the continuing education requirement.

**B.** In making a decision on the request for postponement, the Board shall consider the following:
1. What justification exists for postponement?
2. How soon the applicant will makeup the continuing education requirement.
3. If the applicant will be practicing podiatry in Arizona in the interim.

**C.** Any licensee who submits an application for waiver which is denied by the Board will be ineligible for license renewal until the licensee has complied with R4-25-501.

**D.** Licensees who have been licensed for less than a full licensing year must complete two continuing education hours for each month of the licensee's initial license.

**Historical Note**
Adopted effective November 18, 1986 (Supp. 86-6).
Amended effective July 27, 1995 (Supp. 95-3).

## ARTICLE 6. DISPENSING OF DRUGS AND DEVICES

**R4-25-601. Reserved**

**R4-25-602. Registration and Inventory Requirements**

**A.** A podiatrist may dispense drugs and devices if:
1. The podiatrist is currently licensed as a podiatrist in Arizona and registers with the Board by submitting all of the following to the Board:
   a. The applicant's current Drug Enforcement Administration Certificate of Registration by the Department of Justice under 21 U.S.C. 801 et seq.;
   b. The fee required in R4-25-103; and
   c. An application form provided by the Board, signed and dated by the applicant and notarized that contains:
      i. The applicant's name,
      ii. The address of each location where applicant intends to dispense drugs and devices, and
      iii. The types of drugs and devices the applicant intends to dispense.
2. The podiatrist ensures that all drugs are dispensed in a prepackaged container or in a light-resistant container with a consumer safety cap, and labeled with the following information:
   a. The podiatrist's name, address, and telephone number;
   b. The serial number and date the drug or device is dispensed;
   c. The patient's name; and
   d. The name, strength of the drug, the quantity dispensed and directions for its use.
3. The podiatric physician secures all controlled substances and the prescription-only medications Nalbuphine Hydrochloride (Nubain) and Butorphanol Tartrate (Stadol) in a locked cabinet or room and controls access to the cabinet or room by written procedure and maintains an ongoing inventory of the contents. This written procedure shall be made available to the Board or its authorized agents on demand for inspections or copying.
4. The podiatric physician ensures that drugs or devices not requiring refrigeration are maintained in an area where the temperature does not exceed 85°F.
5. The podiatric physician maintains an ongoing dispensing log which includes separate inventory sheets for each controlled substance and the prescription-only medications Nalbuphine Hydrochloride (Nubain) and Butorphanol Tartrate (Stadol). The dispensing sheets shall include the following information:
   a. The date the drug is dispensed;
   b. The patient's name;
   c. The name and strength of the drug;
   d. The number of dosage units dispensed;
   e. A running total of medication dispensed; and
   f. The signature of the podiatric physician or the person authorized by the podiatric physician in dispensing the medication. The signature must be placed next to each entry.

**B.** This rule does not apply to manufacturers' samples of drugs and devices.

**Historical Note**
Adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

**R4-25-603. Prescribing and Dispensing Requirements**

**A.** The podiatric physician shall record on the patient's medical record the name and strength of the drug dispensed, the quantity or volume dispensed, the date the drug is dispensed, and the number of refills authorized.

**B.** Prior to delivery to the patient, the doctor shall review the prepared drug and device to ensure compliance with the prescription and, additionally, ensure that the patient has been informed of the name of the drug, directions for its use, precautions, and storage

**C.** All dispensed drugs and devices shall be purchased from a manufacturer or distributor licensed in this state, or another state or jurisdiction.

**D.** Prior to dispensing a drug or device, the patient shall be given a written prescription signed by the dispensing physician, on which appears the following statement in bold type: **"This prescription may be filled by the prescribing doctor or by a pharmacy of your choice."**

**E.** A podiatric physician shall dispense drugs and devices only to the dispensing doctor's own patient and only for conditions being treated by that podiatric physician.

**F.** The podiatric physician shall provide direct supervision to all persons involved in the dispensing process.

**G.** The original prescription form for drugs and devices shall be countersigned and dated by the actual person who prepared the drugs and devices for dispensing.

**Historical Note**
Adopted effective July 27, 1995 (Supp. 95-3).

**R4-25-604. Recordkeeping and Reporting Shortages**

**A.** All original prescription orders for medications dispensed from a podiatric physician's office shall be dated, consecutively numbered in the order in which they were originally dispensed, and filed separately from the medical records. Original prescription orders for Schedule II drugs shall be maintained separately from other prescription orders.

**B.** A podiatric physician shall maintain drug purchase orders, invoices of drugs and devices received, and original prescrip-

tion orders for a period of three years from the date of the order. Dispensing logs and destruction records shall be maintained for ten years.

**C.** The medication log required pursuant to R4-25-602(6) may; be maintained by computer.

**D.** A podiatric physician from whose office drugs are illegally removed, or who determines that an inaccurate drug count or drug shortage exists in controlled drugs maintained for dispensing, shall immediately notify the appropriate law enforcement agency and the federal Drug Enforcement Administration. The podiatric physician shall provide written notification to the Board within seven days of the determination, including the name of the law enforcement agency notified.

**Historical Note**
Adopted effective July 27, 1995 (Supp. 95-3).

**R4-25-605. Renewals, Inspections, Penalties, and Fees**

**A.** A podiatric physician shall renew a registration to dispense annually, on or before June 30th, on a registration form provided by the Board.

**B.** The Board may conduct periodic inspection of dispensing practices to assure compliance with these rules and applicable Arizona Revised Statutes.

**C.** Except in an emergency situation, a podiatric physician who dispenses drugs or devices without being registered by the Board is subject to a civil penalty by the Board of not less $300 and not more than $1,000 for each transaction and may be prohibited from further dispensing for a period of time prescribed by the Board.

**D.** The initial registration fee for dispensing drugs and devices by a podiatric physician shall be $200. The annual renewal fee for continuing registration to dispense drugs and devices shall be $100.

**E.** If the completed annual renewal form and correct fees are not received in the Board's office by June 30th, the physician's certification shall expire. If a podiatrist physician's registration expires, that physician shall not be permitted to dispense drugs or devices. The physician shall register again, by means of an initial registration pursuant to R4-25-602(A)(1), before dispensing drugs and devices.

**Historical Note**
Adopted effective July 27, 1995 (Supp. 95-3).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

(Authority: A.R.S. § 32-2061 et seq.)

***Editor's Note: This Chapter contains amendments that were filed with the Secretary of State on March 3, 1995. At the time of filing, the original copy of the rulemaking package differed from the copy of the package filed at the same time. The Secretary of State uses the copy to prepare the Code supplement. The agency notified the Secretary of State that the wrong version was used. That led to the Secretary of State's discovery of the two versions filed in March 1995. The Secretary of State then used the original package to publish a corrected edition with Supp. 95-2. The Secretary of State has since been advised by the Attorney General that the original version as published with Supp. 95-1 was correct with the exception on one phrase in R4-26-207 that was inadvertently omitted. With this publication, this Chapter reflects the correct amendments and the omitted phrase in R4-26-207 has now been added.***

*Article 1, consisting of Sections R4-26-01 through R4-26-10; Article 2, consisting of Sections R4-26-20 through R4-26-28; and Article 3, consisting of Sections R4-26-50 through R4-26-57, renumbered, refer Historical Notes (Supp. 81-3).*

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### ARTICLE 1. GENERAL PROVISIONS

**R4-26-101. Definitions**

In this Chapter, the following terms mean:

1. "Administrative completeness review" means the Board's process for determining that an applicant has provided all of the information and documents required by Board statute or this Chapter.
2. "Advertising" means the use of any communications media, whether paid or unpaid by a psychologist, to disseminate information regarding the qualifications of the psychologist or to solicit clients for psychological services. Methods of advertising include a published statement or announcement, directory listing, business card, personal resume, brochure, or any electronic communication conveying professional qualifications or promoting the use of the psychologist's professional services.
3. "Applicant" means an individual requesting licensure, renewal, or approval from the Board.
4. "Application packet" means the forms and documents the Board requires an applicant to submit or be submitted on an applicant's behalf.
5. "Case", in the context of R4-26-106(E), means a legal cause of action instituted before an administrative or judicial court.
6. "Case conference" means an informal meeting among psychologists that includes the discussion of a particular client, case, or diagnosis that is related to the practice of psychology.
7. "Client record" means, in addition to adequate records defined in A.R.S. § 32-2061(A)(2), any assessment, plan of intervention, consultation, hand-written note, summary report, testing report, relevant supporting data, or a release form obtained from a client or 3rd party pertaining to the psychological services.
8. "Confidential record means:
   a. Minutes of an executive session of the Board;
   b. A record that is classified as confidential by a law or rule applicable to the Board;

c. An applicant's or licensee's college or university transcript requested by a person other than the applicant or licensee;
d. All materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, or any other information relating to a client's diagnosis, treatment, personal or family life. The Board shall disclose if an investigation is being undertaken and the general nature of the investigation;
e. Home address and home telephone number;
f. Test scores; and
g. Social security number.

9. "Days" means calendar days.
10. "Diplomate" means a status bestowed on a person by the American Board of Professional Psychology after successful completion of the work and examinations required.
11. "Dissertation" means a document prepared as part of a graduate doctoral program that includes, at a minimum, separate sections that:
    a. Review the literature on the psychology topic being investigated, state each research question under investigation, and state each hypothesis investigated;
    b. Describe the method or procedure used to investigate each research question or each hypothesis;
    c. Describe and summarize the findings and results of the investigation;
    d. Discuss the findings and compare them to the relevant literature presented in the literature review section; and
    e. List the references used in the various sections of the dissertation. A majority of the references used in the dissertation shall either be listed in the American Psychological Association's journal, *Psychological Abstracts*, or classified as a psychology subject by the Library of Congress.
12. "Fellow" means a rank or position bestowed on a person by a psychology association or society.
13. "Gross negligence" means a psychologist's breach of duty to know or have reason to know of facts that would lead a reasonable psychologist to realize that the psychologist's act or failure to act creates an unreasonable risk of harm and involves a high degree of probability that substantial harm may result.
14. "Internship training program" means the supervised professional experience required in A.R.S. § 32-2071(D).
15. "National examination" means the national written examination provided by the Association of State and Provincial Psychology Boards.
16. "Party" means the Board, an applicant, or a licensee**.**
17. "Primarily psychological", in the context of A.R.S. § 32-2071(A)(6), means subject matter that covers the practice of psychology as defined in A.R.S. § 32-2061(A)(8).
18. "Psychometric testing" means measuring cognitive and emotional processes and learning.
19. "Raw test data" means information collected during a psychologist's assessment and evaluation.
20. "Residency" means the same as in A.R.S. § 32-2071(H), except domicile or hospital residency.
21. "Retired", as used in A.R.S. § 32-2073(E), means a psychologist has permanently stopped practicing psychology, as defined in A.R.S. § 32-2061(A)(8).
22. "Substantive review" means the Board's process for determining if an applicant meets the requirements of A.R.S. § 32-2071 through § 32-2076 and this Chapter.
23. "Successfully completing", in A.R.S. § 32-2071(A)(4), means receiving a passing grade in a course from a school or institution.
24. "Supervise" means to control, oversee, and review the activities of an employee, intern, or trainee who provides psychological services.
25. "Supervisor" means a psychologist licensed or certified as a psychologist in the state in which the supervision occurs.
26. "Three or more graduate semester hours" means 3 16-week semester hours, 4 12-week quarter hours, or 5.33 9-week trimester hours.

**Historical Note**

Former Rule 1; Former Section R4-26-01 repealed, new Section R4-26-01 adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Former Section R4-26-101 renumbered to R4-26-102; new Section R4-26-101 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1).

**R4-26-102. Board Meetings**

Pursuant to A.R.S. § 32-2063(A)(8), the Board shall meet prior to July 1 of each year to elect a chairman, a vice chairman, and a secretary who shall take office on July 1 of that year and serve until June 30 of the following year. A vacancy occurring in the office of chairman, vice chairman, or secretary shall be filled by a Board election.

**Historical Note**

Former Rule 2; Amended effective November 22, 1977 (Supp. 77-6). Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-02 adopted effective July 27, 1979 (Supp. 79-4). Amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-102 renumbered to R4-26-103; new Section R4-26-102 renumbered from R4-26-101 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-103. Official Signatures**

The chairman, vice chairman, or secretary, elected pursuant to A.R.S. § 32-2063, shall sign correspondence, forms, legal documents, or other official papers of the Board. The chairman, vice chairman, or secretary may delegate this duty to another Board member, or the executive director.

**Historical Note**

Former Rule 3; Amended effective November 22, 1977 (Supp. 77-6). Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-03 adopted effective July 27, 1979 (Supp. 79-4). Former Section R4-26-103 renumbered to R4-26-104; new Section R4-26-103 renumbered from R4-26-102 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains

the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-104. Advisory Committees**

The Board may appoint advisory committees for the purpose of conducting investigations and making recommendations to the Board concerning official actions to be taken or considered by the Board regarding the licensing process or disciplinary matters.

**Historical Note**

Former Rule 4; Former Section R4-26-04 repealed effective November 22, 1977 (Supp. 77-6). New Section R4-26-04 adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-26-04 repealed, new Section R4-26-04 adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Correction, paragraph (2), subparagraph (f) as amended effective June 17, 1981 (Supp. 84-1). Amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-104 renumbered to R4-26-105; new Section R4-26-104 renumbered from R4-26-103 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-105. Confidentiality of Board Records**

**A.** All records which are open to public inspection shall be viewed at the Board office during business hours which are Monday through Friday from 8 a.m. to 5 p.m., excluding holidays.

**B.** All Board records are open to public inspection and copying except those that are confidential, as follows:

1. Minutes of executive sessions.
2. Records which are classified as confidential by laws or rules applicable to the Board.
3. College or university transcripts of applicants for licensure or of persons licensed as psychologists, except that the person on whom the file is kept may view or copy such records.
4. All materials relating to an ongoing or concluded investigation by the Board, including the complaint, response, patient records, witness statements, investigative reports, or any other information relating to the client's diagnosis, treatment, personal or family life; however, the public may be informed that an investigation is being undertaken and of the general nature of the investigation.

**Historical Note**

Former Rule 5; Former Section R4-26-05 repealed effective November 22, 1977 (Supp. 77-6). New Section R4-26-05 adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-26-05 repealed effective September 15, 1978 (Supp. 78-5). Former Section R4-26-05 repealed, new Section R4-26-05 adopted effective July 27, 1979 (Supp. 79-4). Former Section R4-26-105 renumbered to R4-26-107; new Section R4-26-105 renumbered from R4-26-104 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-106. Client Records**

**A.** Pursuant to A.R.S. § 32-2061(13)(s), a client has a right to information in the client's record.

**B.** A psychologist shall not require payment for the psychological services which led to the creation of a client's record as a prerequisite to providing such material.

**C.** A client's raw test data or psychometric testing materials may be released, with the client's written consent, to another licensed psychologist. Any other disclosure of a client's raw test data or psychometric testing materials shall only be made to the extent required by federal or state law or court order compelling production.

**D.** All client records, including records of a client who has died while under the care and treatment of the psychologist, shall be retained for a minimum of seven years from the date of the last client activity. A psychologist who has been notified of an investigation or pending case by the Board or municipal, state, or federal officials shall retain all records relating to that investigation or case until the psychologist has received written notification that the investigation has been completed or that the case has been closed. A psychologist who is on inactive status pursuant to A.R.S. § 32-2073(E) is not exempt from this rule.

**Historical Note**

Former Rule 6; Repealed effective November 22, 1977 (Supp. 77-6). New Section adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-107. Current Address**

A psychologist's failure to receive a renewal notice or other mail which the Board sends to the most recent address which the psychologist has placed on file with the Board office is not justification for an untimely license renewal or the omission of any other action required by the psychologist.

**Historical Note**

Former Rule 7; Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-107 renumbered from R4-26-105 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-108. Application Deadline**

A license application and all related supporting materials and documentation shall be completed and filed at the Board office at least 60 days prior to the date of the next scheduled written examination. An applicant who does not meet this deadline shall not sit for that examination.

**Historical Note**

Former Rule 8; Amended as an emergency effective June 15, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-3). Amended effective September 15, 1978 (Supp. 78-5). Repealed effective July 27, 1979 (Supp. 79-4). New Section R4-26-108 adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-109. Repealed**

**Historical Note**

Former Rule 9; Repealed effective July 27, 1979 (Supp. 79-4).

**R4-26-110. Repealed**

**Historical Note**
Adopted effective November 22, 1977 (Supp. 77-6). Repealed and readopted as Section R4-26-57 effective July 27, 1979 (Supp. 79-4).

**R4-26-111. Reserved**
**thru**
**R4-26-119. Reserved**

**R4-26-120. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-201 effective July 27, 1979 (Supp. 79-4).

**R4-26-121. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-202 effective July 27, 1979 (Supp. 79-4).

**R4-26-122. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-203 effective July 27, 1979 (Supp. 79-4).

**R4-26-123. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-204 effective July 27, 1979 (Supp. 79-4).

**R4-26-124. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-205 effective July 27, 1979 (Supp. 79-4).

**R4-26-125. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-206 effective July 27, 1979 (Supp. 79-4).

**R4-26-126. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-207 effective July 27, 1979 (Supp. 79-4).

**R4-26-127. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-208 effective July 27, 1979 (Supp. 79-4).

**R4-26-128. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-209 effective July 27, 1979 (Supp. 79-4).

**R4-26-129. Reserved**
**thru**
**R4-26-149. Reserved**

**R4-26-150. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-301 effective July 27, 1979 (Supp. 79-4).

**R4-26-151. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-302 effective July 27, 1979 (Supp. 79-4).

**R4-26-152. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-303 effective July 27, 1979 (Supp. 79-4).

**R4-26-153. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-304 effective July 27, 1979 (Supp. 79-4).

**R4-26-154. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-305 effective July 27, 1979 (Supp. 79-4).

**R4-26-155. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-306 effective July 27, 1979 (Supp. 79-4).

**R4-26-156. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-307 effective July 27, 1979 (Supp. 79-4).

**R4-26-157. Renumbered**

**Historical Note**
Former Section R4-26-120 renumbered to R4-26-201 effective July 27, 1979 (Supp. 79-4).

## ARTICLE 2. LICENSURE

**R4-26-201. Repealed**

**Historical Note**
Adopted effective July 27, 1979 (Supp. 79-4). Amended subsection (A) statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-120 and amended effective July 3, 1991 (Supp. 91-3). Repealed effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-202. Doctorate**

**A.** The following criteria apply to determine whether an applicant has received a doctorate based on a program of studies, as required by A.R.S. § 32-2071.

1. To determine whether a program is "identified and labeled as a psychology program" pursuant to A.R.S. § 32-2071(A)(2), the Board shall determine whether the university, college, department, school, or institute had institutional catalogues and brochures that specified its intent to educate and train psychologists, at the commencement of the applicant's degree program.
2. To determine whether a program "stands as a recognized, coherent organizational entity" pursuant to A.R.S. § 32-2071(A)(2), the Board shall determine whether the university, college, department, school, or institute had a psychology curriculum that was an organized sequence of study of courses at the commencement of the applicant's degree program.

3. To determine whether a program has "clearly identified entry and exit criteria" within its curriculum pursuant to A.R.S. § 32-2071(A)(2), the Board shall examine whether the university, college, department, school, or institute has entry requirements that outline the prerequisites for entrance into the program and the sequence of study and whether the requirements for graduation are delineated.
4. To determine whether a comprehensive examination taken by an applicant as part of a doctoral program in psychology satisfies the requirements of A.R.S. § 32-2071(A)(4), the applicant shall have the educational institution that granted the doctoral degree provide documentation, directly to the Board, which demonstrates how the applicant's comprehensive examinations were constructed, the criteria for passing, and the information used to determine that the applicant passed.
5. To determine whether an applicant satisfies the requirements of A.R.S. § 32-2071(A)(4) by successfully completing at least three or more graduate level semester hours, or the equivalent quarter hours, in the content areas required by A.R.S. § 32-2071(A)(4)(a) through (h), shall have the institution that the applicant attended provide, directly to the Board, an official transcript of all courses taken. The Board may require additional documentation from the applicant or from the institution to determine if the applicant has satisfied the requirements of A.R.S. § 32-2071(A)(4).

**B.** The residency requirement of A.R.S. § 32-2071(I) shall be construed as being applicable to the applicant's graduate program at the institution granting the doctoral degree.

**C.** The Board shall not accept credit hours for life experiences, for workshops, practicum, or undergraduate courses from any degree-granting university or institution of higher education, or for credits transferred from institutions that are not accredited pursuant to A.R.S. § 32-2071(A)(1), to satisfy a requirement of A.R.S. § 32-2071(A)(4).

**D.** No course or comprehensive examination shall be counted more than once to satisfy a requirement of A.R.S. § 32-2071(A)(4).

**E.** An honorary doctorate or other degree based upon credit granted for life experiences does not qualify an applicant for certification as a psychologist.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Renumbered from R4-26-121 and amended effective July 3, 1991 (Supp. 91-3). Amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-203. Evaluation of Applicant Credentials**

**A.** An applicant for licensure shall submit for Board review the following information for the Board to determine the applicant's eligibility to take the Board's examinations or to have such examinations waived:

1. Pursuant to A.R.S. § 32-2063(A)(3), the Board's application form completed and signed by the applicant and notarized. This form requires the following applicant information:
   a. Name, addresses, and telephone numbers;
   b. Educational background and training;
   c. Licensing and disciplinary history;
   d. Employment history;
   e. Membership in professional associations;
   f. Criminal and malpractice history;
   g. Medical history; and
   h. Photographs.
2. Pursuant to A.R.S. § 32-2063(A)(3), as part of the content of the application, favorable written references of the applicant confirming, to the best knowledge of the person issuing the reference, that the applicant has not engaged in any act or conduct that constitutes grounds for disciplinary action against a licensee of the Board pursuant to A.R.S. § 32-2071.01(3) from two professional references familiar with the applicant. Providing references who indicate only that they know the applicant or are not aware of an unfavorable report concerning the applicant does not constitute credentials necessary for licensure. The reference shall be from individuals who are either Arizona licensed psychologists, diplomates, or fellows or members in good standing of the American Psychological Association, Canadian Psychological Association, or the American Psychological Society and who have knowledge of the applicant's professional activities within the three years prior to the date of submission of the applicant's application. If it has been more than three years since the applicant has engaged in professional activity as a psychologist or as a doctoral candidate in psychology, then the applicant may submit references from individuals who have the same credentials described previously herein and who have knowledge of the applicant's aforementioned activity, as a psychologist or as a doctoral candidate, for the most recent three-year period that the applicant engaged in the aforementioned activity. If none of the foregoing persons are available to the applicant, other psychologists who are licensed or certified to practice psychology in the United States or Canada who have knowledge of the applicant's professional activities within the three years prior to the date of submission of the applicant's application shall be acceptable.
3. Pursuant to A.R.S. § 32-2071(A), official transcripts covering the applicant's graduate training. These transcripts shall be sent to the Board by the institution and shall contain a notation of degrees awarded or be accompanied by an official notice of the date and name of the degrees awarded and the name of the department awarding the degrees.
4. An affidavit from the supervisor or administrator of the applicant's supervised internship or training program verifying that the applicant's training satisfied the requirements of A.R.S. § 32-2071(D).
5. An affidavit from the supervisor of the applicant's post-doctoral experience verifying that the applicant's post-doctoral experience satisfied the requirements of A.R.S. § 32-2071(E).
6. A written description from the applicant of the components of the applicant's doctoral program to show that the applicant's doctoral program satisfied the core program requirements of A.R.S. § 32-2071(A)(4).
7. A signed, written statement from the applicant that the applicant has completed a residency that satisfies the requirements of A.R.S. § 32-2071(I) in its entirety.

**B.** If seeking waiver of the written examination for the practice of psychology based upon previous testing, the applicant shall request the Professional Examination Service to send the applicant's previous test scores directly to the Board.

**C.** If seeking waiver of the Board's written examination based upon diplomate status, the applicant shall request the American Board of Professional Psychology to send verification of such status directly to the Board.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective April 25, 1980 (Supp. 80-2). Amended Introductory paragraph statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-122 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-203 repealed, new Section R4-26-203 renumbered from R4-26-204 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-204. Examinations**

**A.** General Rules

1. An applicant who fails an examination three or more times, in Arizona or any other jurisdiction, shall comply with the following requirements pursuant to A.R.S. § 32-2072(B):
   a. No further examinations shall be administered in Arizona and no future scores from any other jurisdiction shall be considered until the applicant meets with the Board to review the areas of deficiency and to develop and implement a program of study and practice experience designed to remedy the applicant's deficiencies. This remedial program shall consist of course work, internship experience, supervision, or any combination of these.
   b. A new license application shall be submitted only after completion of the remedial program described in subsection (A)(1)(a). In addition to the information that was required on the original application, this new application shall include documentation of all professional activities of the applicant since the original application.
   c. If the applicant who fails an examination three or more times subsequently passes an Arizona - approved examination in another jurisdiction at or above the passing score required in Arizona on the date the examination was taken, the Board shall not accept a new application as complete until the applicant completes the remedial program described in subsection (A)(1)(a).
2. If an applicant who has been accepted to sit for a Board examination fails to appear at the time scheduled for the commencement of the examination or any specific parts thereof, the applicant loses eligibility to sit for that examination and shall reapply and pay another application fee.
3. The Board may deny a license on the grounds that an applicant has violated or attempted to violate the restrictions governing any licensing examination or the administration of an examination, as listed hereafter:
   a. Violating the security of the examination materials;
   b. Removing from the examination room any examination materials;
   c. The xerographic, photographic, or other reproduction of any portion of the licensing examination;
   d. Aiding the xerographic, photographic, or other mechanical reproduction of any portion of the licensing examination;
   e. Paying or using another person to take a licensing examination for the applicant or to reconstruct any portion of the licensing examination;
   f. Obtaining examination material, either before, during, or after an examination, or using or purporting to use any examination materials which were removed or taken from any examination for the purpose of instructing or preparing applicants for examinations;
   g. Selling, distributing, buying, receiving, or having possession of any portion of a future, current, or previously administered licensing examination that has not been authorized for release to the public by the Board or its authorized agent;
   h. Communicating with any other examinee during the administration of a licensing examination;
   i. Copying answers from another examinee or permitting answers to be copied by another examinee;
   j. Possessing during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than material distributed during the examination; or
   k. Impersonating another examinee.

**B.** Written Examination

1. Pursuant to A.R.S. §§ 32-2063 and 32-2072, the Board shall administer the written examination for the licensure of a psychologist provided by the Association of State and Provincial Psychology Boards. An applicant whose credentials were approved by the Board shall be considered to have passed the test if the score received equals at least 70% of the total possible score. The applicant shall be notified in writing of the test results as provided to the Board by the testing service.
2. No inspection is allowed of a written examination administered by the Board.

**C.** Oral Examination

1. The oral examination, pursuant to A.R.S. § 32-2072(A), shall consist of a panel of two or more examiners asking each applicant questions to determine the competency of the applicant's knowledge and application of Arizona law to the practice of psychology, ethical conduct, and psychological assessment and treatment practices. The panel of examiners shall be chosen by the Board from a group of Arizona licensed psychologists.
2. At least 15 calendar days prior to the oral licensing examination, the Board shall notify the applicant by correspondence, that is addressed to the applicant's address of record, of the subject areas to be tested and the applicant shall be examined only in those areas. Failure of the applicant to receive the aforementioned notification shall not constitute grounds for excusing the applicant from taking the scheduled oral examination. Applicants are responsible for communicating with the Board's administrative staff to obtain the aforementioned notification, notwithstanding the Board's intent to give notice by mail.
   a. An applicant shall be deemed to have passed the oral examination if the score obtained is at least 75% of the total possible score. Applicants shall be notified in writing of their examination results. An applicant who fails to receive a score of at least 75% of the total possible score in an oral examination shall be given reasons in writing why the failing score was issued.

b. The Board shall keep a recording at the Board office of each oral examination for at least two years following the date of the examination.
c. Scoring of the oral examination shall be performed by each examiner on the panel on uniform grading sheets provided by the Board. The mean score, calculated by averaging the score given by each examiner on the panel, shall constitute the applicant's final score. Only the mean score, not the score assigned by each of the examiners on the panel, shall be disclosed to the applicant.
d. An applicant who believes that an examiner on the oral examination panel may be biased against or for the applicant's application shall notify the person administering the examination as soon as the applicant becomes aware of the perceived bias.

3. All requests for reconsideration of the results of an oral examination shall be submitted in writing to the Board office within 30 days following the notification of failure of the examination.
   a. Upon timely request by an applicant, the Board shall reconsider the results of a failed oral examination if the applicant received a score between 72.5% and 74.9% of the total possible score. The Board may reconsider the results of an oral examination if the applicant received a score of less than 72.5% of the total possible score.
   b. The review for reconsideration of an oral examination shall be conducted by one or more of the Board members and their findings shall be subject to the approval of the Board at the next regularly scheduled Board meeting.
   c. Nothing in this Section shall be construed to deprive an applicant of the applicant's appeal rights provided by law.
4. All examination materials, except those owned by an examination service, shall be retained by the Board at the Board office for a period of two years after the date of the examination. An applicant may inspect an oral examination grading sheet or the recording of an oral examination at the Board office during the hours of 8 a.m. to 5 p.m., Monday through Friday, excluding holidays, if such request is made in writing to the Board within one year following the date of the examination. No more than one inspection shall be allowed prior to the expiration of the time to file a written request for reconsideration. Applicants who were informed that they passed the oral examination, or failing applicants who do not wish to request Board reconsideration, shall be allowed to inspect once an oral examination grading sheet or the recording of an oral examination at the Board's offices after the time has expired for failing applicants to submit requests for reconsideration. At the time of inspection, only the person who took the examination and a representative of the Board shall be present.
5. Diplomates and applicants who received a passing score on a previous written examination pursuant to A.R.S. § 32-2072(C) are exempt from the written examination but shall take the oral examination.
6. An applicant shall pass the written examination before being permitted by the Board to take the oral examination.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended Introductory paragraph statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-123 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-204 renumbered to R4-26-203, new Section R4-26-204 renumbered from R4-26-205 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**APPENDIX A**

**ARIZONA PASS POINT FOR THE EXAMINATION FOR THE PRACTICE OF PSYCHOLOGY**

| FORM | DATE | # OF ITEMS | AZ PASS POINT |
|---|---|---|---|
| 1 | 1966 | | 102 |
| 1 | 1967 | | 102 |
| 2 | 1967 | | 113 |
| 1 | 1968 | | 101 |
| 2 | 1968 | | 112 |
| 2 | 1969 | | 110 |
| 3 | 1969 | | 134 |
| 2 | 1970 | | 110 |
| 3 | 1970 | | 133 |
| 2 | 1971 | | 109 |
| 3 | 1971 | | 134 |
| 4 | 1971 | | 105 |
| 2 | 1972 | | 109 |
| 3 | 1972 | | 133 |
| 4 | 1972 | | 103 |
| 2 | 1973 | | 109 |
| 3 | 1973 | | 133 |
| 4 | 1973 | | 103 |
| 2 | 1974 | | 109 |
| 3 | 1974 | | 131 |
| 4 | 1974 | | 103 |
| 5 | 1974 | | 104 |
| 2 | 1975 | | 109 |
| 3 | 1975 | | 131 |
| 4 | 1975 | | 104 |
| 5 | 1975 | | 105 |
| 2 | 1976 | | 109 |
| 3 | 1976 | | 131 |
| 4 | 1976 | | 104 |
| 5 | 1976 | | 105 |
| 2 | 1977 | | 109 |
| 4 | 1977 | | 104 |
| 5 | 1977 | | 105 |
| 6 | 1977 | | 107 |
| 7 | 1977 | | 113 |
| 5 | 1978 | | 105 |
| 7 | 1978 | | 114 |
| 8 | 1978 | | 113 |
| 9 | 1978 | | 129 |
| 9 | 10-20-78 | 175 | 127 |
| 10 | 04-20-79 | 200 | 142 |
| 11 | 10-19-79 | 200 | 152 |
| 12 | 04-11-80 | 192 | 142 |
| 13 | 10-10-80 | 197 | 155 |
| 14 | 04-10-81 | 193 | 131 |
| 15 | 10-16-81 | 196 | 138 |
| 16 | 04-16-82 | 200 | 141 |
| 17 | 10-08-82 | 200 | 145 |
| 18 | 04-08-83 | 200 | 147 |
| 19 | 10-15-83 | 200 | 155 |
| 20 | 04-13-84 | 200 | 145 |

| | | | |
|---|---|---|---|
| 21 | 10-26-84 | 200 | 151 |

**Historical Note**
Adopted effective July 27, 1979 (Supp. 79-4). Amended subsections (A) and (B) statute references, effective June 30, 1981 (Supp. 81-3). Amended effective November 1, 1985 (Supp. 85-6). Renumbered from R4-26-124 and amended effective July 3, 1991 (Supp. 91-3). Renumbered from R4-26-205, Appendix A (Supp. 95-1).

**R4-26-205. Renewal of License**
License renewal applications shall be considered timely received by the Board if delivered to the Board's office and received by the Board's personnel or if mailed to the Board's address by the United States mail and postmarked before May 1 of the year that the license expires.

**Historical Note**
Adopted effective July 27, 1979 (Supp. 79-4). Amended subsections (A) and (B) statute references, effective June 30, 1981 (Supp. 81-3). Amended effective November 1, 1985 (Supp. 85-6). Renumbered from R4-26-124 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-205 renumbered to R4-26-204; new Section R4-26-205 renumbered from R4-26-206 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-206. Inactive Status**
To determine whether a psychologist has maintained and updated the professional knowledge and capability to resume active practice as a psychologist when considering reinstatement of a psychologist on inactive status to active status, pursuant to A.R.S. § 32-2073(G), the Board shall determine whether the psychologist has satisfied the continuing education requirements applicable to psychologists on active status. Psychologists who have, while on inactive status, fulfilled the continuing education requirements of a psychologist on active status shall be presumed to have maintained and updated their professional knowledge and capability to practice as a psychologist, unless the Board is presented with evidence to the contrary.

**Historical Note**
Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Renumbered from R4-26-125 effective July 3, 1991 (Supp. 91-3). Former Section R4-26-206 renumbered to R4-26-205; new Section R4-26-206 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-207. Continuing Education**

**A.** A minimum of 60 hours of continuing education shall be completed during each two-year license renewal period. One clock hour of instruction, training, preparation of a published book or journal article, or making a presentation shall equal one continuing education credit.
1. For newly licensed individuals, during any license renewal period, the continuing education requirement shall be prorated from the time of a new applicant's licensure.
2. The date of Board correspondence giving new licensees notice of official licensure shall be the time from which the prorating of the continuing education requirement shall begin for a new licensee. The prorating of the continuing education requirement shall be calculated by counting, from the week following the date of licensing of a new licensee, the number of weeks remaining until May 1 of the next renewal year. That number shall serve as a numerator of a fraction, and 104, the total number of weeks in the renewal period, shall be the denominator of the fraction. This fraction shall then be multiplied by 60, the total number of continuing education hours required, to calculate the minimum number of continuing education hours required for the license renewal period. The same fraction shall be used to calculate the minimum number of continuing education hours required in each of the three categories listed in subsection (B). Calculations that result in a fractional number shall be rounded to the next largest whole number.

**B.** During the two-year license period, a licensee shall obtain a minimum of 40 hours from Category I as described hereafter; and, no more than 20 hours may be from Category II to satisfy the total number of hours of instruction during the two-year license period.
1. Category I shall consist of courses, seminars, workshops, home studies with certificates of completion, and post-doctoral studies sponsored by a regionally accredited university or college, as described in A.R.S. § 32-2071(A)(1), providing a graduate-level degree program or continuing education programs offered by national, international, regional, or state associations, societies, boards, or continuing education providers, if the content of the educational experience is primarily (i.e., 75% or more) concerning subjects related to the "practice of psychology", as defined in A.R.S. § 32-2061(8). Instructors shall meet the qualifications stated in subsection (C).
2. Category II shall consist of self study, study groups, publication of authored or co-authored psychology books or psychology book chapters, or publication of articles in peer-reviewed psychology journals, or presentation of symposia or papers at a state, regional, national, or international psychology meeting, or attendance at or participation in case conferences.

**C.** Qualifications of continuing education instructors shall be subject to unannounced review by the Board. Instructors shall either be currently licensed or certified in their profession or employed as a faculty member, working at least 20 hours a week, at a regionally accredited college or university, as described in A.R.S. § 32-2071(A), be a fellow of the American Psychological Association or American Psychological Society, or a diplomate as defined by R4-26-101(4).

**D.** A psychologist licensed by the Board who organizes and presents a workshop, seminar, symposium, or course for continuing education credits shall receive the same number and category, reflected in subsections (B)(1) or (2), of continuing education credits as those persons attending the continuing education function. Credit shall be applied only once in a two-year license renewal period for organizing and presenting a continuing education function on the same topic or content area.

**E.** Psychologists elected to offices in international, national, regional, or state psychological associations or societies, or appointed to government psychology boards or committees, may receive a maximum of ten continuing education credits

under Category I, reflected in subsection (B)(1), for their work in those positions.

**F.** Each licensee shall keep records to demonstrate to the Board completion of continuing education credits for the two previous, consecutive, license renewal periods.

**G.** The Board may audit a licensee's compliance with continuing education requirements. Failure to document required continuing education credits may result in nonrenewal of a license or other disciplinary action. A licensee who commits fraud, deceit, or misrepresentation regarding continuing education credits may be disciplined by the Board.

**H.** A licensee who cannot meet the continuing education requirement for good cause may submit a written request to the Board, with all appropriate fees, seeking an extension of time to complete the continuing education requirement.

1. Good cause shall be limited to licensee illness, military service, or residence in a foreign country for at least 12 months of the license renewal period.
2. Requests for extensions shall be submitted on or before the expiration of a license, as provided by statute. A time extension shall not exceed one year.
3. Licensees who cannot complete the continuing education requirement within the time extension may apply to the Board for inactive license status pursuant to A.R.S. § 32-2073(E).

**I.** Continuing education hours in excess of the 60 required hours shall not be carried beyond the two-year renewal period in which they were accrued.

**J.** Courses, workshops, seminars, or symposia designed to increase income or office efficiency shall not be eligible for continuing education credits.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective January 23, 1981 (Supp. 81-1). Renumbered from R4-26-126 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-207 repealed; new Section R4-26-207 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995. Text corrected. (Supp. 95-3).

**R4-26-208. Time-frames for Processing Applications**

**A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. An applicant and the Board's Executive Director may agree in writing to extend the substantive review time-frame and the overall time-frame. Any extension shall not exceed 25% of the overall time-frame.

**B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is listed in Table 1.

1. The administrative completeness review time-frame begins, for approval or denial:
   a. To take the national examination, on the date the Board office receives an application packet and ends on the date the Board office sends an applicant a written notice of administrative completeness;
   b. To take the additional examination, on the date the Board office receives an application packet for an additional examination, and ends on the date the Board office sends an applicant a written notice of administrative completeness of the additional examination packet;
   c. Of a temporary license for an applicant licensed in another jurisdiction, on the date the Board office receives an application packet from the applicant and ends on the date the Board office sends the applicant a written notice of administrative completeness;
   d. Of a license, on the date an applicant takes the additional examination and ends on the date the Board office notifies the applicant that the applicant has completed the additional examination;
   e. Of a license renewal application, on the date the Board office receives a renewal application packet and ends on the date the Board office sends an applicant a written renewal approval or a written notice of completeness, whichever comes 1st;
   f. Of a request for reinstatement of an expired license, on the date the Board office receives the request for reinstatement and ends on the date the Board office sends an applicant a written renewal approval or a written notice of completeness, whichever comes 1st; and
   g. Of a request for an extension in which to complete continuing education requirements, on the date the Board office receives a request for extension, and ends on the date the Board office sends an applicant written notice of completeness of the request.
2. If an application packet is incomplete, the Board shall send an applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of mailing this notice until the date the Board receives a complete application packet from the applicant. An applicant shall supply the missing information within the time specified in Table 1 from the date of the notice. If the applicant fails to do so, the Board may close the file unless the applicant requests a denial within 30 days from the date of the notice. An applicant whose file has been closed and who later wishes to become licensed shall reapply.
3. If a renewal application is incomplete, the Board shall send an applicant a written notice specifying deficiencies. The administrative completeness time-frame and the overall time-frame are suspended from the date of mailing this notice until the date Board receives a complete application packet from the applicant.
4. Once an application packet is complete, the Board shall send a written notice of administrative completeness to an applicant.

**C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1.

1. The substantive review time-frame begins for approval or denial of:
   a. An application to take the national examination, on the date the Board sends an applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the national examination;
   b. An application to take the additional examination, on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the additional examination;
   c. A temporary license, on the date the Board sends an applicant written notice of administrative complete-

ness and ends on the date the Board approves or denies the temporary license;

d. A license, on the date the Board sends an applicant written notification that the applicant has completed the additional examination and ends on the date the Board grants or denies the license;

e. An application for license renewal, on the date an applicant submits a complete renewal application packet and ends on the date the Board approves or denies the renewal application;

f. A request for reinstatement of an expired license, on the date the Board sends written notice of administrative completeness and ends on the date the Board approves or denies the request; and

g. A request for an extension in which to complete continuing education requirements, on the date the Board office sends an applicant written notice of completeness and ends on the date the Board approves or denies the request.

2. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the date of mailing the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

**D.** The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. § 32-2071 through § 32-2076.

**E.** The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. § 32-2071 through § 32-2076.

**F.** The Board shall send a renewal certificate to an applicant who meets the requirements of A.R.S. § 32-2074 and A.A.C. R4-26-205.

**G.** The Board shall send a written notice of expiration of license to an applicant who fails to meet the requirements of A.R.S. § 32-2074 and A.A.C. R4-26-207. The notice of expiration is fully effective upon mailing to the applicant's last known address of record in the Board's file.

**H.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the time-frame ends on the next business day.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective January 23, 1981 (Supp. 81-1). Amended effective July 3, 1984 (Supp. 84-4). Amended effective February 24, 1988 (Supp. 88-1). Renumbered from R4-26-127 effective July 3, 1991 (Supp. 91-3). Former Section R4-26-208 repealed; new Section R4-26-208 amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1).

**R4-26-209. General Supervision**

In the context of supervised activity referred to in A.R.S. § 32-2071, supervising psychologists shall not supervise a member of their immediate family, an individual with whom they have any substantial financial interest as defined by A.R.S. § 32-502(11), or their employer.

**Historical Note**

Adopted effective January 23, 1981 (Supp. 81-1). Renumbered from R4-26-128 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-209 renumbered to R4-26-208; new Section R4-26-209 adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-210. Internship or Training Experience**

**A.** The applicant shall provide documentation to establish that the written statement required in A.R.S. § 32-2071(D)(9) corresponds to the training program that the applicant completed.

**B.** Pursuant to A.R.S. § 32-2071(D)(2), the supervisor shall be available to the person being supervised when decisions are made regarding emergency psychological services provided to a client.

**C.** Pursuant to A.R.S. § 32-2071(D)(2), in non-emergency situations, the supervisor shall have written procedures to be followed in the event the supervisor is unavailable.

**D.** Course work used to satisfy the requirements of A.R.S. § 32-2071(A) or dissertation time shall not be credited toward the time required by A.R.S. § 32-2071(D)(6).

**E.** Pursuant to A.R.S § 32-2071(D)(6)(a), two hours a week of other learning activities may include:

1. Case conferences involving a case in which the trainee was actively involved;
2. Seminars involving clinical issues;
3. Co-therapy with a professional staff person including discussion;
4. Group supervision; or
5. Additional individual supervision.

**F.** Pursuant to A.R.S. § 32-2071(D)(7), a training program that has one trainee shall have the trainee work with other doctoral level psychology trainees and shall include in the written statement required in A.R.S. § 32-2071(D)(9) a description of the program policy specifying the opportunities and resources provided to the trainee for working with other doctoral level psychology trainees.

**G.** Time spent fulfilling academic degree requirements such as course work applied to the doctoral degree, practicum, field laboratory, dissertation, or thesis credit shall not be credited toward the 1,500 hours of professional experience hours required by A.R.S. § 32-2071(D). This rule does not restrict a student from participating in activities designed to fulfill other doctoral degree requirements; however, such time shall not be credited toward the hours required by A.R.S. § 32-2071(D).

**H.** To satisfy the first 1,500 hours required by A.R.S. § 32-2071(D), the written statement required pursuant to A.R.S. § 32-2071(D)(9) shall have been established by the time the student began training. Acquiring experience or claiming credit for the past activities shall not be accepted as a training program or a pre-doctoral internship.

**Historical Note**

Adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-211. Foreign Graduates**

**A.** Pursuant to A.R.S. § 32-2071(B), an applicant for licensure whose application is based on graduation from a foreign institution of higher education shall provide the Board with documents and evidence to establish that the applicant's formal education is equivalent to a doctoral degree in psychology

from a regionally accredited institution as described in A.R.S. § 32-2071(A).

**B.** The applicant shall provide the following information to the Board:

1. An original and a copy of the doctoral diploma or certificate of graduation. The original shall be returned, and the copy shall be retained by the Board.
2. An official transcript, containing an original university seal or comparable document recording all course work completed.
3. A certified English translation of all documents submitted.
4. Evidence of completion of the requirements of A.R.S. § 32-2071(C)(D) and (E).
5. Evidence that the doctoral dissertation or project was primarily psychological. The Board may require the applicant to submit the doctoral dissertation or project.
6. A statement prepared by the applicant, based upon the documents referred to in this Section, indicating the chronological sequence of studies and research. The format of this statement shall be comparable to a transcript issued by United States universities.

**Historical Note**

Adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**Table 1. Time-frames (in days) for Processing Applications**

| Type of Time-frame | Statutory or Rule Authority | Administrative Completeness Time-frame | Time to Respond to Notice of Deficiency | Substantive Review Time-frame | Time to Respond to Request for Additional Information | Overall Time-frame |
|---|---|---|---|---|---|---|
| Approval or denial to take the national examination | A.R.S. § 32-2071; A.R.S. § 32-2071.01; A.R.S. § 32-2072; A.A.C. R4-26-204 | 30 | 240 | 60 | 240 | 90 |
| Approval or denial to take additional examination | A.R.S. § 32-2071; A.R.S. § 32-2071.01; A.R.S. § 32-2072; A.A.C. R4-26-204 | 30 | 240 | 60 | 240 | 90 |
| Approval or denial to issue temporary license | A.R.S. § 32-2071 A.R.S. § 32-2073 | 30 | 240 | 60 | 240 | 90 |
| Approval or denial for licensure | A.R.S. § 32-2071; A.R.S. § 32-2071.01 | 30 | 240 | 60 | 240 | 90 |
| Approval or denial of application for renewal of license | A.R.S. § 32-2074 A.A.C. R4-26-205 | 60 | No time specified | 90 | No time specified | 150 |
| Approval or denial of renewal application for reinstatement | A.R.S. § 32-2074; A.A.C. R4-26-206 | 60 | No time specified | 90 | No time specified | 150 |
| Approval or denial of extension for continuing education requirement | A.R.S. § 32-2074 A.A.C. R4-26-207 | 60 | No time specified | 90 | No time specified | 150 |

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1).

## ARTICLE 3. REGULATION

**R4-26-301. Repealed**

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981. Amended effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-150 and amended effective July 3, 1991 (Supp. 91-3). Repealed effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-302. Renumbered**

**Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-303. Titles**

The use of designations that claim a potential or future degree or qualification such as “Ph.D. (Cand),” “Ph.D. (ABD),” “License Eligible,” “Candidate for Licensure”, or “Board Eligible” are not titles that designate trainee status as described in A.R.S. § 32-2071(D)(8), nor do such titles qualify for exemption under A.R.S. § 32-2075(A)(2) or (3). The use of titles that claim a potential or future degree or qualification may be construed by the Board as violations of A.R.S. §§ 32-2061(13)(c), 32-2071.01(3), and 32-2084.

**Historical Note**
Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New section adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

**R4-26-304. Renumbered**

**Historical Note**
Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-305. Renumbered**

**Historical Note**
Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-306. Renumbered**

**Historical Note**
Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-307. Renumbered**

**Historical Note**
Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-308. Rehearing of Decision**

**A.** Except as provided in subsection (G)., any party in a contested case before the Board of Psychologist Examiners who is aggrieved by a decision rendered in such case may file with the Board of Psychologist Examiners, not later than ten days after service of the decision, a written motion for rehearing of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the party's last known residence or place of business.

**B.** A motion for rehearing may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
2. Misconduct of the Board or its hearing officer or the prevailing party.
3. Accident or surprise which could not have been prevented by ordinary prudence.
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing of its decision for any reason which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after such service, serve opposing affidavits, which period may be extended for not more than 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time permitted for final decisions.

**H.** For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this Section are in conflict with the provisions of any statute providing for rehearing of decisions of the Board, such statutory provisions shall govern.

**Historical Note**
Former Section R4-26-10 renumbered and adopted as R4-26-57 effective July 27, 1979 (Supp. 79-4). Amended subsection (c)(4) effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-157 effective July 3, 1991 (Supp. 91-3). Amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

Recodified

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 27. RECODIFIED

*Title 4, Chapter 27, the rules of the Department of Racing, has been recodified to Title 19, Chapter 2 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 28. REAL ESTATE DEPARTMENT

(Authority: A.R.S. § 32-2107)

### ARTICLE 1. GENERAL PROVISIONS

Section
R4-28-101. Definitions
R4-28-102. Document Filing; Computation of Time
R4-28-103. Licensing Time-frames
R4-28-104. Fees
Table 1. Time-frames

### ARTICLE 2. REPEALED

Section
R4-28-201. Repealed

### ARTICLE 3. LICENSURE

Section
R4-28-301. General License Requirements
R4-28-302. Employing or Designated Broker's License; Non-resident Broker
R4-28-303. License Renewal; Reinstatement; License Changes
R4-28-304. Branch Office; Branch Office Manager
R4-28-305. Temporary License; Certificate of Convenience

### ARTICLE 4. EDUCATION

Section
R4-28-401. Prelicensure Education Requirements; Waiver
R4-28-402. Continuing Education Requirements; Waiver
R4-28-403. License Examinations
R4-28-404. Real Estate School Requirements, Course and Instructor Approval

### ARTICLE 5. ADVERTISING

Section
R4-28-501. Repealed
R4-28-502. Advertising by a Licensee
R4-28-503. Promotional Activities
R4-28-504. Development Advertising

### ARTICLE 6. REPEALED

*Article 6, consisting of Section R4-28-601, repealed effective February 28, 1995 (Supp. 95-1).*

### ARTICLE 7. COMPENSATION

Section
R4-28-701. Commission Sharing; Disclosure

### ARTICLE 8. DOCUMENTS

Section
R4-28-801. Repealed
R4-28-802. Conveyance Documents
R4-28-803. Contract Disclosures
R4-28-804. Rescission of Contract
R4-28-805. Public Record Receipt

### ARTICLE 9. REPEALED

*Article 9, consisting of Sections R4-28-901 and R4-28-902, repealed effective February 28, 1995 (Supp. 95-1).*

### ARTICLE 10. FRANCHISES AND FICTITIOUS NAMES

Section
R4-28-1001. Fictitious Names
R4-28-1002. Franchises

### ARTICLE 11. PROFESSIONAL CONDUCT

Section
R4-28-1101. Duties to Client
R4-28-1102. Property Negotiations

### ARTICLE 12. DEVELOPMENTS

Section
R4-28-1201. Renumbered
R4-28-1202. Repealed
R4-28-1203. Renumbered
R4-28-1204. Repealed

#### PART A. APPLICATION

Section
R4-28-A1201. Development Name; Lot Sales; Applicant
R4-28-A1202. Development Map; Location; Land Characteristics
R4-28-A1203. Flood and Drainage; Land Uses; Adverse Conditions
R4-28-A1204. Utilities
R4-28-A1205. Water Supply
R4-28-A1206 Sewage Disposal
R4-28-A1207. Streets and Access
R4-28-A1208. Flood Protection and Drainage Improvements
R4-28-A1209. Common, Community, or Recreational Improvements
R4-28-A1210. Master Planned Community
R4-28-A1211. Assurances For Completion and Maintenance of Improvements
R4-28-A1212. Schools and Services
R4-28-A1213. Property Owners' Association
R4-28-A1214. Development Use
R4-28-A1215. Development Sales
R4-28-A1216. Title Report and Encumbrances
R4-28-A1217. ADEQ Approval
R4-28-A1218. Registrations in Other Jurisdictions
R4-28-A1219. Condominium Developments
R4-28-A1220. Foreign Developments
R4-28-A1221. Cemetery Developments
R4-28-A1222. Membership Camping Developments
R4-28-A1223. Affidavit

#### PART B. GENERAL INFORMATION

Section
R4-28-B1201. Expedited Registration For Improved Subdivision Lots and Unsubdivided Lands
R4-28-B1202. Conditional Sales Exemption
R4-28-B1203. Material Change; Public Report Amendments
R4-28-B1204. Cemetery Notice; Amendments
R4-28-B1205. Contiguous Parcels
R4-28-B1206. Filing with HUD
R4-28-B1207. Subsequent Owner
R4-28-B1208. Public Report Correction
R4-28-B1209. Options; Blanket Encumbrances; Releases
R4-28-B1210. Earnest Money
R4-28-B1211. Recordkeeping

### ARTICLE 13. ADMINISTRATIVE PROCEDURES

Section
R4-28-1301. Repealed

R4-28-1302. Service of Pleadings Subsequent to Complaint and Notice
R4-28-1303. Information Obtained in an Investigation
R4-28-1304. Response; Default
R4-28-1305. Notice of Appearance of Counsel
R4-28-1306. Repealed
R4-28-1307. Consolidation of Procedures
R4-28-1308. Repealed
R4-28-1309. Repealed
R4-28-1310. Rehearing or Review of Decision; Response; Decision
R4-28-1311. Repealed
R4-28-1312. Repealed
R4-28-1313. Correction of Clerical Mistakes

## ARTICLE 14. REPEALED

*Former Article 14, consisting of Section R4-28-1401, repealed effective November 27, 1987.*

## ARTICLE 1. GENERAL PROVISIONS

**R4-28-101. Definitions**

In addition to the definitions listed in A.R.S. § 32-2101 the following terms apply to this Chapter:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "ADWR" means the Arizona Department of Water Resources.
3. "Credit hour" means 50 minutes of instruction.
4. "Course" means a class, seminar, or presentation.
5. "D.b.a." means 'doing business as.'
6. "Fictitious name" means any name used to conduct business other than a person's legal name, and includes a d.b.a. name or trade name.
7. "Franchise" means a contract or agreement, either express or implied, oral or written, between 2 or more persons by which:
   a. A franchisee is granted the right to engage in the business of offering, selling, and distributing goods or services under a marketing plan or system prescribed in substantial part by a franchiser; and
   b. The operation of the franchisee's business pursuant to the plan or system is substantially associated with the franchiser's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchiser or its affiliate; and
   c. The franchisee is required to pay, directly or indirectly, a franchise fee.
8. "Individual" means a natural person.
9. "Material change" means any significant change in the size or character of the development, development plan, or interest being offered, or a change that has a significant effect on the rights, duties, or obligations of the developer or purchaser, or use and enjoyment of the property by the purchaser.
10. "Property interest" means a person's ownership or control of a lot, parcel, unit, share, use in a development, including any right in a subdivided or unsubdivided land, a cemetery plot, a condominium, a time-share interval, a membership camping contract, or a stock cooperative.

**Historical Note**

Former Section R4-28-01 repealed, new Section R4-28-01 adopted effective May 1, 1980 (Supp. 80-3). Amended effective August 1, 1986 (Supp. 86-4). Former Section R4-28-01 renumbered without change as Section R4-28-101 (Supp. 87-1). Former Section R4-28-101 renumbered to R4-28-102, new Section R4-28-101 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-102. Document Filing; Computation of Time**

**A.** All documents shall be considered filed on the date received by the Department. An original or renewal application postmarked on or before the end of the application or renewal deadline shall be considered timely.

**B.** In computing any period of time allowed by these rules or by an order of the Commissioner, the day of the act, event, and default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday. When the period of time allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

**Historical Note**

Former Section R4-28-02 repealed, new Section R4-28-02 adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-02 renumbered without change as Section R4-28-102 (Supp. 87-1). Former Section R4-28-102 repealed, new Section R4-28-102 renumbered from R4-28-101 and amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-103. Licensing Time-frames**

**A.** Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of a complete application. The overall time-frame is the total of the number of days provided for in the administrative completeness review and the substantive review.

**B.** Administrative completeness review.
   1. The applicable administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant, the license application shall be considered complete.
   2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
   3. If the applicant fails to submit the missing information before expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.

**C.** Substantive review. The substantive review time-frame established in Table 1 begins after the application is administratively complete.
   1. The Department may schedule an inspection.
   2. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date the Department mails the request until the information is

received by the Department. If the applicant fails to provide the information identified in the written request the Department shall consider the application withdrawn.

3. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period for appealing the denial.

**E.** Renewals. If an applicant for renewal of a salesperson's or broker's license submits a complete renewal application:

1. Before the expiration date and there are no changes in the applicant's license or qualifications pursuant to R4-28-301(A), the Department shall send the applicant notice that the license is renewed;
2. After the expiration date, or if a substantive review is required because the applicant wishes to make changes or has answered in the affirmative to any question on the license questionnaire, the Department shall process the application as a modified or amended application.

**Historical Note**

Amended as an emergency effective June 20, 1975 (Supp. 75-1). Former Section R4-28-03 repealed, new Section R4-28-03 adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-03 renumbered without change as Section R4-28-103 (Supp. 87-1). Former Section R4-28-103 repealed, new Section R4-28-103 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-104. Fees**

**A.** Licensing Fees.

1. Broker's exam and examination application, $110.00;
2. Broker's license, $125.00;
3. Broker's renewal (Timely), $125.00;
4. Broker Renewal pursuant to A.R.S. 32-2130(C), $20.00;
   (Additional per month fee. Maximum $120)
5. Salesperson's exam and examination application fee, $85.00;
6. Salesperson's license, $60.00;
7. Salesperson's renewal (Timely), $60.00;
8. Salesperson's renewal pursuant to A.R.S. 32-2130(C), $10.00;
   (Additional per month fee. Maximum $60)
9. Branch office license,
   12 months or less, $35.00;
   13 to 24 months, $50.00;
   Renewal, $50.00;
10. Change of name and address, $10.00;
11. Temporary broker's license, $50.00;
12. Temporary cemetery salesperson's license, $50.00;
13. Membership camping Certificate of Convenience, $50.00.

**B.** Development fees.

1. Public Report, $500.00;
   Subdivision public report, amended, $250.00;
   Unsubdivided land public report, amended, $500.00;
   Membership camping public report amended/renewal, $300.00;
   Timeshare Exemption, $300.00;
2. Time-share public report (per interval, maximum $1,000), $20.00;
3. Membership camping lottery or drawing application, $250.00;
4. Cemetery Certification, $500.00;
   Cemetery Amendment, $500.00;
5. Conditional Sales Exemption, $100.00;
6. Special Order of Exemption, $100.00.

**C.** A fee shall be charged for a development site inspection pursuant to A.R.S. §§ 32-2182, 32-2194.02, 32-2195.02, 32-2197.05, and 32-2198.04, before or after issuance of a public report. Multiple inspections and fees may be required based on development circumstances.

**Historical Note**

New Section R4-28-104 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**Table 1. Time-frames (Calendar Days)**

| License | Authority | Administrative Completeness Review | Response to Completion Request | Substantive Review | Response to Additional Information | Overall Time-frame |
|---|---|---|---|---|---|---|
| Broker and Salesperson | A.R.S. § 32-2122 | | | | | |
| (Individual) | A.A.C. R4-28-301 | 15 | 15 | 45 | 30 | 60 |
| Renewal (without change) | A.A.C. R4-28-302 | 15 | 15 | 0 | 0 | 15 |
| Modified/Amended | A.A.C. R4-28-303 | 15 | 15 | 45 | 30 | 60 |
| Corp/LLC/Partnership/ PC/ PLC | A.R.S. § 32-2125 | 30 | 30 | 90 | 60 | 120 |
| Renewal (without change) | A.A.C. R4-28-301 | 30 | 30 | 0 | 0 | 30 |
| Modified/Amended | A.A.C. R4-28-303 | 30 | 30 | 90 | 60 | 120 |
| Temporary Broker | A.R.S. § 32-2133 | 30 | 30 | 90 | 60 | 120 |
| Temp Cemetery Salesperson | A.R.S. § 32-2134 | 30 | 30 | 90 | 60 | 120 |
| Membership Camping Cert. of Convenience | A.R.S. § 32-2134.01<br>A.A.C. R4-28-305 | 30 | 30 | 90 | 60 | 120 |
| School Approval | A.R.S. § 32-2135(A)<br>A.A.C. R4-28-404 | 10 | 15 | 20 | 15 | 30 |
| Course Approval: | A.R.S. § 32-2135 | | | | | |
| New | A.A.C. R4-28-404 | 10 | 15 | 20 | 15 | 30 |
| Instructor Approval | A.R.S. § 32-2135<br>A.A.C. R4-28-404 | 10 | 15 | 20 | 15 | 30 |
| ADVERTISING | A.R.S. § 32-2198.10(D) | | | | | |
| Membership Campground (only for lottery or drawing) | A.R.S. § 32-2198.14<br>A.A.C. R4-28-503(D) | 15 | 5 | 0 | 0 | 15 |
| Subdivision (only for drawing or contest) | A.R.S. § 32-2183.01(I)<br>A.A.C. R4-28-503(D) | 15 | 5 | 0 | 0 | 15 |
| Time-Share (only for drawing or contest) | | | | | | |
| Time-Share (the offer of a premium) | A.R.S. § 32-2197.11(I)<br>A.A.C. R4-28-503(D) | 15 | 5 | 0 | 0 | 15 |
| | A.R.S. § 32-2197.11(K)<br>A.A.C. R4-28-503(D) | 15 | 5 | 0 | 0 | 15 |
| Development Application | A.R.S. § 32-2183(A)<br>A.R.S. § 32-2195.03(A)<br>A.R.S. § 32-2197.06<br>A.R.S. § 32-2198.02<br>A.A.C. R4-28-B1203 | 20 | 20 | 50 | 20 | 70 |
| Amended Report | A.R.S. § 32-2184<br>A.R.S. § 32-2195.10<br>A.R.S. § 32-2197.03<br>A.R.S. § 32-2198.01(D)<br>A.A.C. R4-28-B1203 | 10 | 10 | 10 | 10 | 20 |
| Certificate of Authority | A.R.S. § 32-2194.03(A) | 20 | 20 | 50 | 20 | 70 |
| Amended Certificate | A.R.S. § 32-2194.10<br>A.A.C. R4-28-B1204 | 10 | 10 | 10 | 10 | 20 |
| WAIVERS | | | | | | |
| Pre-license | A.R.S. § 32-2124<br>A.A.C. R4-28-401 | 15 | 60 | 30 | 0 | 45 |
| Continuing Education | A.R.S. § 32-2130<br>A.R.S. R4-28-402 | 5 | 10 | 7 | 0 | 12 |

| | | | | | | |
|---|---|---|---|---|---|---|
| EXEMPTIONS | | | | | | |
| Subdivision | A.R.S. § 2181.01<br>A.A.C. R4-28-B1202 | 20 | 20 | 20 | 0 | 40 |
| Unsubdivided Land | A.R.S. § 32-2195.01<br>A.A.C. R4-28-B1202 | 20 | 20 | 20 | 0 | 40 |
| Time-Share | A.R.S. § 32-2197.13 | 20 | 20 | 20 | 0 | 40 |
| Membership Camping | A.R.S. § 32-3198.03 | 20 | 20 | 20 | 0 | 40 |

**Historical Note**
New Table 1 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 2. REPEALED

### R4-28-201. Repealed

**Historical Note**
Former Section R4-28-04 repealed, new Section R4-28-04 adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Amended effective August 1, 1986 (Supp. 86-4). Former Section R4-28-04 renumbered and amended as R4-28-201 effective February 28, 1987 (Supp. 87-1). Amended effective February 28, 1995 (Supp. 95-1). Section R4-28-201 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 3. LICENSURE

### R4-28-301. General License Requirements

**A.** An applicant for or holder of any Department-issued license, renewal, or amended license, including, if an entity, any officer, director, member, manager, partner, owner, trust beneficiary holding 10% or more beneficial interest, stockholder owning 10% or more stock, or other person exercising control of the entity, shall submit the following information:

1. A signed certification questionnaire sworn before a notary public, or witnessed by Department personnel, disclosing any:
   a. Conviction for a misdemeanor or felony, or deferral of a judgment or sentencing for a misdemeanor or felony;
   b. Order, judgment, or adverse decision entered against the applicant involving fraud or dishonesty, or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals, membership camping contracts, or campgrounds;
   c. Restriction, suspension, or revocation of a professional or occupational license, or registration currently or previously held by the applicant in any state, district, and possession of the United States or under authority of any federal or state agency; any civil penalty imposed under the license, or any denial of a license; or
   d. Order, judgment, or decree permanently or temporarily enjoining the applicant from engaging in or continuing any conduct or practice in connection with the sale or purchase of real estate or cemetery property, time-share intervals, membership camping contracts, campgrounds, securities, or involving consumer fraud or the racketeering laws.
2. If any response to subsection (A)(1) is answered in the affirmative, the applicant shall provide all of the following written documentation for each person who answered in the affirmative:
   a. A certified copy of any police report and court record that pertains to each crime for which the applicant has been convicted or for which sentencing or judgment has been deferred. If the applicant is unable to provide documents for each crime, the applicant shall provide written documentation from the court or agency having jurisdiction, stating the reason the records are unavailable.
   b. Three written references from individuals, 18 years or older and not related by blood or marriage to the applicant, who have known the applicant for at least 1 year before the date of receipt of the application;
   c. A 10-year work history, reflecting the employer's name and address, supervisor's name and telephone number, and dates of employment, including any periods of unemployment;
   d. A certified copy of any document, such as the findings of fact, conclusions of law, and order, assessing a civil penalty or denying, suspending, restricting or revoking any professional or occupational license held or previously held by the applicant within the last 10 years;
   e. A certified copy of any civil judgment awarded by a court of competent jurisdiction in which the applicant was a party and which included findings of fraud or dishonest dealings by the applicant;
   f. A certified copy of any document of a payment against, or repayment by, the applicant as a judgment debtor by any recovery fund administered by any state or professional or occupational licensing board. If an Arizona real estate or subdivision recovery fund matter, a written disclosure of the file number, approximate date, and approximate amount of payment and current repayment status satisfies this requirement.
   g. A certified copy of any temporary or permanent order of injunction entered against the applicant;
   h. Any other documentation that the applicant believes supports the applicant's qualifications for licensure.
3. A full set of fingerprints as prescribed in A.R.S. § 32-2108.01;
4. The appropriate license application and fee; and
5. Social security number, if the applicant is an individual.

**B.** In addition to the information required in subsection (A), any person applying for a salesperson's or broker's license shall meet the qualifications listed in A.R.S. § 32-2124, A.A.C. R4-28-401, and R4-28-403, and shall submit a certified license history from each state in which the applicant holds, or has held, a professional occupational license within the 5 years preceding the application.

**C.** The Department shall not issue a broker's license to any person who is an actively licensed salesperson in this state until the salesperson is severed by the employing broker or is administratively severed as prescribed in R4-28-303(E)(4) or (G).

**D.** Only the legal name of the licensee and any additional nickname, corporate, or fictitious name that the Commissioner finds is not detrimental to the public interest shall be placed on a license certificate.

**E.** Every salesperson and broker holding a current license shall file with the Commissioner both the address of the salesperson's or broker's principal place of business, if any, and a current residence address.

**F.** Except as prescribed in A.R.S. §§ 32-2184, 32-2194.10, 32-2195.10, 32-2197.03 and 32-2198.01(D), every licensee shall, within 10 days of each occurrence, notify the Commissioner, in writing, of any change in information contained in the license certification questionnaire specified in subsection (A)(1)(a) through (d) and provide documentation pursuant to (A)(2).

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Amended effective August 1, 1986 (Supp. 86-4). Former Section R4-28-05 renumbered without change as Section R4-28-301 (Supp. 87-1). Amended subsection (C) effective May 3, 1988 (Supp. 88-2). Amended subsection (J) effective February 28, 1989 (Supp. 89-1). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-302. Employing or Designated Broker's License; Nonresident Broker**

**A.** Any person applying for an employing or designated broker's license shall provide the following information:
1. The name, business address, telephone number, fax number, if any, license number and expiration date of the employing and designated broker's licenses, and the signature of the designated broker;
2. The type of broker's license held;
3. The mailing address, if different than the business address;
4. The d.b.a. name, if applicable;
5. The bank name and location of each of the broker's trust accounts, if any; and
6. The name and number of the trust account.

**B.** Partnership.
1. An applicant seeking to be a designated broker of a partnership shall:
   a. If the general partner is a partnership, be an individual who is a partner of the general partner;
   b. If the general partner is a corporation, be an individual who is a corporate officer of the corporate partner;
   c. If the general partner is a limited liability company, be an individual who is a member or manager of the limited liability company;
   d. If a limited partner, not be eligible to be a designated broker for the partnership.
2. In addition to the information provided in subsection (A), the partnership broker applicant shall, if applicable, provide:
   a. The name and address of each partner, and the name of any other person with a beneficial or membership interest in the partnership;
   b. An agreement signed by all partners, stating the name of the partner appointed to act as the designated broker for the partnership;
   c. An affidavit signed by the designated broker stating that:
      i. The partnership has applied for a broker's license in Arizona;
      ii. Each partner has read the complete application on the named partnership as submitted to the Department;
      iii. All the information contained in the application is true;
      iv. Each general partner is qualified to do business in Arizona;
      v. The name of the partnership complies with A.R.S. § 29-245 and 4 A.A.C. 28, Article 10, and is not likely to be misleading or confusing.
   d. A copy of the partnership agreement and any amendments;
   e. A copy of the registration application stamped "Received and Filed" by the Secretary of State; and
   f. Any other information required by the Department to verify the applicant's qualifications.

**C.** Corporation. In addition to the information provided in subsection (A), a corporate broker applicant shall provide:
1. The name and address of each officer and director, and the name and address of each shareholder controlling or holding more than 10% of the issued and outstanding common shares, or 10% of any other proprietary, beneficial, or membership interest in the corporation;
2. A copy of the Articles of Incorporation and any amendments stamped "Received and Filed" by the Arizona Corporation Commission. If more than 1 year has elapsed between the date the Articles were stamped "Filed" by the Arizona Corporation Commission and the application for the corporate license, a Certificate of Good Standing from the Arizona Corporation Commission is required;
3. A corporate resolution stating that the designated broker was elected or appointed as a corporate officer, naming the office held, and stating that the individual was appointed to act as designated broker for the corporation;
4. An affidavit signed by the designated broker stating that:
   a. The corporation has applied for a broker's license in Arizona;
   b. Each officer and director has read the complete application on the named corporation as submitted to the Department;
   c. All the information contained in the application is true;
   d. The name of the corporation complies with A.R.S. § 10-401 and 4 A.A.C. 28, Article 10, and is not likely to be misleading or confusing; and
   e. Each corporation is qualified to do business in Arizona.
5. Any other information required by the Department to verify the applicant's qualifications.

**D.** Limited liability company. In addition to the information provided in subsection (A), a limited liability company broker applicant shall provide:
1. The name and address of each member and manager, and the name and address of any person controlling or holding more than 10% of the membership interest in the limited liability company;
2. A copy of the Articles of Organization and any amendments stamped "Received and Filed" by the Arizona Corporation Commission. If more than 1 year has elapsed between the date the Articles were stamped "Filed" by the Arizona Corporation Commission and the application for the limited liability company license, a Certificate of Good Standing from the Arizona Corporation Commission is required;
3. A company resolution signed by all members stating whether management of the limited liability company is

established as manager-controlled or member-controlled and the name of the member or manager appointed to act as the designated broker;

4. An affidavit signed by the designated broker stating that:
   a. The limited liability company has applied for a broker's license in Arizona;
   b. Each member and manager has read the complete application on the limited liability company as submitted to the Department;
   c. All of the information contained in the application is true;
   d. The name of the limited liability company complies with A.R.S. § 29-602 and 4 A.A.C. 28, Article 10, and is not likely to be misleading or confusing; and
   e. The limited liability company is qualified to do business in Arizona.
5. A copy of the operating agreement and any amendments; and
6. Any other information required by the Department to verify the applicant's qualifications.

**E.** Foreign entity. In addition to the requirements in this Section, the Department may require any of the following information from an entity applying for a broker's license if a partner, member, officer, or director of the entity is domiciled in another state:

1. The agreement and plan of merger;
2. The Certificate of Good Standing;
3. The Certificate of Merger on file in the state in which the applicant is domiciled;
4. The Certificate of Merger on file with the Arizona Corporation Commission;
5. A filed and stamped Articles of Merger;
6. A filed and stamped application for registration of the foreign limited liability company, foreign corporation, or partnership;
7. Any other information required by the Department to verify the applicant's qualifications.

**F.** Self-employed broker. In addition to the information provided in subsection (A), any person applying as a self-employed broker shall provide a sworn statement attesting that the applicant is the sole proprietor of the business.

**G.** If any information prescribed in subsections (A) through (F) changes, the designated broker shall, within 10 days after the change, file a supplemental statement in writing with the Department listing the change and include the appropriate fee, if any.

**H.** The designated broker shall:

1. Be responsible for supervising the associate brokers, salespersons and employees of the employing broker within the course of their employment;
2. Notify the Department on the Change Form within 10 days after a salesperson or broker leaves a broker's employment.

**I.** The employing broker shall be responsible for:

1. The acts of all associate brokers, salespersons, and other employees acting within the course of their employment; and
2. Supervising the associate brokers, salespersons, and employees of the employing broker within the course of their employment.

**J.** A broker's license shall not be used to enable a salesperson or associate broker nominally employed by the broker to establish and carry on a brokerage business if the broker's only interest is the receipt of a fee for the use of the license and the broker does not exercise supervision over the salesperson or associate broker.

**K.** Change of Designated Broker.

1. If the employing broker is changing its designated broker, the current designated broker shall submit a letter of resignation and return the designated broker's and the employing broker's licenses to the Department. If by partnership agreement, or corporate or company resolution, the designated broker is removed, the employing broker shall return the employing broker's and designated broker's licenses.
2. If the entity continues business without interruption, the incoming designated broker shall simultaneously with, or on the next business day following, the departure or removal:
   a. Complete, sign, and submit the Change Form as prescribed in R4-28-303; and
   b. If the entity is a corporation or limited liability company, submit a resolution appointing the new broker to act on its behalf; or
   c. If the entity is a partnership, submit an amendment to the partnership agreement naming the new broker to act on its behalf or a new application, as applicable.
3. If the designated broker has not been fingerprinted, the broker shall submit a full set of fingerprints with the application and fee as required in A.R.S. § 32-2108.01.

**L.** Nonresident broker.

1. If a licensed nonresident broker maintains a principal office outside Arizona, the broker shall:
   a. Maintain a trust account or licensed escrow account situated in Arizona for monies received from Arizona transactions;
   b. Maintain, in Arizona, copies of all documents pertaining to any Arizona transactions handled by the broker;
   c. Provide a written statement to the Department identifying the name, address, and telephone number of the person residing in Arizona, such as a statutory agent or attorney, who has possession of the records; and
   d. Identify the physical location of the records.
2. If a licensed nonresident broker employs a licensed salesperson or broker within the state, the broker shall:
   a. Establish an office in Arizona and appoint a branch manager; and
   b. Provide a statement describing how the licensed employee shall be supervised.
3. A nonresident broker shall notify the Department within 10 days if any information required under this Section changes.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Correction, Supp. 80-3 should read Adopted effective May 1, 1980 (Supp. 83-3). Amended subsection (B) effective August 1, 1986 (Supp. 86-4). Former Section R4-28-06 renumbered without change as Section R4-28-302 (Supp. 87-1). Amended effective February 28, 1995 (Supp. 95-1). Former Section R4-28-302 repealed, new Section R4-28-302 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-303. License Renewal; Reinstatement; License Changes**

**A.** Renewal.

1. If a salesperson or broker applies for a license renewal before expiration, the existing license remains in effect

until the application has been approved or denied by the Department.
   a. If the application is deemed administratively incomplete and the applicant has not provided the requested information within the completion request period, the license will expire on the license expiration date.
   b. If the application is denied, the person shall not act, or attempt to act, as a salesperson or broker.
2. Any salesperson or broker applying for a license renewal shall submit the following information on the Application for License Renewal form:
   a. Any change or correction to the applicant's licensing information;
   b. Whether the renewal application is late;
   c. The date and signature of the designated broker, or authorized branch office manager, if the renewal is for an active license. If the renewal is signed by the authorized representative, a copy of the authorization shall be attached.
   d. The signature of the applicant, attesting to the application information;
   e. A completed certification questionnaire, providing details and supporting documents for any affirmative response not previously disclosed in writing to the Department, as required by R4-28-301(A).

**B.** Late renewal. In addition to the information required in subsection (A), any person applying for a late renewal shall specify whether activities requiring a license were conducted after license expiration or without proper employment by a broker.

**C.** Unlicensed activity. A person who has conducted activities requiring a current and active license while not properly licensed shall, upon request, submit:
1. A copy of any offer or contract to sell, lease, exchange, transfer, or manage real estate, cemetery property, or membership camping contracts;
2. A written explanation of why the unlicensed activity occurred, attesting that there are no unreported transactions;
3. A copy of all listing agreements, buyer-broker employment agreements, purchase contracts, escrow settlement statements, management agreements, rental agreements, and leases executed while not properly licensed;
4. Documentation listing all compensation received or to be received by the applicant, the designated broker, and the employing broker, resulting from the applicant's activities;
5. The person shall attest that activities requiring a license shall not be conducted until a current and active license is issued to the person.

**D.** Reinstatement.
1. Any salesperson or broker applying for license reinstatement shall, in addition to the requirements in R4-28-301(A), submit the following information on the Application For Reinstatement form:
   a. The type of license and status requested;
   b. The applicant's legal name, business address, and telephone number;
   c. Whether the license was suspended, canceled, terminated, or revoked, and the date of and reason for the action;
   d. The license number of the applicant;
   e. The mailing address, if different than the business address;
   f. The name, address, and telephone number of the employing broker, if applicable;
   g. The employer's trade or d.b.a. name, if any;
   h. The date of the application;
   i. The signature of the applicant attesting to the above information and that the applicant is aware of the provisions in A.R.S. §§ 32-2131, 32-2153, and 32-2160.01.
2. If the license status was active at the time of suspension, cancellation, revocation, or termination, the Department may require the applicant to submit an Unlicensed Activity Form and supporting documents.

**E.** License Changes. A salesperson or broker shall notify the Commissioner of the following information and changes:
1. In writing or on a Change Form, whichever is appropriate:
   a. The type of change being made;
   b. The legal name, address, and telephone number of the salesperson or broker;
   c. The prior name of the person, if changing name;
   d. The prior address of the main or branch office, if changing address;
   e. The salesperson's or broker's license number, expiration month, and year; and
   f. The date of the application and signature of the salesperson or broker.
2. In writing, within 10 days of the change:
   a. Personal name, including proof of the change, or
   b. Personal address.
3. On a Change Form, within 10 days of the change:
   a. Active to inactive status;
      i. The legal name and fictitious name, if any, of the severing broker; and
      ii. The date and signature of the severing broker.
   b. The employing broker's business address;
   c. The business mailing address, if different than the business address;
   d. A transfer between employer's offices by a salesperson or associate broker;
   e. The appointment of temporary broker due to a designated broker's death or incapacity;
   f. A branch office closing;
   g. Branch office manager;
   h. Disclosure of certification information; or
   i. Opening, closing, or relocation of a broker's trust account.
4. On a Change Form, and obtain approval from the Commissioner before conducting business. The existing license remains in effect until the application has been approved or denied.
   a. The broker's business name;
   b. The employing broker, including;
      i. The legal name and fictitious name, if any, of the severing and hiring brokers; and
      ii. The date and signatures of the severing and hiring brokers.
   c. Inactive to active status;
      i. The legal name of the hiring broker; and
      ii. The date and signature of the hiring broker.
   d. Designated broker by an entity;
   e. Adopting, changing, or relinquishing professional corporation or professional limited liability company license status;
   f. Membership of a professional corporation or professional limited liability company, or the license status of a member;
   g. Broker change of status to or from associate broker;

h. Designated broker or entity change from resident to nonresident broker's license; or
i. Designated broker or entity change from nonresident to resident broker's license.

5. Within 30 days of any change in structure of the licensed entity, the name of any:
   a. Director, officer, or person holding, or controlling 10% or more of the shares, if a corporation;
   b. Partner if a partnership; or
   c. Member or manager if a limited liability company.
6. If in making a license change the previously issued license is not returned, the salesperson or broker or the designated broker, if applicable, shall submit a written statement explaining why it is not being returned.

**F.** In addition to the information required in subsection (D)(1), a salesperson or associate broker shall submit the following information when the change is in a:

1. Professional corporation.
   a. The name of the professional corporation which includes the full or last name of each officer, director, and shareholder of the professional corporation as it appears in the Articles of Incorporation;
   b. The name and business address of each officer, director, and shareholder in the corporation and a written statement that each holds a current and active real estate license; and
   c. A copy of the Articles of Incorporation stamped "Received and Filed" by the Arizona Corporation Commission;
      i. The Articles of Incorporation shall state that the corporation's sole purpose is to provide professional real estate, cemetery, and membership camping services, or real estate, cemetery, and membership camping services.
      ii. If more than 1 year has elapsed between the date the Articles of Incorporation were stamped "Filed" by the Arizona Corporation Commission and the date of the application for a license as a professional corporation, the Department shall require the broker to submit a Certificate of Good Standing from the Arizona Corporation Commission.
2. Professional limited liability company.
   a. The name of the professional limited liability company which includes the full or last name of each member of the professional limited liability company as it appears in the Articles of Organization;
   b. The name and address of each member and manager in the limited liability company and a written statement that each holds a current and active real estate license;
   c. A copy of the Articles of Organization stamped "Received and Filed" by the Arizona Corporation Commission;
      i. The Articles of Organization shall state that the company's sole purpose is to provide professional real estate, cemetery, and membership camping services, or real estate, cemetery, and membership camping services.
      ii. If more than 1 year has elapsed between the date the Articles of Organization were stamped "Filed" by the Arizona Corporation Commission and the date of the application for a license as a limited liability company, the Department shall require the broker to submit a Certificate of Good Standing from the Arizona Corporation Commission.
   d. A copy of the operating agreement, as amended.

**G.** Administrative severance.

1. A salesperson or broker may request that the Department immediately sever the salesperson's or broker's license from the employing broker.
   a. After notifying the designated broker, the salesperson, or broker shall provide the following information on a Request for Administrative Severance form:
      i. The name and license number of the applicant,
      ii. Whether the applicant is a salesperson or an associate broker,
      iii. The name of the employing broker from whom the license is being severed,
      iv. The reason why the applicant seeks administrative severance, and,
      v. The date and signature of the applicant.
   b. The applicant shall submit the severance form to the Department.
   c. After receipt of the severance form, the Department shall administratively sever the license and mail a copy of the severance to the employing broker.
2. After a license has been administratively severed, another employing broker may hire the applicant by submitting a Change Form and fee.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Amended effective August 1, 1986 (Supp. 86-4). Former Section R4-28-07 renumbered without change as Section R4-28-303 (Supp. 87-1). Amended by adding a new subsection (K) effective May 3, 1988 (Supp. 88-2). Amended effective February 28, 1995 (Supp. 95-1). Former Section R4-28-303 repealed, new Section R4-28-303 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-304. Branch Office; Branch Office Manager**

**A.** The designated broker shall submit the following information for each branch office on the Application for Branch Office form:

1. The name, date, and signature of the designated broker;
2. The license number and license expiration date of the employing broker;
3. The name, address, telephone, and license number of the main office;
4. The type of employing broker's license;
5. The employing broker's fictitious name, if applicable;
6. The address, telephone number, and fax number, if any, of the branch office; and
7. The name and license status of the salesperson or broker who is the branch office manager and the authority granted to the branch office manager.

**B.** Branch office manager. An associate broker or salesperson, acting as a branch office manager, may perform any of the following duties of the designated broker at the branch office if authorized in writing by the designated broker. This designation does not relieve the designated broker from any responsibilities. Upon change of the branch manager, the designated broker shall submit a new authorization to the Department within 10 days of the change and shall retain a copy in the broker's main office for 5 years.

1. If the branch manager is an associate broker, the associate broker may, when dealing with branch office transactions:
   a. Review and initial contracts,
   b. Supervise the activity of salespersons and associate brokers,
   c. Hire or sever a salesperson or associate broker,
   d. Sign compensation checks,
   e. Be a signer on the branch office trust account and property management trust account,
   f. Write checks from the broker's trust accounts, and
   g. Be responsible for the handling of all trust account funds administered by the branch manager.
2. If the branch manager is a salesperson, the salesperson may, when dealing with branch office transactions:
   a. Perform office management tasks that are not statutory duties of the employing broker, and
   b. Be a signer on the broker's trust account and property management trust account.

**C.** Temporary office. An additional license is not required for a temporary office established for the original on-site sale of properties within the immediate area of a subdivision or unsubdivided land.
1. The broker named in the application for approval shall supervise operation of the temporary office to sell or lease the subdivided or unsubdivided land.
2. The broker shall display the subdivision or unsubdivided land name with the licensed name of the broker in a conspicuous manner.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (A) effective June 23, 1983 (Supp. 83-3). Amended subsection (A)(4) effective August 1, 1986 (Supp. 86-4). Former Section R4-28-08 renumbered and amended as Section R4-28-304 effective February 28, 1987 (Supp. 87-1). Former Section R4-28-304 repealed, new Section R4-28-304 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-305. Temporary License, Certificate of Convenience**

**A.** Any individual applying for a temporary cemetery salesperson's license, a temporary broker's license, or a membership camping salesperson's certificate of convenience shall submit the following information and applicable fee to the Department:
1. The type of license requested;
2. The name, address, telephone number, and date of birth of the applicant;
3. The mailing address if different from the address in subsection (A)(2);
4. The name, business address, telephone number, fax number, if any, and license number of the employing broker; and
5. The branch office number, address, telephone number, and fax number, if any, where employed, if different than the employing broker in subsection (A)(4).

**B.** The designated broker shall submit an affidavit pursuant to A.R.S. § 32-2134 or 32-2134.01 for:
1. A temporary cemetery license stating that the applicant has been trained in cemetery and contract law; or
2. A certificate of convenience stating that the applicant will be trained in membership camping and contract laws.

**C.** In addition to the information required in subsection (A), an applicant for a temporary broker's license pursuant to A.R.S. § 32-2133 shall submit the following information to the Department:
1. A copy of the death certificate or notice, if applicable, or a letter advising the Department of the broker's illness or disability; and
2. A letter from the surviving spouse, an attorney representing the broker or the broker's family, personal representative, or other responsible party, appointing an individual to serve as a temporary broker for 90 days.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (A) effective June 23, 1983 (Supp. 83-3). Amended subsection (A)(4) and (5) effective August 1, 1986 (Supp. 86-4). Former Section R4-28-09 renumbered without change as Section R4-28-305 (Supp. 87-1). Former Section R4-28-305 repealed, new Section R4-28-305 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 4. EDUCATION

**R4-28-401. Prelicensure Education Requirements; Waiver**

**A.** Any individual applying for a real estate license shall either:
1. Complete the required 90-hour prelicensure education as prescribed in A.R.S. § 32-2124; or
2. Except for the 27-hour Arizona-specific course, apply for and be granted a waiver of the prelicensure courses.

**B.** If the waiver request is based on prior education, the applicant shall submit a letter to the Commissioner that includes or demonstrates:
1. The name, mailing, and business address, daytime telephone number, and signature of the applicant;
2. The type of license sought;
3. The name and address of the school;
4. The course description or curriculum, including credit hours; and
5. Completion of 1 or more real estate courses. Acceptable evidence includes;
   a. A signed letter from a school representative or official transcript from a college or university, which indicates:
      i. The starting and ending dates of the course;
      ii. The number of semesters, quarters, and credit hours awarded per course; and
      iii. Whether the course examination was passed.
   b. Evidence of course completion provided as part of a certified license history from a state in which the applicant is currently or was previously licensed.

**C.** If the waiver request is based on experience, or education and experience, the applicant shall submit a letter to the Commissioner that includes:
1. A detailed resume covering the previous 10 years, indicating duties performed and the name and telephone number for each employer; and
2. An original certified license history, including disciplinary action if any, from the real estate regulatory agency in each state in which the applicant is currently licensed and from any other state in which the applicant was licensed during the preceding 10 years; and
3. One or more of the following:
   a. Completion of 1 or more real estate courses. Acceptable evidence includes a signed letter from a school representative, or official transcript from a college or university, which identifies:
      i. The starting and ending dates of the course;
      ii. The number of semesters, or quarters, and credit hours awarded per course;
      iii. Whether the course examination was satisfactorily passed.

b. Evidence of more than 5 years experience in a real estate related field; or
c. Evidence of course completion provided as part of a certified license history from a state in which the applicant is currently or was previously licensed.

**D.** The Department shall provide a copy of the prelicensure course content to any person requesting it.

**E.** A person shall not receive credit for more than 10 hours of prelicensure education classes per day.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended subsections (F) and (G) effective March 13, 1981 (Supp. 81-2). Former Section R4-28-10 renumbered without change as Section R4-28-401 (Supp. 87-1). Amended by adding a new subsection (E) and renumbering accordingly effective March 7, 1988 (Supp. 88-1). Amended subsection (G) effective June 6, 1989 (Supp. 89-2). Amended effective February 28, 1995 (Supp. 95-1). Section R4-28-401 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-402. Continuing Education Requirements; Waiver**

**A.** Continuing education requirements.
1. Any individual applying for real estate license renewal shall complete 24 credit hours from a real estate school that meets the requirements in R4-28-404, of which a minimum of 3 hours are completed in each of the following categories:
   a. Agency law;
   b. Contract law;
   c. Commissioner's standards;
   d. Real estate legal issues; and
   e. Fair housing.
2. The Department may require individuals applying for renewal to obtain credit hours in specific legal issue areas based upon significant current issues in the real estate community.
3. Continuing education credit may be granted for an unapproved course if the applicant demonstrates to the satisfaction of the Commissioner that the course meets the course approval requirements prescribed in R4-28-404.
4. The equivalent subject matter hours within a 90-hour prelicensure course, if taken since the last license renewal, may be substituted for the 24-hours of continuing education required in subsection (A)(1).
5. If any change in the continuing education course requirements falls within a renewal applicant's license period, the renewal applicant may fulfill the continuing education requirements by satisfying the requirements in effect at the beginning or the end of the license period.

**B.** Continuing education waiver.
1. Pursuant to A.R.S. § 32-2130, the Commissioner may waive all or a portion of the continuing education requirement when a salesperson or broker submits a written request to the Commissioner and shows good cause for the waiver, such as when:
   a. A person employed by the state or political subdivision establishes to the satisfaction of the Commissioner that the person's employment during the prior license period involved real estate-related matters;
   b. Any officer or employee of the state whose license is on an inactive status due to a possible conflict of interest or other employment requirement;
   c. Any other extraordinary circumstance exists or is demonstrated;
   d. A substitution for education is demonstrated;
   e. An approved real estate instructor requests a waiver for a course the instructor has taught.
2. If the Commissioner grants a salesperson or broker additional time to complete the continuing education hours under a conditional waiver, the salesperson or broker shall complete the continuing education hours within the time-frame prescribed in the waiver, unless additional time is granted.

**C.** A person shall not receive credit for more than 9 hours of continuing education classes per day.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (F) effective March 13, 1981 (Supp. 81-2). Former Section R4-28-11 renumbered without change as Section R4-28-402 (Supp. 87-1). Amended by deleting subsections (C) and (E) and renumbering accordingly effective March 7, 1988 (Supp. 88-1). Former Section R4-28-402 renumbered to Section R4-28-403, new Section R4-28-402 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-403. License Examinations**

**A.** The Department shall hold, or contract for, at least 1 state licensing examination each week.

**B.** A state license examination shall not be returned to the applicant. The applicant shall be notified in person of the results of the examination by the words "passed" or "did not pass". The results notification for an applicant who did not pass the examination shall also show the score for the examination and the relative score for each content area.

**C.** Qualifying to take or passing a license examination does not constitute a waiver of the Commissioner's right to deny issuance of a license if grounds exist pursuant to A.R.S. § 32-2153 or any other applicable statute.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-12 repealed, new Section R4-28-12 adopted effective August 28, 1986 (Supp. 86-4). Former Section R4-28-12 renumbered without change as Section R4-28-403 (Supp. 87-1). Amended effective February 28, 1995 (Supp. 95-1). Former Section R4-28-403 renumbered to R4-28-404, new Section R4-28-403 renumbered from R4-28-402 and amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-404. Real Estate School Requirements, Course and Instructor Approval**

**A.** Certificate of School Approval. Except for a community college or university accredited by the Council on Post Secondary Accreditation or the U.S. Department of Education offering courses in real estate, any school offering a course of study for original or renewal licensure of a real estate applicant shall apply for and possess a Certificate of School Approval from the Department. The school's authorized representative shall provide the following information on or with the Certificate of School Approval form:
1. The name, address, telephone number, and fax number, if any, of the school;
2. The name of the owner and d.b.a. name, if any;
3. Whether the owner is a sole proprietorship, partnership, trust, limited liability company, or corporation;
4. The name, address, telephone number, and percentage ownership of each person, entity, or beneficiary holding or controlling 10% or more financial interest in the school;

5. The name of each individual authorized to act on behalf of the school and sign continuing education certificates or prelicensure verifications, or both;
6. The name, business address, and telephone number of all current and prospective administrators, directors, and instructors;
7. In addition to the information required in R4-28-301(A), each school owner, administrator, director, and instructor shall provide a statement of the individual's:
   a. Education,
   b. Teaching experience, and
   c. Employment history.
8. If the owner is a partnership, a copy of the partnership agreement naming the partner authorized to act on its behalf;
9. If the owner is a corporation or limited liability company, a copy of:
   a. A corporate or company resolution or operating agreement naming the officer, member, or manager authorized to execute the Certificate of Approval form;
   b. A current Certificate of Good Standing from the Arizona Corporation Commission;
   c. The latest annual report on file with the Arizona Corporation Commission;
   d. The Articles of Incorporation or Organization, as amended.
10. The location of school registration and licensing certification records.

**B.** Certificate of Course Approval. Any school offering a course of study for original or renewal licensure of a real estate applicant shall apply for and possess a Certificate of Course Approval for each course offered by the school. The school's authorized representative shall submit the following information:
1. The school name, address, telephone number, and fax number, if any;
2. The authorized representative's name, title, and signature;
3. The title of the course;
4. A detailed outline of course material content that clearly lists the subject matter to be covered;
5. The date, time, and location of the anticipated presentation, if known;
6. The number of credit hours requested. The time allocated by a school for examination shall not be included in calculating credit hours if the examination is used for overall evaluation.
7. The category of approval requested;
8. A definition of segments if the course is to be offered in part and in its entirety;
9. If video or audio tapes will be used as instructional aids, the percentage of the class they will comprise;
10. The name of every instructor who will teach the course; and
11. The date of the application.

**C.** Instructor approval. Any person wishing to teach an approved real estate course shall apply for an instructors approval, and shall have at least 1 of the following in the proposed subject area:
1. A bachelor's or master's degree in an area traditionally associated with real estate, such as business, law, economics, marketing, and finance;
2. An award of a generally-recognized professional real estate designation, such as Certified Commercial Investment Member, Graduate Realtor Institute, Certified Residential Specialist, Independent Fee Appraiser, or Member of the Appraisal Institute, and 2 years of postsecondary education from an accredited institution;
3. Experience in real estate, and a bachelor's degree in education with a valid certificate issued within 15 years of the date of application for instructor approval;
4. A real estate salesperson's or broker's license, and is an employee or former employee of a regulatory agency;
5. A Distinguished Real Estate Instructor designation, with credentials in the specific subject;
6. At least 3 years real estate or specific subject experience; or
7. Other education or experience determined by the Commissioner to qualify the applicant as an instructor.

**D.** The school shall maintain a record for 5 years of each student attending the school. The record shall include:
1. The name of each student;
2. The dates of attendance;
3. The title of each course taken;
4. The course number, category, and credit hours awarded;
5. The final grade or score in each prelicensure course; and
6. The original signature roster for each course or course segment taught.

**E.** The prospective student shall sign an agreement or application to enroll, presented to the student by the school representative, that includes the following, in bold type and capital letters:
1. The course or course segment title within a curriculum,
2. The total credit hours applicable for licensure or renewal,
3. The cost of each course,
4. A statement of the refund policy, and
5. A statement of any job placement service.

**F.** The Department does not consider lists of employers given to graduates to be a placement service. The school may advertise job placement services only if:
1. Student referrals result from direct contact between the school placement service and prospective employers,
2. Documented evidence of student referrals is maintained and includes:
   a. The number of referrals to prospective employers per student,
   b. Results of referrals,
   c. Final placement or other disposition.

**G.** Complaints. The Commissioner may, and upon a verified complaint in writing shall, investigate and observe the classes of any school, owner, administrator, director, or instructor acting on behalf of the school and may examine the books and records of the school in connection with the offering of approved courses.

**H.** Change in school, course, or instructor. Each school owner, operator, director, and instructor shall:
1. Provide a written notice and supporting documentation within 10 days of any:
   a. Change of personal name or address,
   b. Change of business address,
   c. Change of business mailing address,
   d School closing, or
   e. Disclosure of certification information pursuant to R4-28-301(A),
2. Provide a written notice and supporting documentation within 30 days after any change in structure of a licensed entity, including any change of a:
   a. Director, officer, or person holding or controlling 10% or more of the shares, if a corporation;
   b. Partner, if a partnership;
   c. Member or manager, if a limited liability company.

3. Obtain approval from the Commissioner before conducting business when:
   a. Changing a business name,
   b. Establishing a school location,
   c. Changing the course content,
   d. Changing the course length, or
   e. Offering a new course.
4. Provide written notice as soon as practical of a last minute change of instructor due to illness or emergency.

**Historical Note**
Section R4-28-404 renumbered from R4-28-403 and amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 5. ADVERTISING

### R4-28-501. Repealed

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-13 renumbered without change as Section R-28-501 (Supp. 87-1). Former Section R4-28-501 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

### R4-28-502. Advertising by a Licensee

**A.** A salesperson or broker acting as an agent shall not advertise property in a manner which implies that no salesperson or broker is taking part in the offer for sale, lease, or exchange.

**B.** Any salesperson or broker advertising the salesperson's or broker's own property for sale, lease, or exchange shall disclose the salesperson's or broker's status as a salesperson or broker, and as the property owner in the advertisement.

**C.** A salesperson or broker shall ensure that all advertising contains accurate claims and representations, and fully states factual material. A salesperson or broker shall not misrepresent the facts or create misleading impressions.

**D.** Any advertising of Department approved courses shall include the school name, address, and telephone number.

**E.** All advertising shall include either the name in which the employing broker's license is held or the fictitious name contained on the license certificate. The lettering used for the name of the employing broker shall appear in a clear and conspicuous manner.

**F.** The designated broker or the school owner shall supervise all advertising, as applicable.

**G.** A licensee shall not use the term "acre," either alone or modified, unless referring to an area of land representing 43,560 square feet.

**H.** Before placing or erecting a sign giving notice that specific property is being offered for sale, lease, rent, or exchange, a salesperson or broker shall secure the written consent of the property owner, and the sign shall be promptly removed upon request of the property owner.

**I.** The provisions of subsections (E) and (F) shall not apply to advertising done by any franchisor or franchisee if the advertising does not refer to specific real estate.

**J.** Trade Names.
1. Any broker using a trade name owned by another person on signs displayed at the place of business shall place the broker's name, as licensed by the Department on the signs;
2. The following legend, "Each (TRADE NAME or FRANCHISE) office is independently owned and operated," or a similar legend approved by the Commissioner, shall be used to attract the attention of the public.

**K.** A real estate salesperson or broker may use the terms "team" or "group" to advertise and promote real estate services if those terms do not constitute the use of a trade or d.b.a. name, and all of the following are true:
1. The team or group is comprised of real estate salespersons or brokers,
2. The team or group members are employed by the same employing broker,
3. The designated broker maintains and files with the Department a current list of all members of each group or team in the broker's employ, and
4. The advertising otherwise complies with statutes and rules.

**L.** The use of electronic media, such as the Internet or web site technology, which targets Arizona residents with the offering of a property interest constitutes the dissemination of advertising as defined in A.R.S. § 32-2101(2).

**Historical Note**
Former Section R4-28-14 repealed, new Section R4-28-14 adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (D) effective August 1, 1986 (Supp. 86-4). Former Section R4-28-14 renumbered without change as Section R4-28-502 (Supp. 87-1). Section R4-28-502 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

### R4-28-503. Promotional Activities

**A.** Licensees shall not describe a premium offered at no cost or reduced cost to promote sales or leasing as an "award," or "prize," or use a similar term.

**B.** The terms, costs, conditions, restrictions, and expiration date of an offer of a premium shall be clearly disclosed in writing before the offeree participates in the offer.

**C.** Unless otherwise provided by law, a person shall not solicit, sell, or offer to sell an interest in a development by conducting a lottery contest, drawing, or game of chance to influence a purchaser or prospective purchaser.

**D.** A subdivider, time-share developer, or membership camping operator may apply for approval to conduct a lottery, contest, drawing, or game of chance by submitting to the Department, the information required in A.R.S. §§ 32-2183.01(I), 32-2197.11(I) or 32-2198.10(D), the applicable fee, if any, and:
1. The name, address, telephone number, and fax number, if any, of the subdivider, time-share developer, or operator;
2. The legal name of the broker;
3. The public report number;
4. The time and location for collecting entries for the lottery, contest, or drawing;
5. The date, time, and site for selection of a winner; and
6. The conditions and restrictions to enter, if any.

**Historical Note**
Former Section R4-28-15 repealed, new Section R4-28-15 adopted effective May 1, 1980 (Supp. 80-3). Amended effective August 1, 1986 (Supp. 86-4). Former Section R4-28-15 renumbered without change as Section R4-28-503 (Supp. 87-1). Section R4-28-503 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

### R4-28-504. Development Advertising

**A.** If the developer has obtained a conditional sales exemption, pursuant to R4-28-B1202, or registers a notice of intent with the Department to accept lot reservations pursuant to A.R.S. § 32-2181.03, the developer shall disclose on all advertising that only reservations or conditional sales contracts will be taken until the public report has been issued.

**B.** Only a developer or the developer's authorized representative shall file advertising for a development with the Department.

**C.** Any advertisement of property in a development shall include the name of the development as registered with the Department. The Commissioner may waive application of this subsection if the Commissioner determines that the public interest is not affected.

**D.** A developer shall not advertise a monthly payment, total price, or interest rate not available to all prospective purchasers or restricted, is prohibited unless the lack of availability or the restriction is conspicuously disclosed within the advertisement to all prospective purchasers.

**E.** A developer shall not advertise proposed or incomplete improvements unless both subsections (E)(1) and (2) have been met:

1. The estimated date of completion is specified or, if there is no estimated date of completion, a prominent disclosure is made in the advertisement that the improvement is proposed only and no warranty is given or implied that the improvement will be completed.
2. If a completion date is specified, sufficient evidence has been presented to the Department that the completion and operation of the facilities are assured and that completion will be within the time represented in the advertisement or promotional material.

**F.** Reference to a proposed public facility or project that purports to affect the value or utility of an interest in a development shall not be made without written disclosure of the existing status of the proposed facility. The disclosure shall be based upon information supplied or verified by the authority responsible for the public facility or project and forwarded to the Department.

**G.** Pictorial or illustrative depictions, other than unmodified photographs of the property being offered, shall bear a prominent disclosure identifying the nature of the depiction, such as an artist's conception, and shall identify those improvements that are proposed and not in existence.

**H.** When a pictorial representation is used in an advertisement for a specific development and is not an actual or accurate representation of the property, a statement within the advertisement shall prominently disclose the distance of the pictorial representation from the advertised property.

**I.** If a map or diagram is used to show the location of the development in relation to other facilities, actual road miles from each facility to the development shall be shown on the map or diagram.

**J.** A developer shall not express or imply that a facility is available for the exclusive use of purchasers of lots or interests if a public right of access or public use of the facility exists.

**K.** A developer shall not refer to availability for use of private clubs or facilities in which the owner will not acquire a proprietary interest through purchase of an interest in the development unless a disclosure is made in the advertisement. The disclosure shall verify the existence of the facilities, indicating that availability for use by owners of an interest in the development is at the pleasure of the owners of the facility.

**L.** When a standing body of water is described as a feature of a development, all advertising shall indicate the average surface area of the body of water. If a standing body of water or a flowing waterway described as a feature of a development is not permanent, or fluctuates substantially in size or volume, the developer shall disclose this fact in all advertisements describing the feature.

**M.** When any incentive is offered to visit any place where a sales presentation for a development is to be made, the developer shall disclose in writing all conditions, limitations, or recipient qualifications that will be applied before the recipient makes the trip.

**N.** Advertising shall not include testimonials or endorsements which contain statements that a licensee would be precluded, by law or rule, from making on the licensee's behalf.

**Historical Note**

Editorial correction new language subsection (D)(2) (Supp. 75-1). Former Section R4-28-16 repealed, new Section R4-28-16 adopted effective May 1, 1980 (Supp. 80-3). Amended by adding subsection (T) effective March 13, 1981 (Supp. 81-2). Amended subsection (F) effective June 9, 1982 (Supp. 82-3). Amended effective August 1, 1986 (Supp. 86-4). Former Section R4-28-16 renumbered without change as Section R4-28-504 (Supp. 87-1). Section R4-28-504 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 6. REPEALED

### R4-28-601. Repealed

**Historical Note**

Former Section R4-28-17 repealed, new Section R4-28-17 adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-17 renumbered without change as Section R4-28-601 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).

## ARTICLE 7. COMPENSATION

### R4-28-701. Compensation Sharing; Disclosure

A real estate broker representing a party in a transaction shall disclose to all the parties in the transaction, in writing before completion of the transaction, the identity of any licensee receiving compensation.

**Historical Note**

Former Section R4-28-18 repealed, new Section R4-28-18 adopted effective May 1, 1980 (Supp. 80-3). Amended by adding subsection (B) effective March 13, 1981 (Supp. 81-2). Former Section R4-28-18 renumbered without change as Section R4-28-701 (Supp. 87-1). Section R4-28-701 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 8. DOCUMENTS

### R4-28-801. Repealed

**Historical Note**

Former Section R4-28-19 repealed, new Section R4-28-19 adopted effective May 1, 1980 (Supp. 80-3). Amended effective August 28, 1986 (Supp. 86-4). Former Section R4-28-19 renumbered without change as Section R4-28-801 (Supp. 87-1). Amended subsection (A) effective November 27, 1987 (Supp. 87-4). Correction to subsection (D), from "...management shall..." to "...management agreement shall..." as certified effective August 28, 1986. Amended subsections (A), (C) and (D) effective June 6, 1989 (Supp. 89-2). Amended effective February 28, 1995 (Supp. 95-1). Former Section R4-28-801 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

### R4-28-802. Conveyance Documents

**A.** Upon execution of any transaction document prescribed pursuant to A.R.S. Title 32, Chapter 20, a salesperson or broker shall, as soon as practical, deliver a legible copy of the signed document and final agreement to each party signing the document.

**B.** In addition to any other obligation imposed by law or contract during the term of a listing agreement, a salesperson or broker shall promptly submit all offers to purchase or lease the listed

property to the client. The salesperson or broker shall submit offers until the sale or lease is final or close of escrow and is not released from this duty by the client's acceptance of an offer unless the client instructs the salesperson or broker to cease submitting offers or unless otherwise provided in the listing agreement, lease, or purchase contract. The salesperson or broker may voluntarily advise the seller or lessor of offers notwithstanding any limitations contained in the listing agreement and may submit offers after the listing agreement has terminated.

**C.** Transaction statements. In addition to the requirements of A.R.S. §§ 32-2151.01 and 32-2174, the broker shall retain true copies of all receipts and disbursements, or copies of the executed and delivered escrow closing statements that evidence all receipts and disbursements in the transaction.

**Historical Note**
Former Section R4-28-20 repealed, new Section R4-28-20 adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-20 renumbered without change as Section R4-28-802 (Supp. 87-1). Amended effective February 28, 1995 (Supp. 95-1). Section R4-28-802 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-803. Contract Disclosures**

**A.** Any agreement or contract for the sale or lease of a property interest in a development that requires a public report shall contain the following language in large or bold print above the signature portion of the document:

THE PURCHASER SHALL BE GIVEN A COPY OF THE PUBLIC REPORT BEFORE SIGNING THIS DOCUMENT.

**B.** Any agreement or contract for the sale or lease of a property interest in a development shall conspicuously disclose the nature of the document at or near the top of the document.

**C.** The contract shall indicate where the earnest money or down payment, if any, will be deposited and shall include the name of the title company, the name of the broker's trust account, or other depository.

**D.** Any agreement or contract for the sale or lease of a property interest in a development where a down payment, earnest money deposit, or other advanced money, if any, is paid directly to the seller and not placed in a neutral escrow depository, shall conspicuously disclose this fact within the document, and the purchaser shall sign or initial this provision indicating approval in the space adjacent to or directly below the disclosure in the purchase contract or agreement of sale. The following disclosure shall be written in large or bold print and shall be included in the public report, purchase contract, and agreement of sale.

**Prospective purchasers are advised that earnest money deposits, down payments, and other advanced money will not be placed in a neutral escrow. This money will be paid directly to the seller and may be used by the seller. This means the purchaser assumes a risk of losing the money if the seller is unable or unwilling to perform under the terms of the purchase contract.**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended Exhibit effective March 13, 1981 (Supp. 81-2). Former Section R4-28-21 renumbered without change as Section R4-28-803 (Supp. 87-1). Section R4-28-803 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-804. Rescission of Contract**

**A.** Any agreement or contract for the purchase or lease of an unimproved subdivided lot, or any unsubdivided land, shall contain the following language in large or bold print above the signature portion of the document:

**The purchaser or lessee has the legal right to rescind (cancel) this agreement without cause or reason of any kind, and to the return of any money or other consideration by sending or delivering a written notice of rescission to the seller or lessor by midnight of the 7th calendar day following the day the purchaser or lessee executed the agreement. If the purchaser or lessee does not inspect the lot or parcel before the execution of the agreement, the purchaser or lessee shall have six months to inspect the lot or parcel, and at the time of inspection shall have the right to unilaterally rescind the agreement.**

**B.** Any agreement or contract for the purchase or lease of a timeshare interval shall contain the following language in large or bold print above the signature portion of the document:

**The purchaser or lessee has the legal right to rescind (cancel) this agreement without cause or reason of any kind by sending or delivering a written notice of rescission to the seller or lessor by midnight of the 7th calendar day following the day the purchaser or lessee executed the agreement.**

**C.** An opportunity to exercise the 7 day right of rescission shall be provided by conspicuously disclosing the complete current name, address, and telephone number of the seller on the face of all agreements and contracts.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-22 renumbered without change as Section R4-28-804 (Supp. 87-1). Section R4-28-804 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-805. Public Report Receipt**

When a public report is required, the developer shall complete the following public report receipt and obtain the purchaser's signature to verify that the prospective purchaser has received a copy of the public report:

PUBLIC REPORT RECEIPT

The developer shall furnish you, as a prospective customer, with a copy of the public report required by the Arizona Department of Real Estate. It is recommended that you read the report before you make any written offer to purchase or lease an interest in the development and before you pay any money or other consideration toward the purchase or lease of an interest in the development.

FOR YOUR PROTECTION, DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE HAD THE OPPORTUNITY TO READ IT. BY SIGNING THIS RECEIPT, THE BUYER HAS ACCEPTED THE PUBLIC REPORT AND ACKNOWLEDGES THE INFORMATION IT CONTAINS.

_____ _____
Public Report Registration No. Development Name and Lot No.

I understand the report is not a recommendation or endorsement of the development by the Arizona Department of Real Estate, but is for information only.

_____ _____
Buyer's Name Address

_____ _____

Date

**Historical Note**
New Section R4-28-805 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 9. REPEALED

**R4-28-901. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended by adding subsection (E) effective August 28,1986 (Supp. 864). Former Section R4-28-23 renumbered without change as Section R4-28-901 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).

**R4-28-902. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 90-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-24 renumbered without change as Section R4-28-902 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).

## ARTICLE 10. FRANCHISES AND FICTITIOUS NAMES

**R4-28-1001. Fictitious Names**

**A.** A broker shall not have or use a name similar to that of any broker already authorized that would cause uncertainty or confusion. If there is a conflict of names between 2 brokers, the Commissioner shall require the newly authorized broker to supplement or modify the broker's name.

**B.** A person shall not be licensed as a broker under more than 1 fictitious name, and a person shall not conduct or promote a brokerage business unless the person uses the name under which the person or brokerage is licensed, except that a broker authorized to conduct business as a franchisee may use both the approved franchise name and the broker's fictitious name as licensed.

**C.** A professional corporation or professional limited liability company licensed pursuant to A.R.S. § 32-2125(B) shall not adopt a fictitious name.

**Historical Note**
Adopted effective May 31, 1980 (Supp. 80-3). Amended subsection (A) effective August 1, 1986 (Supp. 864). Former Section R4-28-26 renumbered without change as Section R4-28-1001 (Supp. 87-1). Section R4-28-1001 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1002. Franchises**

Before establishing, acquiring, relinquishing, or transferring a franchise in Arizona, the franchisee shall submit to the Department the following, as applicable:

1. A letter authorizing the assignment and use of the trade name, signed by the person who is authorized to assign franchise rights and use of the trade name,
2. A copy of the franchise logotype or trademark and the trade name,
3. The name of the franchise,
4. The name of the employing broker acquiring or relinquishing the franchise and if it is an acquisition or relinquishment,
5. The new name under which the franchisee will be operating,
6. The signature of the designated broker for the employing broker who is acquiring or relinquishing the franchise, and
7. The previous name under which the employing broker was operating.

**Historical Note**
New Section R4-28-1002 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 11. PROFESSIONAL CONDUCT

**R4-28-1101. Duties to Client**

**A.** A licensee owes a fiduciary duty to the client and shall protect and promote the client's interests. The licensee shall also deal fairly with all other parties to a transaction.

**B.** A licensee participating in a real estate transaction shall disclose in writing to all other parties any information which the licensee possesses that materially and adversely affects the consideration to be paid by any party to the transaction, including:

1. Any information that the seller or lessor is or may be unable to perform;
2. Any information that the buyer or lessee is, or may be, unable to perform;
3. Any material defect existing in the property being transferred; and
4. The possible existence of a lien or encumbrance on the property being transferred.

**C.** A licensee shall expeditiously perform all acts resulting from an agreement authorized by the holding of a license. Any delay in performance, either intentional or through neglect, is prohibited.

**D.** A licensee shall not allow a controversy with another licensee to jeopardize, delay, or interfere with the initiation, processing, or finalizing of a transaction on behalf of a client.

**E.** A salesperson or broker shall not act as a principal, directly or indirectly, in a transaction without informing the other parties to the transaction, in writing and before any binding agreement, that the salesperson or broker has a license and is acting as a principal.

**F.** A licensee shall not accept compensation from or represent both parties to a transaction without the prior written consent of both parties.

**G.** A licensee shall not accept any compensation, rebates, or profit for transactions made on behalf of a client without the written consent of the client.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-27 renumbered without change as Section R4-28-1101 (Supp. 87-1). Section R4-28-1101 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1102. Property Negotiations**

Except for owner listed properties, negotiations shall be conducted exclusively through the principal's broker or the broker's representative unless:

1. The principal waives this requirement in writing, and
2. No licensed representative of the broker is available for 24 hours.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-28 renumbered without change as Section R4-28-1102 (Supp. 87-1). Section R4-28-1102 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 12. DEVELOPMENTS

**R4-28-1201. Renumbered**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (B) effective June 9, 1982 (Supp. 82-3). Former Section R4-28-29 renumbered without change as Section R4-28-1201 (Supp. 87-1). Former Section R4-28-1201 renumbered to R4-28-B1205 by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1202. Repealed**

**Historical Note**
Former Section R4-28-30 repealed effective May 1, 1980, new Section R4-28-30 adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-30 renumbered without change as Section R4-28-1202 (Supp. 87-1). Repealed effective February 28, 1995 (Supp. 95-1).

**R4-28-1203. Renumbered**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-31 renumbered without change as Section R4-28-1203 (Supp. 87-1). Former Section R4-28-1203 renumbered to R4-28-B1203 by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1204. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-32 renumbered without change as Section R4-28-1204 (Supp. 87-1). Section R4-28-1204 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## PART A. APPLICATION

**R4-28-A1201. Development Name; Lot Sales; Applicant**

**A.** Any person may submit a development application for a public report, a certificate of authority, or a special order of exemption, provided the applicant has a recorded ownership interest in the land, such as a deed, option, beneficial interest in a trust, or other recorded interest approved by the Commissioner. The application for a public report or certificate of authority shall contain the following information, as applicable:
1. The name of the development or cemetery, as shown on the recorded map, and the marketing name if 1 will be used;
2. The list of the lots to be offered, including the description of the sales offering;
3. The name, address, telephone number, and fax number, if any, of the applicant; and
4. The applicable information in this Article, Parts A and B.

**B.** If the applicant is a corporation, the application shall contain the following information:
1. A Certificate of Good Standing from the Arizona Corporation Commission, dated no earlier than 1 year from the date of the application;
2. A corporate resolution, authorizing the person signing the application on behalf of the corporation; and
3. The name and address of each officer, director, and shareholder controlling or holding more than 10% of the issued and outstanding common shares, or 10% of any other proprietary, beneficial, or membership interest in the entity.

**C.** If the applicant is a partnership, the application shall contain the following information:
1. A copy of all partnership agreements;
2. Proof of registration with the Secretary of State if any partnership is a limited partnership, foreign or domestic;
3. If the general partner is a corporation, the information requested in subsection (B);
4. If the general partner is a limited liability company, the information requested in subsection (D); and
5. The name and address of each partner in the partnership.

**D.** If the applicant is a limited liability company, the application shall contain the following information:
1. A copy of the Articles of Organization, stamped "Received and Filed" by the Arizona Corporation Commission. If more than 1 year has elapsed between the original filing with the Arizona Corporation Commission and the filing date of the development application, a Certificate of Good Standing from the Arizona Corporation Commission is required;
2. A copy of the operating agreement and any amendments;
3. If not included in the operating agreement or Articles of Organization, a copy of the company resolution signed by all members stating whether management of the limited liability company is established as manager-controlled or member-controlled and the name of the member or manager appointed to act on behalf of the company and sign the application;
4. The name and address of each member, manager, and managerial employee, and the name and address of any person controlling or holding more than 10% of the membership interest in the limited liability company;
5. If a member is a corporation, the information requested in subsection (B);
6. If a member is a partnership, the information requested in subsection (C).

**E.** If the applicant is a trust, the application shall contain the name and address of each trustee, beneficiary, and anyone in control of the trust.

**F.** If the applicant is a subsidiary corporation, the application shall contain the name and address of the parent corporation.

**Historical Note**
Section R4-28-A1201 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1202. Development Map; Location; Land Characteristics**

**A.** The applicant shall submit a legible copy, no larger than 11" x 17", of the recorded development map showing, as applicable:
1. The county recorder's recording information, including the book and page of maps and recording date;
2. County or city approval;
3. Applicable dedications;
4. Monuments, distances, and bearings; and
5. Registered land surveyor certification.

**B.** The applicant shall identify the location of the development, including the street, city, county, and state, and:
1. The miles and direction from the nearest city or town, if applicable; and
2. The most direct route for getting to the development from a federal, state, county, or city road.

**C.** The application shall include a description of the physical characteristics of the land and any unusual factors that may affect it, such as if it has level or hilly terrain, rocky, loose, or alkaline soil, and
1. The gross acreage of the development;

2. The total number of lots within the development, including a description of phasing, if applicable; and
3. Whether and how lots are permanently or temporarily staked or marked for easy location.

**Historical Note**
Section R4-28-A1202 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1203. Flood and Drainage; Land Uses; Adverse Conditions**
The applicant shall state, or include as applicable:

1. Whether the development is subject to any known flooding or drainage problems and a letter bearing the signature and seal of a professional civil, city, and county engineer, or county flood district detailing the drainage conditions and flood hazards. The letter shall include the effect of any flood plain and its location, the effect of a 100 year frequency storm, and whether flood insurance is required.
2. Whether the development lots are subject to subsidence or expansive soils. If subsidence or expansive soils exist, a professional engineer's letter addressing the effects of the condition, remedies, and a buyer's on-going responsibilities in plain language;
3. A description of the existing and proposed land uses in the vicinity of the development that may cause a nuisance or adversely affect lot owners, such as freeways, airports, sewer plants, railroads, and canals, including:
   a. Any unusual safety factors within or near the development, and
   b. A description of all current and proposed adjacent land uses.
4. Whether the development is affected by any unusual or unpleasant odors, noises, pollutants, or other nuisances;
5. A description of any agricultural activity or condition in the area that may adversely affect a lot owner, including any odors, cultivation and related dust, agricultural burning, application of pesticides, or irrigation and drainage;
6. Whether the development lots are subject to any known geological or environmental condition that would or may be detrimental to a purchaser's health, safety, or welfare; or
7. Whether the development lots are located within the boundary of a federal, designated Superfund site or a state designated Water Quality Assurance Revolving Fund site.

**Historical Note**
Section R4-28-A1203 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1204. Utilities**
The applicant shall include information about electrical, telephone, and natural gas utilities available to the development, including:

1. The names, addresses, and telephone numbers of the electrical, telephone, and natural gas company that will provide service;
2. The location of existing electrical, telephone, and natural gas utilities in relation to the development;
3. The name of each person responsible for extending each utility to the lot lines;
4. The estimated completion date for extending each utility to the lot lines;
5. If the developer will only install conduit, a description of the arrangement made to complete operational utilities to lot lines;
6. The estimated cost a lot purchaser will be required to pay for completion of each utility to the purchaser's lot line, and, if the offer is for unimproved lots, the estimated costs to provide service from the lot line to the dwelling;
7. Upon completion of the utilities, other costs or requirements that must be addressed before the lot purchaser receives service, including the current service charges, hookup fees, turn-on fees, meter fees, and fees for pulling wire through conduit;
8. If propane gas will be used, a letter from the supplier stating that it will be providing service to the development, with a description of requirements to be met and costs to be paid by the lot purchaser for receiving the service; and
9. If street lights will be available, the person responsible for completion, the estimated completion date and the person who will pay for the electricity.

**Historical Note**
Section R4-28-A1204 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1205. Water Supply**
The applicant shall include information about any water supply to the development, including:

1. Whether the water supply will be provided by a municipal system, improvement district, public utility, private water company, co-operative, irrigation district, private well, water hauler, or other source;
2. The name, address, and telephone number of the water provider;
3. The compliance status of the water provider with the federal and state environmental laws, as of the date of the application. If in noncompliance, provide an explanation;
4. The location of the present water utility or water utility closest to the development;
5. The name of the person responsible for extending the water utility to the lot lines;
6. The estimated completion date for extending the utility to the lot lines and how the utility will be completed;
7. The estimated cost a lot purchaser will be required to pay for completion of the utility to the purchaser's lot line;
8. If offering an unimproved lot, the estimated cost a lot purchaser will pay for completion of the utility from the lot line to the dwelling;
9. Upon completion of the utility, other costs or requirements that must be addressed before the lot purchaser receives service, including the current service charges, hookup fees, turn-on fees meter fees, and development fees;
10. The name of the person responsible for maintenance of the water lines within the development, other than from lot line to dwelling;
11. The name of the person who is or will be responsible for maintenance of the water lines outside the development;
12. If a private well will be used, a description of the requirements and costs involved to install an operational domestic water system;
13. If the source of water is a private well and domestic water cannot be obtained from the private well, will the purchaser be offered a refund of the purchase price and if so, an explanation of any condition or restriction involving the refund;
14. The name and location of the supplier if water for domestic use will be transported or hauled to individual lots by the lot purchaser. A cost estimate computed on a monthly basis for a 4-member family, including the cost of water,

cistern, and other holding tanks, pumps, or any other costs necessary to install an operational water system;
15. If the development is a subdivision or part of a subdivision located outside of a groundwater active management area, a water adequacy report from ADWR;
16. If the development is unsubdivided lands, a water availability report from the ADWR. The report or a brief summary of the report, approved by the Department, shall be displayed in all promotional material and contracts for sale; and
17. If a water provider is a public service corporation, whether a Certificate of Convenience and Necessity from the Arizona Corporation Commission has been issued and, if not, an explanation of why a Certificate has not been issued.

**Historical Note**
Section R4-28-A1205 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1206. Sewage Disposal**
The applicant shall include information about sewage disposal for the development, including:
1. Whether the sewage disposal will be provided by a municipality, improvement district, public utility, private company, or individual sewage disposal system;
2. The name, address, and telephone number of the sewage disposal company;
3. The compliance status of the sewage disposal provider with the ADEQ as of the date of the application. If in noncompliance, provide an explanation;
4. The name of the person responsible for extending the sewage disposal utility to the lot lines;
5. The estimated completion date for extending the utility to the lot lines;
6. The estimated cost the lot purchaser will be required to pay for completion of the utility to the purchaser's lot line;
7. If offering an unimproved lot, the estimated cost a lot purchaser will pay for completion of the utility from the lot line to the dwelling;
8. Upon completion of the utility, other costs or requirements that must be addressed before the lot purchaser receives service, including the service charge, hookup fees, tap-in fees, and development fees;
9. The name of the person responsible for maintenance of the sewage disposal utility within the development, other than from lot line to dwelling;
10. The name of the person who is or will be responsible for maintenance of the sewage disposal utility outside the development;
11. What cost, if any, will the lot purchaser pay toward maintenance of the sewage disposal utility;
12. If a sewage disposal provider is a for-profit public service corporation, whether a Certificate of Convenience and Necessity from the Arizona Corporation Commission has been issued, and if not, an explanation of why a Certificate has not been issued;
13. A description of the type of individual sewage disposal system the lot purchaser will be required to install in accordance with the standards and requirements of ADEQ or its designee;
14. A description of all requirements and costs involved to install an operational individual sewage disposal system, including any cost for governmental licensing and permitting, equipment, and other installation, maintenance, and operation costs;
15. If an operational individual sewage disposal system cannot be installed, will the lot purchaser be offered a refund of the purchase price, and if so, an explanation of any condition or restriction involving the refund; and
16. If a dry sewer system will be installed for future connection to a future provider, the name of the future provider, all requirements and costs for lot purchasers, and the estimated connection date.

**Historical Note**
Section R4-28-A1206 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1207. Streets and Access**
**A.** The applicant shall include a statement attesting that:
1. Exterior streets providing access are private; or federal, state, and county highways; or municipal streets;
2. The interior streets are public or private; and
   a. If any streets are private, a description of what provisions have been made to assure purchasers of a legal right to use the private streets;
   b. Whether the streets are completed;
   c. The standards to which the streets will be or are constructed;
   d. If the streets are not completed, the person responsible for completion and the estimated completion date;
   e. The type of existing and proposed surfacing;
   f. The cost, if any, the lot purchaser will pay toward street completion;
   g. The name of the person responsible for exterior and interior street maintenance;
   h. Whether a city or county is responsible for maintaining the streets and the approximate date when streets will be accepted for maintenance; and
   i. The cost, if any, the lot purchaser will pay toward street maintenance.

**B.** The applicant shall demonstrate that there is permanent access to the land over terrain that may be traversed by conventional 2-wheel drive automobiles and emergency vehicles by providing any of the following information or documents necessary to make the demonstration:
1. A statement from a title insurance company, signed by an authorized title officer, affirming that legal access exists to the development and lots within the development. The statement shall:
   a. Describe the legal access by listing all recorded instruments which establish legal access,
   b. Be accompanied by a map on which legal access is shown with accurate references to the recorded instruments,
   c. Be accompanied by a legible copy of each recorded instrument listed in the statement.
2. A statement bearing the seal and signature of a registered land surveyor or professional engineer, affirming that legal access to and within the development, as described in the title insurance company legal access statement, is over terrain that can be traversed by conventional 2-wheel drive automobiles and emergency vehicles. The statement shall affirm that:
   a. The legal access corresponds with the actual physical access to the development and to the lots,
   b. The legal access is permanent and describe how that permanence is assured.
3. The recorded subdivision map which shows approval by the applicable city or county officials.

4. Recorded easements or road dedications whether public or private. If private, the applicant shall ensure that development lot owners, emergency vehicles, and utility service providers have access rights.
5. Land, on which easements and roads are provided, is traversable by conventional 2-wheel drive automobiles and emergency vehicles.
6. Road maintenance programs that assure permanent access. Road maintenance programs include those administered by city or county governments, city or county improvement districts, or private property owner associations.
7. Recorded documentation that establishes legal and permanent access for development lot owners through federal or state lands.

**Historical Note**
Section R4-28-A1207 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1208. Flood Protection and Drainage Improvements**
The applicant shall include with the application the following information about flood protection and drainage improvement:
1. A description of any current or proposed improvement;
2. The name of the person responsible for completion of the improvement;
3. The estimated completion date of the improvement;
4. The cost, if any, the lot purchaser will pay for completion of the improvement;
5. The name of the person responsible for the continuing maintenance and expense of the improvement;
6. If a city or county is responsible for maintenance, the approximate date when the improvement will be accepted for maintenance; and
7. The cost, if any, the lot purchaser will pay toward completion and maintenance of the improvement.

**Historical Note**
Section R4-28-A1208 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1209. Common, Community, or Recreational Improvements**
The applicant shall provide with the application a list of all common, community, or recreational improvements, located within the development, and include the following information:
1. The name of the person responsible for completion of each improvement;
2. The estimated completion date of each improvement;
3. The estimated cost a lot purchaser will be required to pay for the completion of each improvement;
4. The name of the person responsible for the continuing maintenance and expense of each improvement; and
5. The cost, if any, the lot purchaser will be responsible for paying toward the maintenance of each improvement.

**Historical Note**
Section R4-28-A1209 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1210. Master Planned Community**
The applicant shall include the following information about a master planned community:
1. A list of all improvements located outside the development, but included in the development offering, including all common, community and recreational improvements;
2. The name of the person responsible for completing each improvement;
3. The estimated completion date of each improvement;
4. The name of the person responsible for the continuing maintenance and expense of each improvement; and
5. The cost, if any, the lot purchaser will pay toward the completion and maintenance of each improvement.

**Historical Note**
Section R4-28-A1210 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1211. Assurances For Completion and Maintenance of Improvements**
**A.** The applicant shall identify:
1. Whether arrangements have been made to assure the completion, delivery, and continued maintenance of the improvements listed in subsections R4-28-A1204 through R4-28-A1210; and
2. Whether the assurances to complete and deliver the improvements have been approved by the county or city, where applicable, and if so, submit a copy of the county or city approval;

**B.** The applicant shall provide 1 or more of the following assurances for completion:
1. A surety or completion bond from an insurance company licensed to do business in Arizona with a rating of good or higher from a rating agency and a copy of the rating. The bond shall specify which improvements are included and shall:
   a. Be stipulated by and payable to a 3rd party who is not the developer;
   b. Be accepted and signed by all parties;
   c. Include an expiration date not less than 90 days beyond the last improvement estimated completion date and clearly state when and how the 3rd party may draw on the funds;
   d. Be in an amount 10% greater than the estimated amount to complete all improvements; and
   e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements.
2. An irrevocable letter of credit from a financial institution licensed to do business in Arizona. The irrevocable letter of credit shall specify which improvements are included and shall:
   a. Be stipulated by and payable to a 3rd party who is not the developer;
   b. Be accepted and signed by all parties;
   c. Include an expiration date not less than 90 days beyond the last improvement estimated completion date and clearly state when and how the 3rd party may draw on the funds;
   d. Be in an amount 10% greater than the estimated amount to complete all improvements;
   e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements;
   f. State that repayment is the responsibility of the developer and not of the 3rd party; and
   g. State that the irrevocable letter of credit is noncancelable.
3. A loan commitment and agreement from a lender licensed to do business in Arizona. The loan commitment and agreement shall specify which improvements are included and shall:
   a. Be stipulated by and payable to a 3rd party who is not the developer;
   b. Be accepted and signed by all parties;

c. Include an expiration date not less than 90 days beyond the last improvement estimated completion date and clearly state when and how the 3rd party may draw on the funds;
d. Be in an amount 10% greater than the estimated amount to complete all improvements;
e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements; and
f. State that repayment is the responsibility of the developer and not of the 3rd party even if the 3rd party draws on the funds.

4. A trust or escrow account with a financial institution or escrow company licensed to do business in Arizona. The trust or escrow account shall specify which improvements are included and shall:
   a. Be stipulated by and payable to a 3rd party who is not the developer;
   b. Be accepted and signed by all parties;
   c. Include an expiration date not less than 90 Days beyond the last improvement estimated completion date and shall clearly state when and how the 3rd party may draw on the funds;
   d. Be in an amount 10% greater than the estimated amount to complete all improvements;
   e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements; and
   f. Directly pay for the improvements completed or release funds to the developer upon written verification from a registered engineer that the improvements have been completed in accordance with the plan.
5. Subdivisions. The municipal or county government shall prohibit occupancy and the subdivider shall not close escrow on lots sold in the subdivision until all proposed or promised subdivision improvements are complete.
   a. The subdivider shall submit an agreement or copy of the ordinance from the city or county prohibiting occupancy until all proposed or promised subdivision improvements are complete.
   b. The subdivider shall submit a written statement that no escrow shall close on any lot until all subdivision improvements are complete.
   c. The subdivider shall submit a copy of the subdivider's purchase contract containing in large or bold print the condition that escrow shall not close until the city or county issues its occupancy clearance and all subdivision improvements are complete.
   d. Escrow may close on a lot before completion of all improvements if the lot is within a phase of the subdivision where all improvements are complete and can be used and maintained separately from the improvements required for the entire subdivision.
   e. If improvements are completed in phases, the subdivider shall submit complete details of the phasing program, including approval of the phasing by the city or county and the completion schedule for the phases.
   f. Any improvement offered or promised to purchasers that is scheduled for completion in a later phase shall have its completion assured by an alternative method of assurance listed in this Section.
   g. If the subdivider's sales include unimproved (vacant) lots, the subdivider shall deposit all earnest money into a neutral escrow depository until escrow closes.
6. City and county trust agreement. Any municipal or county government may enter into an assurance agreement with a trustee to hold a lot conveyance until improvements are completed, provided:
   a. The trustee is an escrow company licensed to do business in Arizona, and
   b. The agreement is recorded.
7. Written escrow agreement. A developer may enter into a written escrow agreement with a title insurance company or escrow company to escrow all funds and not close any escrow until all improvements are complete. The agreement shall contain the following stipulations:
   a. The funds shall not be released nor the purchaser's deed or other relevant documents recorded until certification is given to the Department and the escrow agent by the developer's architect or engineer that the project is complete, ready for occupancy, and in compliance with all city and county requirements;
   b. If the completion date is not met:
      i. The developer shall give purchasers notice that completion dates were not met and an updated completion schedule,
      ii. A purchaser may cancel and receive a full refund by sending written notice to the escrow agent,
      iii. The public report is invalid and all sales are suspended, and
      iv. The Department considers the public report valid if improvements are completed at a later date and the public report is complete and accurate.

**C.** If the construction of any improvement is completed in phases, the applicant shall provide a description of the phased schedule of completion, including the lots in each phase and estimated completion dates.

**Historical Note**
Section R4-28-A1211 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1212. Schools and Services**

**A.** The applicant shall include the following information about schools:
   1. The location of and distance to the nearest public elementary, junior, and high schools and whether school bus or other transportation is available;
   2. The type and location of any other school located within a 1/2 mile radius of the exterior boundaries of the development.

**B.** The applicant shall include the following information about services:
   1. Community shopping. The location and distance from the development of the nearest community shopping area where food, drink, and medical supplies may be purchased;
   2. Public transportation. The type, provider, location, and distance to the nearest access point to public transportation for the development;
   3. Medical facility. The type, provider, location, and distance to the nearest medical facility;
   4. Fire protection. Whether fire protection is available to the development, the name of the provider and the cost to the lot purchaser;
   5. Ambulance service. Whether ambulance service is available to the development and whether the development is

in a 911 service area. If 911 service is not available, the name, address, and telephone number of the ambulance service.

6. Police service. Whether police service is available to the development, and the name of the provider;
7. Refuse collection. Whether provisions have been made for refuse collection, the name of the service provider, and the cost to the lot purchaser. If no provisions have been made, what a buyer will do to dispose of refuse.

**Historical Note**
Section R4-28-A1212 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1213. Property Owners' Association**

The applicant shall provide the following information about a property owner's association:

1. The name of the association, if any;
2. The name of the master property owners' association, if any;
3. The amount of the association assessment that property owners will be required to pay, and how it will be paid;
4. Whether the association is legally formed and operational;
5. When and under what conditions control of the association will be released to lot purchasers;
6. When and under what conditions title to the common areas will be transferred to the association;
7. Whether the common areas are subject to any lien or encumbrance. If yes, explain how purchasers' use and enjoyment of common areas will be protected in the event of default;
8. Whether all lot owners will be required to be members of the association. If not, explain;
9. Whether nonmembers will be liable for payments to the association; and
10. A copy of the Articles of Incorporation and Bylaws in effect.

**Historical Note**
Section R4-28-A1213 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1214. Development Use**

The applicant shall provide the following information about development use:

1. Whether unimproved (vacant) lots or improved (with building) lots will be sold or leased;
2. The use for which development lots will be offered and an identification of the lots and their proposed use if more than 1 use is contemplated;
3. Whether the development or any lot is subject to adult occupancy or age restrictions;
   a. If yes, explain the restriction;
   b. If yes, explain whether this restriction is in compliance with the Federal Fair Housing Act.
4. Whether all or any portion of the development is located in an open range or area in which livestock may roam at large under the laws of this State and what provisions, if any, have been made for the fencing of the development to prevent livestock from roaming within the development and on a purchaser's lot. If land is located in an open range or area in which livestock may roam at large, the purchase contract shall contain:
   a. Any provisions for the fencing of the development to prevent livestock from roaming within the development; and
   b. Any fencing requirements for the buyers to prevent livestock from roaming on their property.
5. Whether mineral rights are, or will be, reserved from the development lots and what the effect will be on lot owners if the minerals are extracted from the development; and
6. A full written disclosure of any condition or provision not specified in subsections (1) through (5) that may limit the use or occupancy of the property.

**Historical Note**
Section R4-28-A1214 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1215. Development Sales**

The applicant shall provide a description of the sales offering and:

1. A description of how sales or leases will be made and the manner by which title, right, or other interest is to be conveyed to the purchaser, including copies of sales and lease transaction documents;
2. Indicate whether cash sales are allowed and when the purchaser takes title;
3. Indicate where the purchaser's deposit and earnest monies will be deposited and held;
4. If the deposit monies are available for use by the seller, when and under what conditions the monies will be released;
5. Indicate when the lot purchaser will be permitted to use and occupy the lot;
6. An explanation if the purchaser will not receive title free and clear of all liens;
7. The estimated average sales price for the lots;
8. Indicate whether any of the property will be leased, and if so;
   a. Provide a description of any provision for increase of rental payments during the term of the lease and any provisions in the lease prohibiting assignment or subletting, or both;
   b. Indicate whether the lease prohibits the lessee from mortgaging or otherwise encumbering the leasehold; and
   c. Indicate whether the lessee is permitted to remove an improvement when the lease expires.
9. The name, address, and telephone number of the Arizona broker who will be responsible for sales. If none, explain why;
10. The name and telephone number of the custodian of the development records and the physical location where the records will be kept;
11. Indicate whether the property has been or will be offered for sale before the date of the development application. If yes, explain; and
12. Indicate whether the sales documents contain all contract disclosures required by rule and statute.

**Historical Note**
Section R4-28-A1215 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1216. Title Reports and Encumbrances**

The applicant shall provide the following information concerning title reports and encumbrances:

1. Copies of any unrecorded liens or encumbrances against the property;
2. A title report showing:
   a. An effective date not more than 30 days before Department receipt. The Department may request that the applicant update the title report so that it is

not more than 30 days old when the public report is issued;
b. A legal description based upon a recorded map, condominium or timeshare declaration. Metes and bounds legal descriptions shall be used only for membership camping application title reports;
c. The applicant's interest in the property;
d. The name and telephone number of the person who prepared the title report;
e. A requirement page, if applicable; and
f. The following statement after the title exceptions: "There are no further matters of record affecting the land."

3. Legible copies of all recorded and unrecorded documents reflected by the title report, or known to applicant, such as restrictions, easements, liens, encumbrances, trust agreements, options, and maps.

**Historical Note**
Section R4-28-A1216 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1217. ADEQ Approval**
The applicant shall obtain subdivision approval from ADEQ or its designee.

**Historical Note**
Section R4-28-A1217 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1218. Property Registrations in Other Jurisdictions**
The applicant shall provide a list of the jurisdictions where a property registration was filed with or accepted by another department of real estate or similar regulatory agency.

**Historical Note**
Section R4-28-A1218 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1219. Condominium Developments**
The applicant shall provide the following information about condominium developments:

1. A copy of the recorded condominium declaration, map, and amendments in effect, and
2. An opinion letter from an attorney licensed to practice in Arizona, stating that the condominium plat and declaration of condominium are in compliance with the requirements of A.R.S. §§ 33-1215 and 33-1219.

**Historical Note**
Section R4-28-A1219 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1220. Foreign Developments**
**A.** Unless exempt pursuant to A.R.S. § 32-2181.02, an applicant shall ensure that any development located outside the state that is advertised, promoted, or sold within the state complies with all Arizona laws and rules as if the land was located in the state.
**B.** Any law or rule that is specific to Arizona may be waived by the Department, or the Department may request and accept the domicile state or country's equivalent form of documentation.
**C.** The applicant shall provide evidence that the domicile state or country has authorized the sale of lots and that the development is in compliance and good standing. If the domicile state or country issues a public report or equivalent, the application shall include the report.

**Historical Note**
Section R4-28-A1220 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1221. Cemetery Developments**
The applicant shall provide the following information about cemetery developments:

1. A statement that there are no liens on the cemetery property,
2. An accounting of the endowment care fund for an existing perpetual care cemetery, and
3. A financial statement of the applicant.

**Historical Note**
Section R4-28-A1221 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1222. Membership Camping Developments**
The applicant shall provide the following information about a membership camping development:

1. If the interest of the operator is evidenced by a lease, license, franchise, or a reciprocal agreement, a copy of the document and any amendments;
2. A description of any lakes or streams available for recreational use; and
3. A description of any exchange network and the responsibilities, obligations, and rights of the operator and purchaser, and copies of all exchange network documents.

**Historical Note**
Section R4-28-A1222 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-A1223. Affidavit**
The applicant shall sign an affidavit attesting that the information found in the application is true and correct.

**Historical Note**
Section R4-28-A1223 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## PART B. GENERAL INFORMATION

**R4-28-B1201. Expedited Registration For Improved Subdivision Lots and Unsubdivided Lands**
**A.** A developer may use the expedited public report registration by preparing the public report and submitting the appropriate application documents and fees established in A.R.S. §§ 32-2183(B) or 32-2195.03(B) to the Department. The Department shall assign a registration number to each application and verify the following:

1. The correct application form has been used and is 2-hole punched at the top in standard placement. The application is placed on a 2-prong AACO-type fastener in a file folder and delivered to the Department in an expanding file folder. Maps may be left off the fastener, folded, and placed in the expanding file. The application shall include:
   a. The Expedited Registration Request letter signed by the applicant; and
   b. The completed Department checklist for administrative completeness which indicates inclusion of the documents required by A.R.S. Title 32, Chapter 20, Article 4 and 4 A.A.C. 28, Article 12, Part A.
2. The filing fees have been included with the application;
3. All application questions have been answered;
4. The application signature page has been properly executed;
5. All required documents have been submitted; and

6. A complete and accurate public report in the Department's published format on a computer diskette, formatted in a word processing program compatible with the Department's current computer operating system and word processing software, has been submitted and all exhibits used for disclosure have been included on the diskette. (The developer may obtain a diskette containing the public report template from the Department upon request.)

**B.** The Department may allow the applicant to correct a deficiency within the administrative completeness time-frame provided in A.R.S. §§ 32-2183(B) and 32-2195.03(B), in which case the overall 15 business day limitation is suspended until the applicant corrects the deficiency.

**Historical Note**
Section R4-28-B1201 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1202. Conditional Sales Exemption**

**A.** Any developer applying for a special order of exemption authorizing the offer for sale of a subdivision lot or unsubdivided land before issuance of a public report shall provide the following information to the Department:
1. The completed and executed Petition for Conditional Sales Exemption;
2. The completed and executed subdivision or unsubdivided land application for a public report;
3. The purchase contract containing all required contract disclosures and the Conditional Sales Addendum;
4. A current title report showing the ownership interest of the developer and acceptable condition of title;
5. A copy of the recorded development map, or if not recorded, a copy of the unrecorded map;
6. A copy of the Condominium Declaration, if applicable;
7. A Certificate of Assured Water Supply, or a letter from the ADWR or other evidence that the property is located in an area designated as having an assured water supply, if the property is located in a groundwater active management area;
8. A water adequacy report from the ADWR or evidence that the property is located in an area designated as having an adequate water supply, if the property is located outside of a groundwater active management area; and
9. Any other information revealed necessary after preliminary review.

**B.** The conditional sales exemption shall expire upon issuance or denial of the public report, or upon issuance of an order to summarily suspend sales, to cease and desist, or a voluntary suspension of sales by the developer or owner.

**Historical Note**
Section R4-28-B1202 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1203. Material Change; Public Report Amendments**

**A.** The developer shall notify the Department of all material changes in the information required by A.R.S. Title 32, Chapter 20, Articles 4, 7, 9, and 10, or 4 A.A.C. 28, Article 12, Part A.

**B.** Pursuant to the material changes reported in subsection (A), the Department may require the developer to amend the public report.

**C.** A developer may apply to amend the public report by submitting payment of the applicable amendment fee and the following information:
1. The name and registration number of the development;
2. The name and signature of the developer;
3. A list of the changes to the development and sales offering or in the information previously provided to the Department;
4. Status of sales as prescribed in subsections (D) and (E); and
5. A purchase contract addendum, to be signed and dated by both seller and purchaser, acknowledging that the sale is conditioned upon issuance of the amended public report and purchaser's receipt and acceptance of the amended public report.

**D.** Completion Date Extension.
1. A developer may apply for an amendment to a public report to extend the completion date of any improvement by providing an affidavit from the developer attesting that each purchaser, owner, and the city or county officials responsible for improvements were provided written notice of the completion status of the improvement, including a list of all people who were provided notice.
2. The Department may deny the application to extend the completion date beyond the 1st extension if a purchaser, owner, or city or county official opposes issuance of an amended public report to extend a completion date;
3. If an extension is denied, the developer shall provide a written agreement to voluntarily suspend sales until the improvement is complete or the Department may issue a summary suspension order as provided in A.R.S. § 32-2157(B).

**E.** Suspension of sales.
1. If necessary for the protection of purchasers, the Department may suspend approval to sell or lease pending amendment of the report.
2. In lieu of issuing a suspension order pursuant to A.R.S. § 32-2157, the Department may accept a developer's written agreement to voluntarily suspend sales until the amended public report has been issued by the Department.

**F.** If the Department determines that a suspension of sales is not necessary for the protection of purchasers and approves the proposed disclosure of the change, sales may continue if the prospective purchaser is provided a copy of the current public report and disclosure of all changes before signing a contract. Completion of sales is conditioned upon the developer obtaining and delivering to each purchaser under contract the amended public report.

**G.** Upon obtaining the amended report, the developer shall provide a copy to prospective purchasers in place of the earlier public report and obtain a receipt for the amended public report.

**H.** If an application to amend a public report is denied, the Department shall notify the developer in writing of the statutory basis for the denial and of the developer's right to a fair hearing.

**Historical Note**
Section R4-28-B1201 renumbered from R4-28-1203 and amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1204. Cemetery Notice; Amendments**

A change to information required pursuant to the provisions of Title 32, Chapter 20, Article 6, R4-28-301(A), or any other Section, requires amendment of the notice filed pursuant to A.R.S. 32-2194.01.

**Historical Note**
Section R4-28-B1204 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1205. Contiguous Parcels**
Except for lots in a platted subdivision, if 2 or more contiguous parcels of land are acquired by a single owner, the Department shall classify the lots as a single parcel for purposes of subdivision laws.

**Historical Note**
Section R4-28-B1205 renumbered from R4-28-1201 and amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1206. Filing with HUD**
If the subdivider requests that a subdivision public report be certified by the Department for filing with HUD, the subdivider shall comply with the terms, conditions, and requirements of the HUD certification agreement.

**Historical Note**
Section R4-28-B1206 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1207. Subsequent Owner**
**A.** Except as provided in A.R.S. § 32-2181.02, any developer who is a successor in interest to 6 or more lots within a subdivision on which the Department previously issued a public report shall file an application for and obtain a new public report before offering or selling any lot.
**B.** Any developer who is a successor in interest to 6 or more parcels within an unsubdivided land development on which the Department previously issued a public report shall file an application for and obtain a new public report before offering or selling any parcel.
**C.** Any developer who is a successor in interest to 12 or more time-share intervals within a time-share project on which the Department previously issued a public report shall file an application for and obtain a new public report, before offering or selling any interval.
**D.** The Department shall not issue a new public report to a subsequent owner of a development if the previous developer failed to complete proposed improvements in accordance with estimated completion dates specified in the previously issued public report until 1 of the following occurs:
1. The subsequent owner makes financial arrangements, as described in R4-28-A1211, in favor of the local governmental authority and for the benefit of purchaser, securing the owner's promise to complete the previously proposed improvements by a designated date; or
2. The subsequent owner becomes obligated to place all sales funds in a neutral escrow depository until the Department is furnished satisfactory evidence that all proposed improvements have been completed or accepted by the city or county; or
3. Permission is obtained by all previous purchasers in the development for completion of the proposed improvements by the new designated date for completion; or
4. The subsequent owner establishes to the satisfaction of the Department that adequate financial arrangements have been made to assure completion of the proposed improvements by the new designated date for completion.

**E.** A developer who is a subsequent owner of property that is the subject of a pending application for a public report shall not replace or be substituted for the applicant of that application until the Department approves or denies the pending application. Once the pending application is acted upon, the subsequent owner may file an application for a public report.

**Historical Note**
Section R4-28-B1207 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1208. Public Report Correction**
If the public report contains an error, the Department shall correct the report at its own expense. Additional or changed information that was known to the developer before issuance of the report is not an error. The Department shall not correct the public report after it has been in effect for 10 days. After 10 days, the developer shall change the report through the development amendment process, established in R4-28-B1203, with payment of the applicable amendment fee.

**Historical Note**
Section R4-28-B1208 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1209. Options; Blanket Encumbrances; Releases**
**A.** The Department shall not issue or amend a public report for any lot held under option or subject to a blanket encumbrance if a condition precedent to the optionee's right to acquire the lot or to release from the blanket encumbrance shows that the lot shall:
1. Be acquired or released in a particular sequence,
2. Be acquired or released only after 1 or more additional lots have been acquired or released, or
3. Not be released if the encumbrance is in default because of a cross-default provision contained in the encumbrance,

**B.** The developer may require payment of a premium to permit the acquisition or release of the lot.
**C.** When a blanket encumbrance clouds title to a development, the developer shall place a written statement from the holder of the blanket encumbrance in the public report application, quoting the provisions that enable a buyer to acquire title to a lot, free of the blanket encumbrance.

**Historical Note**
Section R4-28-B1209 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1210. Earnest Money**
The developer shall deposit earnest money and down payments in a neutral depository if:
1. The seller is in bankruptcy;
2. The sale is conditional pursuant to R4-28-B1202; or
3. The Department perceives a risk to the buyer.

**Historical Note**
Section R4-28-B1210 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-B1211. Recordkeeping**
If real property in a development is sold or leased by a developer without the services of a listing or selling broker, the developer shall keep all records as required by A.R.S. § 32-2151.01(A) and (C).

**Historical Note**
Section R4-28-B1211 adopted by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 13. ADMINISTRATIVE PROCEDURES

**R4-28-1301. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-33 renumbered without change as Section R4-28-1301 (Supp. 87-1). Section R4-28-1301 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1302. Service of Pleadings Subsequent to Complaint and Notice**

**A.** Service of pleadings subsequent to complaint and notice of hearing shall be made by personal service or by mail to the last known address of record of the party or the party's counsel. If service is made by mail, response time shall be increased by 5 days. Service by mail is complete upon mailing.

**B.** Any person filing a pleading or brief with the Department shall also file with the Attorney General.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-34 renumbered without change as Section R4-28-1302 (Supp. 87-1). Section R4-28-1302 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1303. Information Obtained in an Investigation**

The Department shall ensure that any information or document obtained in an examination or investigation remains confidential, unless made a matter of public record. Officers and employees of the Department shall not make confidential information or documents available to anyone other than the Attorney General or the Attorney General's representative, or a member, officer, or employee of the Department, unless the Commissioner authorizes disclosure of the information or production of documents as not being contrary to the public interest.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-35 renumbered without change as Section R4-28-1303 (Supp. 87-1). Section R4-28-1303 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1304. Response; Default**

**A.** A response shall specifically admit, deny, or state that the party does not have, or is unable to obtain, sufficient information to admit or deny each allegation in the complaint. A statement of a lack of information shall have the effect of a denial. Any allegation not denied is deemed to be admitted. When a party intends in good faith to deny only a part of an allegation, the party shall admit so much of it as is true and shall deny the remainder.

**B.** If the party fails to file a response or after being served notice, fails to appear at a hearing within the time provided by the statute under which the hearing is commenced, the Department may file an Affidavit of Default against the party, and proceed to take action against the party based upon the allegations of the charges. This action may be taken before the hearing date established in the Notice of Hearing. The party may file a motion to vacate the default and any action taken by the Commissioner within 15 days after receiving a copy of the default and the action or order by the Commissioner. For good cause, the Commissioner may vacate a default and any action taken and reschedule a hearing.

**C.** Every response filed pursuant to this Section shall be signed by the filing party or by at least 1 attorney, in the attorney's individual name, who represents the party, and shall be verified.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-36 renumbered without change as Section R4-28-1304 (Supp. 87-1). Amended subsection (D) effective November 27, 1987 (Supp. 87-4). Section R4-28-1304 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1305. Notice of Appearance of Counsel**

**A.** A party may participate in the party's own behalf or be represented by a member of the State Bar of Arizona.

**B.** Any person intending to appear at a contested case hearing or appealable agency action as counsel or representative of a party shall file a Notice of Appearance which shall advise the Department of the person's intent to appear on behalf of a party. The notice shall be filed with the Office of Administrative Hearings and served on all parties and shall contain:

1. The title of the case,
2. The name of the agency ordering the hearing,
3. The current address and telephone number of the person appearing, and
4. The name of the party for whom the person is appearing.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-37 renumbered without change as Section R4-28-1305 (Supp. 87-1). Amended subsections (B) and (C) effective November 27, 1987 (Supp. 87-4). Section R4-28-1305 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1306. Repealed**

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-38 renumbered without change as Section R4-28-1306 (Supp. 87-1). Amended subsections (A), (B), and (C) effective November 27, 1987 (Supp. 87-4). Section R4-28-1306 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1307. Consolidation of Procedures**

The Commissioner or the administrative law judge may consolidate proceedings involving a common question of fact or law, or a common respondent if the consolidation will avoid unnecessary costs or delay and will not adversely affect the rights of any party.

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (E) effective March 13, 1981 (Supp. 81-2). Former Section R4-28-39 renumbered without change as Section R4-28-1307 (Supp. 87-1). Amended effective November 27, 1987 (Supp. 87-4). Section R4-28-1307 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1308. Repealed**

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Former Section R4-28-40 renumbered without change as Section R4-28-1308 (Supp. 87-1). Amended effective November 27, 1987 (Supp. 87-4). Section R4-28-1308 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1309. Repealed**

**Historical Note**

Adopted effective May 1, 1980 (Supp. 80-3). Amended effective June 23, 1983 (Supp. 83-3). Former Section R4-28-41 renumbered without change as Section R4-28-1309 (Supp. 87-1). Amended effective November 27, 1987 (Supp. 87-4). Section R4-28-1309 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1310. Rehearing or Review of Decision; Response; Decision**

**A.** Unless otherwise provided by law or rule, any party to a hearing before the Department who is aggrieved by a decision rendered in a case may, pursuant to A.R.S. § 41-1092.09, file with the Commissioner a written motion for rehearing or review of the decision. The motion shall specify the particular grounds for rehearing or review. The moving party shall serve copies upon all other parties. A motion for rehearing or review under this Section may be amended at any time before it is ruled upon by the Commissioner.

**B.** A rehearing or review of the decision may be granted for any one of the following causes which materially affect the moving party's rights:

1. Irregularity in the proceedings or any order or abuse of discretion by the administrative law judge, which deprived a party of a fair hearing;
2. Misconduct by the Department, administrative law judge, or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring during the proceeding;
7. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion;
8. That the findings of fact or decision is not supported by the evidence or is contrary to law.

**C.** Presenting specific grounds for rehearing or review, affidavits and relief sought:

1. Each motion for rehearing or review shall specify which of the grounds listed in subsection (B) it is based upon and shall set forth specific facts and law in support of the rehearing or review. Each motion may cite relevant portions of testimony by reference to pages or lines of the reporter's transcript of the hearing and may cite hearing exhibits by reference to the exhibit number.
2. When a motion for rehearing or review is based upon an affidavit, it shall be attached to and filed with the motion unless leave for later filing of an affidavit is granted by the Commissioner. The leave may be granted ex parte.
3. Each motion for rehearing or review shall specify the specific relief sought by the motion, such as a different decision or penalty, a new hearing, a dismissal of the complaint, or other relief. A motion for rehearing or review may seek multiple forms of relief, in the alternative.

**D.** Any party may file a written response to the motion. An affidavit may be attached to and filed with the response and shall not be later filed unless leave for later filing of affidavits is granted by the Commissioner. The original response shall be filed with the Department pursuant to R4-28-102, within 15 days after the date the motion for rehearing or review is filed, and a copy shall be served upon all other parties to the hearing.

**E.** Within 30 days after a decision is rendered, the Commissioner may, on the Commissioner's own initiative, order a rehearing or review of a decision for any reason for which a motion for rehearing or review might have been granted. The Commissioner shall specify the grounds for rehearing or review in the order.

**F.** Upon review of a motion for rehearing or review of the decision, and any response, the Commissioner shall issue a ruling granting or denying the motion. If granted, the Commissioner may modify the decision or grant a rehearing. An order granting a rehearing shall specify with particularity the grounds on which the rehearing is granted, and the rehearing shall cover only those matters specified. All parties to the hearing may participate as parties at any rehearing.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended effective March 13, 1981 (Supp. 81-2). Amended effective June 23, 1983 (Supp. 83-3). Former Section R4-28-42 renumbered without change as Section R4-28-1310 (Supp. 87-1). Amended subsections (B), (C), and (D) effective November 27, 1987 (Supp. 87-4). Section R4-28-1310 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1311. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended effective June 23, 1983 (Supp. 83-3). Former Section R4-28-43 renumbered without change as Section R4-28-1311 (Supp. 87-1). Amended subsections (A), (B), and (C) effective November 27, 1987 (Supp. 87-4). Section R4-28-1311 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1312. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Amended subsection (B) effective March 13, 1981 (Supp. 81-2). Amended effective June 23, 1983 (Supp. 83-3). Former Section R4-28-44 renumbered without change as Section R4-28-1312 (Supp. 87-1). Section R4-28-1312 repealed by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

**R4-28-1313. Correction of Clerical Mistakes**

Clerical mistakes in opinions, orders, rulings, any process issued by the Department, or other parts of the record, and errors arising from oversight or omission, may be corrected by the administrative law judge before transmission of the Department hearing file to the Commissioner, or by the Commissioner after transmission of the file, either upon the initiative of the administrative law judge or Commissioner, or upon motion of any party.

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-45 renumbered without change as Section R4-28-1313 (Supp. 87-1). Amended effective November 27, 1987 (Supp. 87-4). Section R4-28-1313 amended by final rulemaking at 5 A.A.R. 650, effective February 3, 1999 (Supp. 99-1).

## ARTICLE 14. REPEALED

**R4-28-1401. Repealed**

**Historical Note**
Adopted effective May 1, 1980 (Supp. 80-3). Former Section R4-28-46 renumbered without change as Section R4-28-1401 (Supp. 87-1). Repealed effective November 27, 1987 (Supp. 87-4).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

# CHAPTER 29. STRUCTURAL PEST CONTROL COMMISSION

(Authority: A.R.S. § 32-2301 et seq.)

## ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

*Article 1, consisting of Sections R4-29-101 through R4-29-107, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 1, consisting of Sections R4-29-01 through R4-29-06, repealed effective December 24, 1992 (Supp. 92-4).*

Section
R4-29-101. Definitions
R4-29-102. Classification of Structural Pest Control
R4-29-103. Work Limited to Class
R4-29-104. Joint Responsibility
R4-29-105. Notification Required
R4-29-106. Public Information
R4-29-107. Complaints
R4-29-108. Licensing Time-frames
Table 1. Time-frames

## ARTICLE 2. LICENSURE, QUALIFICATION, CERTIFICATION, AND REGISTRATION

*Article 2, consisting of Sections R4-29-201 through R4-29-213, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 2, consisting of Sections R4-29-14 through R4-29-26, repealed effective December 24, 1992 (Supp. 92-4).*

Section
R4-29-201. General Provisions
R4-29-202. Renewals of Licenses, Qualifications, Certifications and Registrations
R4-29-203. Structural Commercial Applicator Certification
R4-29-204. Qualifying Party Qualification and Pest Control Advisor License
R4-29-205. Inactive Qualifying Party Status
R4-29-206. Business License, General Provisions
R4-29-207. Display and Use of License Name and Number
R4-29-208. Qualifying Party or Pest Control Advisor Required for Each Business
R4-29-209. Branch Office
R4-29-210. Supervision Required at Each Office
R4-29-211. Schedule of Fees, Payments and Exemption
R4-29-212. Continuing Education Required for Qualifying Parties, Pest Control Advisors and Applicators
R4-29-213. Requirements for Providers of Continuing Education Programs

## ARTICLE 3. PESTICIDE USAGE

*Article 3, consisting of Sections R4-29-301 through R4-29-320, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 3, consisting of Sections R4-29-35 through R4-29-38, repealed effective December 24, 1992 (Supp. 92-4).*

Section
R4-29-301. Misuse of Any Pesticide; Falsification of Any Pesticide Record
R4-29-302. Certified Applicator Required
R4-29-303. Direct Supervision of Noncertified Persons Required
R4-29-304. Protect Against Contamination
R4-29-305. Written Notification of Treatment Required
R4-29-306. Notice of Intent to Apply Pesticides
R4-29-307. Make and Preserve Treatment Records
R4-29-308. Restricted Use Records Required
R4-29-309. Records Required Within 24 Hours
R4-29-310. General Provisions for Pesticide Usage
R4-29-311. Provisions for Pesticide Storage
R4-29-312. Pesticide Containers; Storage and Disposal
R4-29-313. Pesticide Storage Facility
R4-29-314. Pesticide Storage on Service Vehicles
R4-29-315. Required on Service Vehicles
R4-29-316. Fumigants and Fumigation; Qualified Personnel
R4-29-317. Fumigants and Fumigation; Special Safety Precautions Required
R4-29-318. Fumigation Precautions; Space Shall Be Vacant and Secure
R4-29-319. Warnings Required
R4-29-320. Spot Fumigation

## ARTICLE 4. TERMITES AND OTHER WOOD-DESTROYING ORGANISMS

*Article 4, consisting of Sections R4-29-401 through R4-29-418, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 4, consisting of Sections R4-29-40 through R4-29-47, repealed effective December 24, 1992 (Supp. 92-4).*

Section
R4-29-401. Definitions
R4-29-402. Chemicals
R4-29-403. Equipment Shall Be Calibrated
R4-29-404. Samples May Be Collected
R4-29-405. Reserved
R4-29-406. Preconstruction Treatments; General Provisions
R4-29-407. Preconstruction Treatments; Establishment of Barriers; Soil Disturbed; Concrete Poured Prior to Treatment; Effective Date
R4-29-408. Pretreatment Tagging and Records Required
R4-29-409. Occurrence of Termites After a Pretreatment
R4-29-410. Post-construction Treatments for Subterranean Termites
R4-29-411. Treatment of Drywood Termites and Other Wood-destroying Organisms
R4-29-412. Wood Infestation Reports; General Provisions
R4-29-413. Wood Infestation Reports; Information Required
R4-29-414. Wood Infestation Reports; Conditions Conducive
R4-29-415. Supplemental Wood Infestation Reports
R4-29-416. Structural Treatment Proposals
R4-29-417. Termite Action Registration Report
R4-29-418. Termite Action Registration Report Fee

## ARTICLE 5. HEARINGS, SETTLEMENT CONFERENCES, AND CONSENT ORDERS

*Article 5, consisting of Sections R4-29-501 through R4-29-504, adopted effective December 24, 1992 (Supp. 92-4).*

Section
R4-29-501. Hearings and Hearing Procedures.
R4-29-502. Review or Rehearing of Commission Decisions
R4-29-503. Settlement Conferences
R4-29-504. Settlement Conference Consent Orders
Appendix A. Wood infestation report form

## ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

### R4-29-101. Definitions

Words defined in A.R.S. § 32-2301 or 32-2331 have the same meaning when used in this Chapter, and unless the context requires otherwise:

1. "Advertisement" means a written or oral publication, dissemination, solicitation or circulation, including business cards and telephone directory display advertisements, which is intended to directly or indirectly induce a person to enter into an agreement for pest control services.
2. "Advisor" means pest control advisor.
3. "Certified applicator" means a "structural commercial applicator", "commercial applicator", or "applicator".
4. "Commercial applicator" means a "structural commercial applicator", "certified applicator", or "applicator".
5. "Commercial establishment" means an area or site, other than an institutional establishment, where business activities occur.
6. "Company" means the person or company who holds a business license as defined in A.R.S. § 32-2301.
7. "Contract" means an agreement with a customer, including a warranty or guarantee concerning service or the results thereof, pertaining to the application of a pesticide or pest management procedure to the customer's property.
8. "Control" means exterminating, eradicating, injuring, destroying, killing, repelling, sterilizing, or removing, or a combination of these activities.
9. "Crack and crevice treatment" means the application of pesticide directly into a crack, crevice, expansion joint, between different elements of construction, between equipment and floors, or into an opening that leads into voids such as hollow walls, equipment legs and bases, conduits, motor housings, or junction or switch boxes, where pests may be present.
10. "Entire structure" means all critical areas as defined in R4-29-410 and as specified on product labeling for both the interior and exterior of the structure.
11. "Fog or fogging" means aerosolized particles of a pesticide dispersed by means of a flammable, aerosolizing thermal or other generator capable of producing particles of less than ten microns in diameter.
12. "Food-handling establishment" means a place, other than a private residence, in which food is held, processed, prepared, or served.
    a. Food areas of food-handling establishments include areas of receiving, serving, storage, packaging, preparing, edible waste storage, and closed processing systems.
    b. Nonfood areas of food-handling establishments include garbage rooms, lavatories, floor drains, entrances and vestibules, offices, locker rooms, machine rooms, boiler rooms, garages, mop closets, and storage after canning or bottling.
13. "Fumigant" means a chemical substance having a vapor pressure of greater than five millimeters of mercury at 25 degrees Centigrade which is used for the destruction of plant or animal life.
14. "Fumigation" means the use of fumigants for the control of pests.
15. "Incidental" means the limited application of pesticides in conjunction with projects involving a contractual relationship for the development or maintenance of a property. When a commercial application of pesticides on a property is the only or predominant maintenance service performed throughout the contract period, such application is not considered incidental.
16. "Institutional establishment" means a property or facility that functions to provide a service to the general public or private organizations.
17. "Label" means the written, printed or graphic matter approved by the United States Environmental Protection Agency on, or attached to, a pesticide container or its wrappers or on or attached to a device.
18. "Labeling" means all labels and all other written, printed, or graphic matter authorized by the manufacturer or a state or federal agency that accompanies a pesticide or device, or is referred to on the label or in literature accompanying the pesticide or device, except where that reference is to current official publications of federal or state agencies, institutions, or agencies authorized by law to conduct research in the field of pesticides.
19. "Manner inconsistent with the label" means the use of a pesticide in a manner not permitted by the labeling. Uses of a pesticide as listed in paragraphs (a), (b), and (c) below are exempt from this definition unless the U.S. Environmental Protection Agency or the pesticide manufacturer has indicated, by means of written statements issued prior to treatment, that such use would not be permitted, or advisable, or would be deleterious to persons, animals or the environment. Exempted uses are the use of a pesticide that will eliminate or control a pest:
    a. At a dosage, concentration, or frequency less than specified on the labeling;
    b. For a target pest not identified on the labeling as long as the application site is specified and the labeling does not prohibit the use; or
    c. By a method of application not prohibited by the labeling.
20. "Post-treatment" means the application of chemicals for the control of termites and other wood-destroying organisms in existing structures.
21. "Pretreatment" means the application of a termiticide for subterranean termite control prior to the establishment of a permanent slab foundation construction or in conjunction with the establishment of footings and supports for a raised foundation construction.
22. "Structural commercial applicator" means a "commercial applicator", "certified applicator", or "applicator".

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).

### R4-29-102. Classification of Structural Pest Control

For the purpose of this Chapter, the practice of structural pest control shall be classified as follows:

1. Class A shall include the classifications B, C, D, E, and F.
2. Class B shall be limited to the control of general terrestrial vertebrate and invertebrate pests which live in or about households and other structures but shall not include the control of wood-destroying organisms and pests of turf and ornamental horticulture.
3. Class C shall be limited to the control of wood-destroying pests or organisms which occur in, on or about structures.
4. Class D shall be limited to the use of fumigants as a method of structural pest control.
5. Class E shall be limited to the control of terrestrial weeds around structures or in connection with an area used by persons for purposes other than as an agricultural area.
6. Class F shall be limited to the control of vertebrate and invertebrate pests and diseases of plants, and the use of plant growth regulators on general ornamental horticul-

tural plantings including turf intended for use by persons for purposes other than as an agricultural area.

7. Class G shall limit the scope of an established classification to advising or making recommendations or inspection reports concerning the control of pests or control methods. The holder of a class G license shall not perform treatments.
8. Class H shall be limited to the application of pesticides directly to structural components of wood or wood products, which are not then part of an existing structure normally habitable by persons, to prevent or control wood degradation by wood-destroying organisms which shall include fungi and bacteria.
9. Class I shall be limited to the use of pesticides and plant growth regulators in golf course management.
10. Class J shall be limited to the use of pesticides in an aquatic area which is used or is intended for use by persons for purposes other than as an agricultural area. Subclassifications may include control of vertebrate pests, invertebrate pests, and weeds in the aquatic environment.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-103. Work Limited to Class**
A company, qualifying party, advisor, or applicator shall act in the capacity of a structural pest control company, qualifying party, advisor, or applicator only in the classification of pest control for which they are licensed, qualified, or certified by the Commission and for which the company is covered by evidence of financial responsibility as required by A.R.S. § 32-2313.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-104. Joint Responsibility**
Each company, qualifying party, advisor, applicator and registered employee is responsible for the acts or omissions of, and for compliance with the law, this Chapter and other lawful orders of the Commission by, persons under their supervision.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-105. Notification Required**

**A.** A company, qualifying party, advisor, applicator or registered employee shall notify the Commission in writing and within ten days of the occurrence of any of the following:
1. A change in the address or telephone number of the place of business as registered with the Commission.
2. A change in address of the place for storage of pesticides.
3. A change in mailing address.
4. An incident of disassociation whereby there is a failure or cessation of the qualifying party or the applicator to effectively supervise registered employees or other persons engaged in the business of structural pest control on behalf of the company, resulting from a change of employment, ownership of the company, or an inability or failure of the qualifying party or applicator to have and to exercise authority to enforce this Chapter, rule or a lawful order of the Commission.
5. A transfer, abandonment, acquisition, or disposal of accounts, warranties or names of a structural pest control business. The business licensee or their agent shall send written notice to the Commission by certified or registered mail or personal delivery.
6. The receipt of a civil or criminal subpoena, summons or complaint, filed in any Arizona tribunal, directly or indirectly related to the license-related conduct of the company, qualifying party, pest control advisor, applicator or registered employee. Notice to the Commission shall be made in writing and shall advise the Commission of the nature of the cause of action, setting forth allegations made by the plaintiff and giving the name and address of the plaintiff and the attorney of record, and the date, time and place where the action is answerable or where appearance is required, or notice may consist of either a photocopy or facsimile copy of the complaint or other service.

**B.** Notice to the Commission for purposes of subsections (A)(1) through (4) and (6) may be made by regular mail. Notice to the Commission for purposes of subsection (A)(5) shall be made by certified or registered mail or personal delivery.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-106. Public Information**

**A.** Information which is not part of an active investigation by the Commission or designated by law to be confidential shall be open to inspection by any person at all times during office hours at the primary office of the Commission in a manner which would not cause disruption of public business.
1. Persons shall request specific information in writing on a form provided by the Commission prior to reviewing a file. The form shall require at least the name and address of the requestor, the date of request, whether the request is for commercial or noncommercial purposes and the verifiable signature of the requestor. A person requesting to conduct random file searches shall make such request in writing
2. All documents shall remain in the possession, custody or control of the Commission custodian.
3. Persons requesting copies of public records shall first submit a written request on a form, prescribed in subsection (A)(1), provided by the Commission. A fee shall be assessed for each page copied by Commission staff.

**B.** Persons requesting a computer search shall make such request in writing on a form, prescribed in subsection (A)(1), provided by the Commission. A fee shall be charged. Computer searches shall be made only by authorized Commission personnel and shall be subject to the availability of such staff.

**C.** A person who has completed an examination may review the examination at the primary Commission office by appointment only. A person shall not bring paper, writing instrument or recording device into the review room for the purpose of copying a portion of the examination.

**D.** The Commission shall maintain and make available, for a fee, a list which includes names, addresses and classifications of licensed businesses and their branch offices, qualifying parties, advisors, and applicators.

**E.** The Commission shall maintain copies of the printed laws and rules of the Structural Pest Control Commission and shall make these available, for a fee, to persons requesting them.

**F.** A person may verbally, in person or telephonically request the complaint record of a company.
1. Complaints which are part of an ongoing investigation shall not be reported.
2. Complaints may be listed by category of violation.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-107. Complaints**

**A.** The qualifying party, pest control advisor or designated agent of a licensed company or other person against whom a complaint is logged, by or with the Commission, shall respond in

writing and within 20 days of the date of notification by the Commission.

**B.** Health-related complaints received by the Commission, or Commission investigations that reveal a potential health concern, shall be referred to the Department of Health Services or other appropriate health-related agency and, as required, to the United States Environmental Protection Agency.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-108. Licensing Time-frames**

**A.** Overall time-frame. The Commission shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of an application. The overall time-frame is the total of the number of days provided in the administrative completeness review and the substantive review.

**B.** Administrative completeness review.

1. The applicable administrative completeness review time-frame established in Table 1 begins on the date the Commission receives an application. The Commission shall notify the applicant in writing within the administrative completeness review time-frame whether the application is incomplete. The notice shall specify what information is missing. If the Commission does not provide notice to the applicant within the administrative completeness review time-frame, the Commission shall deem the application complete.
2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the postmark date of the notice of missing information to the applicant until the date the Commission receives the information.
3. If an applicant fails to submit the missing information before expiration of the completion request period, the Commission shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may apply for a license by submitting a new application.

**C.** Substantive review. The substantive review time-frame established in Table 1 begins after the application is administratively complete or at the end of the administrative completeness review period in Table 1, whichever occurs first.

1. If the Commission makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the postmark date of the request until the Commission receives the information. If the applicant fails to provide the information identified in the written request within the additional information time period in Table 1, the Commission shall consider the application withdrawn unless the applicant requests in writing the application be denied.
2. The Commission shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Commission shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Historical Note**
Adopted effective December 2, 1998 (Supp. 98-4).

**Table 1. Time-frames (Calendar Days)**

| License | Authorities | Administrative Completeness Review | Response to Completion Request | Substantive Completeness Review | Response to Additional Information | Overall Time-frame |
|---|---|---|---|---|---|---|
| Applicator Certificate | A.R.S. § 32-2332 | | | | | |
| New/Renewal/Temporary | A.R.S. § 32-2312 | 7 | 6 mos. | 60 | 14 | 67 |
| | R4-29-203 | | | | | |
| | R4-29-202 | | | | | |
| Business License | A.R.S. § 32-2313 | | | | | |
| New | R4-29-206 | 7 | 7 | 60 | 14 | 67 |
| Renewal | R4-29-202 | 7 | 14 | 5 | 14 | 12 |
| Qualifying Party | A.R.S. § 32-2332 | | | | | |
| New | A.R.S. § 32-2314 | 7 | 6 mos. | 60 | 14 | 67 |
| Renewal | R4-29-208 | 7 | 6 mos. | 14 | 14 | 21 |
| Temporary | R4-29-202 | 7 | 7 | 60 | 14 | 67 |
| Registered Employee | A.R.S. § 32-2315 | 14 | 14 | 60 | 14 | 74 |

**Historical Note**
Table 1 adopted effective December 2, 1998 (Supp. 98-4).

## ARTICLE 2. LICENSURE, QUALIFICATION, CERTIFICATION, AND REGISTRATION

**R4-29-201. General Provisions**

**A.** Persons who merely furnish information concerning general labeling and usage of a registered pesticide and do not make on-site recommendations for pest control shall not be deemed as holding themselves out as licensees or advisors for the purpose of this Chapter.

**B.** Lack of good moral character and reputation may be established by showing that a person has committed an act which, if committed by a licensee, qualifying party, applicator or regis-

tered employee of a pest control company, would be grounds for taking disciplinary action against the license, qualification, certification or registration of that individual.

**C.** Person who, while holding a valid license, qualification, or certification of this Commission, entered the active military service of the United States of America and who, within 100 days of honorable separation from such service, make application to the Commission for renewal of license, qualification, or certification, shall have their application processed as a timely renewal of such license, qualification, or certification.

**D.** A business license, qualifying party qualification, pest control advisor license, applicator certificate or employee registration shall not be assigned or transferred and shall be used only by the person or business to whom it was issued. A change in partnership, either by withdrawal or addition of partners, requires a new license and registrations.

**E.** Applications for licensure, qualification, certification and registration and renewals thereof and applications for all examinations shall be made on forms furnished by the Commission, completed in accordance with the instructions printed thereon, and accompanied by the fee set forth in R4-29-211.

**F.** Examinees shall be notified by letter from the Commission of the results of their examination.

**G.** Application forms provided by the Commission for licensure, qualification, certification and registration and renewals thereof shall require at least:

1. For an original business license: The proposed name of the business, whether the business is a sole proprietorship, partnership or corporation; the full names and home addresses of the owner if a sole proprietorship, of all partners if a partnership, and of the president, secretary and statutory agent if a corporation; the full name and address of the qualifying party who will be responsible for the business license, the classification or classifications for which the license is applied, and proof of financial responsibility pursuant to A.R.S. § 32-2312 et seq.
2. For an original qualifying party or pest control advisor license: The full name, home address, date of birth and social security of the applicant; whether or not a license or permit to practice pest control has ever been refused, revoked or suspended; whether or not the applicant has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred and final disposition of the conviction.
3. For certification: The full name, home address, and date of birth of the applicant, the categories for which certification is applied, the name of the applicant's present employer, whether or not the applicant has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred, and final disposition of the conviction.
4. For renewal of a business, qualifying party, or advisor license: Notice of any change of address, name of qualifying party if a business license applicant, verification of continuing education if a qualifying party or advisor.
5. For an original registration: Full name and home address of the registering employee, name of business registering the employee, whether or not the employee has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred, and final disposition of the conviction.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-202. Renewals of Licenses, Qualifications, Certifications and Registrations**

**A.** The Commission shall mail renewal forms to a licensee or qualifying party at the place of business and to a certified applicator or inactive qualifying party at the location listed on the application or on the most recent address-change form. Renewals shall not be considered complete until all prescribed requirements are met. Renewal fees paid by check shall not be considered paid until cleared for payment by the bank.

**B.** Licensees shall be responsible for timely renewal of their license and employee and office registrations. Qualifying parties shall be responsible for timely renewal of their qualification. Applicators shall be responsible for the timely renewal of their certification. Incomplete and inaccurately completed forms shall be rejected. Neither the need for additional time to accurately complete renewal forms nor failure to receive renewal forms shall be a justifiable excuse for late renewal of a license, qualification, certification, or registration without a late fee or other penalty.

**C.** Between the expiration date of a license, qualification, certification, or registration and the date of renewal, all rights under that license, qualification, certification, or registration shall terminate. Until renewed, the licensee, qualifying party, applicator, or registered employee shall not act in a manner included in the definition of a business licensee, qualifying party, pest control advisor, structural commercial applicator, or registered employee.

**D.** A late payment fee of double the prescribed renewal fee shall be assessed for a license, qualification, certification or registration renewal which is not renewed pursuant to A.R.S. § 32-2312(D), 32-2313(H), or 32-2318(E), or is postmarked later than the date of expiration of such credential.

**E.** In addition to all other renewal requirements, the Commission shall require a qualifying party, pest control advisor or applicator who applies to renew later than 60 days past the expiration date of his license, qualification, or certificate, first to pass examinations currently applicable to an applicant for qualifying party, advisor or applicator in the classifications or categories of the renewed credential.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-203. Structural Commercial Applicator Certification**

**A.** Except as permitted by A.R.S. § 32-2315, a person shall act as a structural commercial applicator only after completing all certification requirements and receiving a valid commercial applicator certificate issued by the Commission.

**B.** The Commission may notify the employer of a registered employee failing to satisfy certification requirements.

**C.** For purposes of this Chapter, certifications for commercial applicators, structural commercial applicators, or applicators shall be considered synonymous with commercial certifications for applicators of restricted-use pesticides as prescribed by the U.S. Environmental Protection Agency.

**D.** In order to qualify for certification, an applicant shall demonstrate knowledge of the principles and practices of pest control and safe use of pesticides. An applicator shall attain a minimum score of 70 percent on each section of the general standards examination and a minimum of 70 percent on each section in each specific category or subcategory in which the applicator seeks certification. All examinations shall be administered in writing and in English. A certification card shall be issued after an applicant passes all sections of the general standards examination and all sections of at least one category or subcategory examination.

1. The general standards examination shall test the knowledge and understanding of:
   a. Pesticide label and labeling and pesticide types and formulations.
   b. Safety factors relating to the use and handling of pesticides.
   c. Environmental factors including the potential consequences of use and misuse of a pesticide.
   d. Equipment types and their use and maintenance.
   e. Application techniques, including calibration and dilution calculations.
   f. Laws and regulations relating to the application and use of pesticides.
   g. Identification of pests.
2. The categories and subcategories offered for structural commercial applicator certification shall be:
   a. Turf and ornamental pest control, including the use of plant growth regulators, necessary for the maintenance and production of ornamental and horticultural plants and turf.
   b. Aquatic pest control including the application of pesticides to standing or running water, but excluding applicators who must be certified in the category of public health pest control.
   c. Industrial, institutional, structural, and health-related pest control, including the use of pesticides in or around structures and adjacent areas, both public and private, and for the protection of stored, processed or manufactured products. Certification in this category shall be attained by satisfying the requirements of one or more subcategories:
      i. General pest control in and about structures, including control of vertebrate pests, but excluding wood-destroying pests and organisms and control of plants or plant pests and use of plant growth regulators.
      ii. Control of termites and other wood-destroying pests and organisms.
      iii. Wood products preservation, including the use of pesticides to directly treat wood and wood products, to control or prevent wood degradation by wood-destroying organisms.
      iv. Control of pests using fumigation as a method of structural pest control.
      v. Weed control.
3. Four or more examination sections shall be required for each category. The category examination shall test the knowledge and understanding of the following applicable category-specific information:
   a. General information concerning pests in the category.
   b. Pest identification.
   c. Pesticide usage and application techniques including calibration and dilution calculations.
   d. Safety and environmental considerations.
   e. Laws and regulations.

**E.** Applications for certification shall be submitted to the Commission at least five working days before a scheduled examination in order to be processed for that examination.

**F.** Certifications shall expire on May 30 of each year. Application for renewal of certification shall be submitted to the Commission on or before May 1 of each year and shall be accompanied by a fee as set forth in R4-29-211.

**G.** Applicants may retake failed examination sections without charge as soon as the next scheduled examination if at least one week has passed from the date of taking the failed exam.

**H.** An applicant shall pass all sections of the general standards examination and all sections of at least one category or subcategory examination within six months of the date of their application. The file of an applicant who does not satisfy these requirements shall be considered incomplete and shall be closed. No refunds shall be made for closed files. An applicant whose file has been closed shall reapply as a new applicant.

**I.** An applicator who chooses to broaden the scope of their certification may do so by passing with a score of 70 percent or better all examination sections for the intended category. The fee to broaden the scope of a certification is set forth in R4-29-211. An applicator shall submit to the Commission a notice of intent to test at least five days prior to testing.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-204. Qualifying Party Qualification and Pest Control Advisor License**

**A.** Except as permitted by A.R.S. § 32-2314(G), each qualifying party shall be qualified in the classification for which they intend to do business before they can qualify a business of structural pest control. Each pest control advisor shall be licensed in the classification for which they intend to do business before they can engage in a business of structural pest control advisor.

**B.** Each qualifying party and pest control advisor applicant shall hold a valid applicator's certification for each category in which a qualification or pest control advisor license is sought before admission to the qualification or advisor examination.

**C.** Each applicant for the qualifying party qualification shall demonstrate to the Commission, before admission to the qualification examination, evidence of practical experience in the specific classification for which they apply. Practical experience may be demonstrated by actual compensated field work and shall not include sales work. Noncompensated volunteer or research-related field work may be evaluated by the Commission. An applicant who intends to use coursework pursuant to A.R.S. § 32-2314(C)(2)(b) for part of the practical experience requirement shall submit a certified transcript of such work.

**D.** No application for qualifying party qualification or pest control advisor license shall be considered complete and no qualification or license shall be issued until the applicant passes, with a score of 70 percent or better, each section of the core examination and all sections of each category-specific examination required for a classification.
1. The core examination shall test the applicant's knowledge of:
   a. Arizona and federal laws, rules and regulations governing the business of structural pest control and use and application of pesticides; and
   b. Safety factors including practical first aid as it applies to the use, application and storage of pesticides.
2. Category examinations shall test, as applicable, the applicant's category-specific knowledge of:
   a. Identification of pests and recognition of their damage,
   b. General knowledge of life cycles and habits as they apply to the control of pests,
   c. Practical methods of application and control including calibration and dilution calculation,
   d. Pesticides,
   e. Laws and regulations.
3. The Commission may offer examinations for qualification or licensure in the following categories:

a. General pest control,
b. Vertebrate pest control,
c. Wood-destroying pest control,
d. Wood products preservation and pest control,
e. Ornamental horticultural pest control,
f. Golf course pest management,
g. Weed control,
h. Aquatic vertebrate pest control,
i. Aquatic invertebrate pest control,
j. Aquatic weed control,
k. Use of fumigants for pest control.

**E.** An applicant who fails one or more sections of a core or category examination may apply to retake the failed sections. An applicant shall request in writing to retake the failed examination sections and submit a fee as prescribed in R4-29-211 for each examination section requested at least five working days prior to a scheduled examination. An applicant may retake the same failed section only twice. If the applicant does not pass on the third attempt, the applicant's file shall be closed. Applicants whose files have been closed shall reapply as new applicants. An applicant who reapplies within one year of previous Commission approval shall not be required again to receive Commission approval for the same previously approved categories. An applicant shall not reapply sooner than 90 days from the date of file closure.

**F.** An applicant shall pass all sections of the core examination and all sections of each category-specific examination required for a classification within six months of the date of notification of Commission approval for examination. The file of an applicant who does not satisfy these requirements shall be considered incomplete and shall be closed. No refunds shall be made for closed files.

**G.** The file of an applicant whose examination is rejected because of cheating shall be closed and no refund shall be made.

**H.** A person who holds a qualifying party qualification or pest control advisor license may broaden the scope of that qualification or license by submitting the requested information on a new application form, prescribed in R4-29-201(G), provided by the Commission and fees as prescribed by R4-29-211, receiving approval from the Commission to test, and passing all sections of the category examination. An applicant for qualifying party qualification shall also furnish satisfactory proof of category-specific practical experience.

**I.** Licenses and qualifications shall be valid for one year, or portion thereof, and expire on December 31 of each year. Application for renewal shall be submitted to the Commission on or before December 1 of each year and shall be accompanied by a fee as set forth in R4-29-211.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-205. Inactive Qualifying Party Status**

**A.** A person who has qualified under A.R.S. § 32-2314 and is currently qualified and not then acting as the qualifying party for a business licensee may apply to the Commission for inactive qualifying party status. An inactive qualifying party shall not act as a qualifying party in the business of structural pest control without first reactivating his qualification.

**B.** A fee shall not be charged for change of status from active to inactive qualifying party provided that the prescribed renewal fees have been paid for the current year. No refund shall be made for current fees already paid. A qualifying party who is registered as an inactive qualifying party and desires to remain inactive shall be charged the qualifying party inactive fee at renewal.

**C.** An inactive qualifying party shall complete an application on a form provided by the Commission, which shall require at least the full name, home address and mailing address of the applicant, the name of the company for which the applicant is qualifying, the classification for which the license is applied and whether the applicant is certified in the same categories as the license, and submit such application for review and receive Commission approval before reactivating an inactive qualifying party qualification. The full fee for an active qualifying party qualification renewal shall be assessed at the time of application for reactivation of the qualifying party qualification.

**D.** An inactive qualifying party shall present evidence of current certification and continuing education credits prior to reactivation. A qualifying party who cannot present evidence of current certification and continuing education credits before reactivation shall pass, with a score of 70 percent or better, all sections of all applicable examinations currently in use.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-206. Business License, General Provisions**

**A.** Commission approval shall be required for a pest control business license. At least ten days prior to the Commission meeting at which the application will be voted upon, a business license applicant shall submit to the Commission, upon forms provided by the Commission and prescribed in R4-29-201(G), the completed application for the business of structural pest control or the business of pest control advisor, application for the designated qualifying party or pest control advisor, certificate of insurance, and proposed company name.

**B.** Insurance coverage in the name of the business as registered with the Commission shall be in effect at all times during the licensing period. During an interruption in insurance coverage, a company shall terminate all pest control-related activities. A certificate of insurance submitted to the Commission shall include a statement that the insurance company shall notify the Commission in writing at least 30 days prior to cancellation of the insurance and that the policy conforms to the standards set forth in A.R.S. § 32-2313(D) and (E).

**C.** The business license and office and employee registrations shall be renewed annually. Each shall be valid for one year, or portion thereof, and shall expire on December 31 of each year. Application for renewal shall be submitted to the Commission on or before December 1 of each year and shall be accompanied by a fee as set forth in R4-29-211.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-207. Display and Use of License Name and Number**

**A.** Business and branch office licenses issued by the Commission shall be prominently displayed in the place of business. All written proposals and written contracts used by the company shall be printed with the company's name and business license number as registered by the Commission. All treatment receipts and inspection reports shall include the registered business license name and number.

**B** A licensee shall do business under the name in which the license was issued. In addition to the actual name of the licensed business, a company may use slogans, marks and other names in its business. However, the actual name as registered with the Commission shall be prominently displayed on all written material used in the business and on all advertising, whether written or oral.

**C.** Either the motor vehicle or trailer, when used in conjunction with one another, and on behalf of or by a licensee or lic-

ensee's employees in the conduct of pest control, shall be marked on both sides for easy identification, with the company name and business license number as registered with the Commission. The company name and business license number shall be in bold lettering at least two inches high, in distinctly contrasting color with the background, and shall be in plain view of the public. The vehicle or trailer shall be properly marked as described within 30 days after the issuance of the original business license, a change of business license, or acquisition of vehicle or trailer. Vehicles which are not regularly used for pest control services shall be exempt from this rule. Vehicles which are used for sales or solicitations shall be exempt from this rule.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-208. Qualifying Party or Pest Control Advisor Required for Each Business**

**A.** A person shall not engage in the business of structural pest control unless that business has a designated qualifying party with a valid and active qualification for all classifications in which that business operates, or that business has designated to the Commission a temporary qualifying party. A person shall not engage in the business of pest control advisor unless that business has a designated pest control advisor with a valid pest control advisor license for all classifications in which that business operates.

**B.** The qualifying party or pest control advisor shall supervise the pest control-related business of the company and shall be available to supervise and assist the company's registered employees.

**C.** A qualifying party or pest control advisor shall qualify only one business license at one time.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-209. Branch Office**

**A.** A business licensee shall register each branch office with the Commission by completing a form provided by the Commission and submitting a fee for each branch as prescribed in R4-29-211 before the branch office opens for business. The branch office registration form shall require at least the complete address of the primary office, the business license number, the full name of the qualifying party, the business license and qualifying party license numbers and the complete physical address of the registering branch office.

**B.** Each branch office shall be registered only in the name style as that shown on the license of the registered business, or shall obtain a separate business license and operate as a separate company. A company which wishes to conduct additional business in a name style different from that which is shown on the business license shall obtain a separate business license for each such company.

**C.** All oral and written representations relating to any branch office shall prominently bear the registered business name. Representations shall include, but not be limited to, service vehicle markings, statements, receipts, inspection reports, bids, contracts, and written or oral advertisement.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-210. Supervision Required at Each Office**

**A.** When more than one registered branch is owned by the same sole owner, partnership or corporation, or where the qualifying party cannot provide actual on-site supervision to each registered office because of location of the office, the business licensee or qualifying party shall designate a supervisor. The designated supervisor shall be certified in all categories of business being conducted by that branch to provide on-site supervision. No office shall operate without a certified applicator.

**B.** The name, address, telephone number, certification number and classification of the designated supervisor shall be submitted to the Commission.

**C.** If a designated supervisor ceases to be connected with a primary or branch office, the business licensee or qualifying party shall designate a replacement supervisor and notify the Commission in writing and within ten days of the disassociation.

**D.** The designated supervisor shall be under the direct supervision of the qualifying party.

**E.** The designation of supervision shall not relieve the qualifying party or business licensee of their responsibility for the office.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-211. Schedule of Fees, Payments and Exemption**

**A.** For the purpose of licensure, qualification, certification and registration the following schedule of fees shall apply:

| | |
|---|---|
| Qualifying party initial application and examination | $ 150.00 |
| Qualifying party or pest control advisor examination retake, each section | 30.00 |
| Qualifying party or pest control advisor broaden scope, each category | 50.00 |
| Qualifying party renewal fee | 125.00 |
| Qualifying party change of status, active to inactive | None |
| Qualifying party change of status, inactive to active | 125.00 |
| Qualifying party inactive renewal | 25.00 |
| Temporary qualifying party qualification | 25.00 |
| Pest control advisor initial application, examination, and pest control advisor license | 150.00 |
| Pest control advisor license renewal | 125.00 |
| Business license, initial | 75.00 |
| Business license, renewal | 75.00 |
| Branch office registration, initial | 35.00 |
| Branch office registration, renewal | 35.00 |
| Certification application and examination | 30.00 |
| Certification, renewal | 20.00 |
| Certification, broaden scope of | 10.00 |
| Employee registration, initial | 5.00 |
| Employee registration, renewal | 3.00 |
| Duplicate wall license | 20.00 |
| Duplicate qualifying party or pest control advisor identification card | 10.00 |
| Duplicate certification card | 10.00 |
| Duplicate registration card | 3.00 |

Late filing fee, termite action registration form, double the prescribed registration fee.

**B.** Payment for all fees shall be made to the order of the Structural Pest Control Commission and may be made by money order, cashier's check, certified check, business check or personal check. Fees paid by business or personal checks shall not be considered paid until cleared for payment by banks. Fees shall not be prorated.

**C.** Arizona state pesticide inspectors who only commercially apply pesticides as required by the state agency for whom they are employed shall not be required to pay the qualification,

advisor or certification fee. Annual renewal fees shall be waived during the time they serve as state inspectors.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-212. Continuing Education Required for Qualifying Parties, Pest Control Advisors and Applicators**

**A.** Each qualifying party, pest control advisor or applicator shall submit proof of 12 continuing education credits earned during the preceding two years at the time of their annual renewal. Credits may be reported each year. Credits used to satisfy the requirements of the applicator certification may be used to satisfy the requirements for a qualifying party or pest control advisor. Persons who do not meet the continuing education requirements shall complete current testing requirements prior to renewal of their credential.

**B.** Coursework, classes and other forms of instruction shall be reviewed by the advisory accreditation committee and approved by the Commission before qualifying for continuing education credit. To receive approval, instruction shall be substantially related to the license or certificate classification, category or subcategory for which credit is applied.

**C.** A qualifying party, pest control advisor or applicator may earn up to one hour of continuing education credit each year for attending regularly scheduled meetings of the Commission.

**D.** A qualifying party or pest control advisor may earn up to one hour of credit each year in a business management course which has been approved by the Commission.

**E.** Documentation evidencing completed continuing education instruction shall be submitted to the Commission with the application for credential renewal. The qualifying party, pest-control advisor, or certified applicator shall be responsible for maintaining their own records for continuing education credits.

**F.** An attendee may request credit for instruction which he has taken and which was not previously approved for accreditation. Each request shall be submitted to the advisory accreditation committee and shall include the information as required in R4-29-213(A)(1) and (2).

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-213. Requirements for Providers of Continuing Education Programs**

**A.** Providers of continuing education programs shall apply for accreditation on a form provided by the Commission, which shall contain at least the name and address of the provider, the number of continuing education hours requested, the type of instruction to be provided, and the method for evaluating attendees. Each provider shall:

1. Include the topic of the program in abstract or outline form. Except for a business management program, each program shall be directly related to pest control, management, or pesticide usage, and to the classification, category or subcategory in which credit is sought.
2. Provide the name and qualifications of the person directly presenting the instruction.
3. Provide an attendance list.
4. Issue a certificate of completion to each attendee who successfully completes the program.

**B.** The program provider shall notify the Commission of course content or instructor changes for a previously approved continuing education program.

**C.** The Commission may accept, modify or reject the recommendation of the advisory accreditation committee. The Commission shall notify the applicant of its decision in writing.

**D.** Unless otherwise indicated on the written notice of approval, each in-house training program shall be accredited for two years and all other courses shall be accredited for one year. The program provider shall request renewal in writing prior to the expiration of an accreditation period.

**E.** The Commission may evaluate an approved program of instruction to determine its level of effectiveness. The Commission may withdraw approval of a course which fails to meet the requirements outlined in subsection (A) of this rule.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

## ARTICLE 3. PESTICIDE USAGE

**R4-29-301. Misuse of Any Pesticide; Falsification of Any Pesticide Record**

**A.** No person shall misuse any pesticide. No person shall use, supervise, or direct the use, including application, storage and disposal of any pesticide in a manner inconsistent with its product label or labeling as registered by the United States Environmental Protection Agency and the Arizona Department of Agriculture unless otherwise prescribed by Commission rule or written order. No person shall apply, cause to apply or cause the direct release of a pesticide spray, dust or granule in such a manner that the pesticide comes into contact with persons (other than those involved in the application and who are wearing proper protective equipment), animals, or property other than the site and target being treated, unless such release is caused by accident beyond the control of the operator. No person shall use any pesticide in a manner prohibited by A.R.S. Title 32, Chapter 22, and rules adopted pursuant to this Chapter, or a written order of the Commission.

**B.** No person shall falsify a record used or maintained in connection with the use, including application, storage and disposal, of pesticides.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-302. Certified Applicator Required**

A. Except as permitted by A.R.S. § 32-2315, each company shall apply or cause to have applied pesticides only by an applicator who has a valid applicator certification or by a qualifying party licensed in the classification of the pesticide being used.

**B.** Restricted-use pesticides shall be applied, stored or disposed of only by a person who holds a valid certification in the category or subcategory applicable to the restricted-use pesticide being used, or under the direct supervision of an applicator holding a valid certification in the category or subcategory applicable to the restricted-use pesticide being used.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-303. Direct Supervision of Noncertified Persons Required**

**A.** Persons who apply pesticides and who are not certified shall work under the direct supervision of a registered and certified applicator or qualifying party who shall be responsible for their pest control activities. The establishment of direct supervision shall not provide relief from the requirement of certification as set forth in A.R.S. § 32-2315(A). An applicator providing supervision for restricted-use pesticides shall be certified in the category or subcategory for which supervision is provided.

**B.** The availability of the certified applicator or qualifying party shall be directly related to the hazard of the situation. In situations where the certified applicator is not required to be physi-

cally present, direct supervision shall include verifiable instructions to the noncertified person as follows:

1. Detailed guidance for proper loading, mixing, applying, storing, and disposing of the pesticide;
2. Detailed guidance for the use of all required safety equipment; and
3. Provisions for contacting the certified applicator by means of telephone, radio or other immediate communication method in the event that he is needed.

**C.** When directed by label or other provision of this chapter, the actual physical presence of a certified applicator shall be required when application is made by a noncertified person.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-304. Protect Against Contamination**

**A.** Each company shall protect food, feed and drug commodities and equipment used in the preparation of food, feed and drugs against pesticide contamination. Only pesticides labeled for use in food areas shall be applied to the food areas of food-handling establishments. For applications other than at a food-handling establishment and prior to treatment, exposed food, feed, drugs, and equipment including utensils, household dishes, table service and the like shall be effectively protected against pesticide contamination. Additional safety precautions or directions as required on the pesticide label or labeling shall be accomplished prior to treatment.

**B.** Each person while mixing pesticides with water shall protect the water supply from back-siphonage of pesticide mixture. Spray tanks in which pesticides are mixed or from which pesticides are dispensed and to which water is added shall not be filled through direct fill-pipe or hose connections protruding into the spray tank. Fill-pipes or hoses shall terminate at least two inches above spray tank intake and fill opening or be equipped with an effective anti-siphonage device. When there is a conflict between this rule and local ordinance or labeling directions, the more specific language shall apply.

**C.** No person shall operate equipment for the mixing or application of pesticides, including such auxiliary equipment as hoses and metering devices, in such condition or in such a manner as to create a hazard or nontarget contamination.

**D.** Except as specifically provided by label instructions, no person shall apply a pesticide which is formulated as granules and which bears the statement "Keep out of reach of children" in a manner which leaves exposed granules on patios, steps, sidewalks, walkways or floors.

**E.** Cleanup of chemical spillage shall be made in accordance with product labeling and manufacturer's recommendations and in a manner which minimizes exposure to humans and other nontarget organisms. Recommendations of health and medical personnel and local authorities shall be followed for cleanup in which human endangerment is possible.

**F.** The business licensee or their representative shall notify the Commission within one business day of becoming aware of any of the following incidents allegedly caused by the use of pesticides:

1. Medically confirmed illness or death of humans, pets, or nontarget wildlife.
2. Confirmed contamination of food, feed, drugs or water supply.
3. Health-threatening contamination of a structure which has resulted in the hospitalization of an occupant or a requirement by medical personnel or local authorities for evacuation of the structure, or contamination of the environment which has resulted in a requirement by local authorities for evacuation of an area.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-305. Written Notification of Treatment Required**

**A.** Business licensees or their representatives shall provide written notification immediately following an application of pesticide. Such notice shall include the chemical by trade name and any other information as required by the pesticide label or local ordinance and shall be made to the person requesting the treatment or to his designated agent.

**B.** A statement of precaution shall accompany each notification of treatment. Each statement of precaution shall be printed conspicuously, in not less than eight point font, and shall include the words:

"Warning--Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated or aerated.
For more information contact [business license name and business license number] at [telephone number]."

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-306. Notice of Intent to Apply Pesticides**

**A.** For the purpose of monitoring pesticide applications, the Commission, its executive director, their designee, or a Commission inspector may make written request for advanced notification of scheduled pesticide treatments. The Commission, its executive director, their designee, or a Commission inspector shall identify the date of the requested schedule of treatments and shall allow at least 24 hours for compliance with its request.

**B.** The business licensee, commercial applicator or their agent shall provide for review, at the office of the business licensee or applicator or at another mutually agreeable location, a listing of treatments and the locations of such treatments scheduled to be accomplished by at least one applicator within the next 24 hours.

**C.** If a person cannot timely comply with a request for a schedule of treatments, the person shall set forth the reasons for noncompliance in writing and immediately notify the Commission, its executive director, their designee, or a Commission inspector. Upon a showing of good cause, the request may be modified or excused.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-307. Make and Preserve Treatment Records**

**A.** Each company shall make and preserve true and accurate records of treatments performed, including those performed under warranty or guarantee, for a period of not less than three years from the date of a treatment.

**B.** Treatment records shall include:

1. Name and address of the customer and site of application.
2. Date of service.
3. Target pest or purpose of service.
4. Trade name or common name of the materials used.
5. Percent active ingredient in the finished product.
6. Amount of finished product used.
7. Name and certification number of the applicator.
8. Contract, if applicable.

**C.** In the event of an emergency endangering the health or safety of a person, treatment records shall be provided immediately to the Commission, its executive director, their designee, or a Commission inspector, upon their request. In other situations, treatment records shall be made available for inspection and copying by the Commission, its executive director, their desig-

nee, or a Commission inspector, with the consent of the qualifying party or applicator or as provided for in R4-29-309.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-308. Restricted-use Records Required**

**A.** All applications and disposals of restricted-use pesticides by or under the direct supervision of applicators who are certified by the Commission shall be recorded and retained for a period of at least three years whether or not that application or disposal is made while a person is engaged in the business of structural pest control. If these records are maintained by a business licensee, separate records shall not be required from the applicator. Application and disposal records shall be made available for inspection and copying by a representative of the Commission.

**B.** Restricted-use pesticide application records shall include all information required by R4-29-307 and:
1. If different than the customer, the name and address of the person for whom pesticide was applied.
2. Specific site treated.
3. Environmental Protection Agency registration number of material used.

**C.** If unused portions of restricted use pesticides are disposed, records of such disposal shall include the trade or common name and Environmental Protection Agency registration number of the pesticide, percent active ingredient of the pesticide in the material disposed, amount of material disposed, method of disposal, date of disposal, and location and type of disposal site or disposal service, and the name and certification number of the applicator in charge of the disposal.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-309. Records Required Within 24 Hours**

**A.** The Commission, its executive director, their designee, or a Commission inspector may request in writing and within 24 hours of notification, specific records from a business licensee, pest control advisor, qualifying party or applicator at his place of business during normal business hours. The qualifying party, pest control advisor or applicator in charge of an office shall comply with the request and provide such records by the same time of the next business day. The qualifying party, advisor, applicator or qualified designee shall be available to interpret requested records. Business licensees or their representatives may deliver the requested records to the Commission in person, by mail or by facsimile.

**B.** "Records" means all records directly related to the business of structural pest control and shall include records of:
1. Pesticide inventory including quantities of pesticides purchased or otherwise acquired, sold, disposed of, and lost; and quantities of pesticides as classified by general or restricted use, canceled or suspended products, and noncommercial use.
2. Pesticide application.
3. Written inspection reports.
4. Proposals for treatment or alteration.
5. Contractual agreements for treatments or inspections.
6. Personnel actions for employees whose duties include the application of pesticides, including dates of hire, registrations, certifications, training and continuing education, and disassociations.
7. Dates of acquisition of vehicles which are used in the conduct of pest control service.
8. Insurance as required by A.R.S. § 32-2313.

**C.** If a person cannot timely comply with a records request, they shall set forth their reasons for noncompliance in writing and immediately notify the Commission, its executive director, their designee, or a Commission inspector. Upon a showing of good cause, the time to provide such records may be extended or the request for records may be excused.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-310. General Provisions for Pesticide Usage**

**A.** Only those pesticides registered by both the U. S. Environmental Protection Agency and the Arizona Department of Agriculture shall be used.

**B.** An applicator may use application rates as provided by Special Local Need registration and labeling only if such labeling is in the possession of the user at the time of the application.

**C.** Licensees and certified applicators shall maintain at the registered business locations specimen copies of labels and material safety data sheets for currently registered pesticides used in their pest control operations. These shall be made available for inspection at the request of the Commission.

**D.** Business licensees shall assure that their employees have the protective equipment specified by the pesticide label of the product used. The licensee shall instruct employees to use protective clothing and equipment while engaged in the application of pesticides and how to maintain, clean and store such when not in use.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-311. Provisions for Pesticide Storage**

**A.** All pesticides utilized by a business licensee or applicator shall be stored according to labeling instructions.

**B.** All pesticides shall be stored in closed containers free from corrosion, leakage and pesticide contamination. Lost or damaged labels shall be replaced with approved specimen labels and fastened to the container. Damaged containers, other than fumigants, shall be replaced with identically labeled containers or, if not available, properly labeled service containers for temporary storage or transport.

**C.** A service container shall be considered to be any container used to hold, store or transport a pesticide concentrate or use-dilution preparation other than the original labeled container, measuring device or application device. Service containers shall be closed when not in use, clean and nonleaking. When service containers are used to temporarily store or transport a pesticide concentrate or registered ready-to-use product, each service container shall bear a durable and legible label or tag which shall include the following information:
1. The name, address and telephone number of the commercial or noncommercial location using the product.
2. The common chemical or trade name of the principal active ingredients.
3. The U. S. Environmental Protection Agency registration number.
4. The strength of the concentrate or dilution expressed as a percentage of active ingredients.
5. The signal word for the registered label.
6. The phrase "KEEP OUT OF REACH OF CHILDREN".
7. Any other information required by Environmental Protection Agency regulations.

A service container shall not bear other legible wording or markings which are not related to the pesticide product contained therein.

**D.** Application equipment from which pesticide preparations are directly discharged and in which pesticides are not stored shall not be subject to labeling requirements.

**E.** No pesticide shall be stored in the same room where food, feed, drugs, eating utensils, beverages, or tobacco products are stored. No pesticide shall be stored in containers which have been used for food, feed, beverages, drugs or cosmetics or which are in a significant way, as by shape, size or markings, identified with food, feed beverages, drugs, or cosmetics. No fumigant shall be stored within a human dwelling.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-312. Pesticide Containers; Storage and Disposal**

**A.** The storage and disposal of pesticide containers shall be in strict accordance with label directions or, in the absence thereof, in a manner recommended by the chemical manufacturer or by local ordinances. When a conflict exists between label and other regulation, the more restrictive language shall apply.

**B.** An empty pesticide container which has not been prepared for disposal in accordance with label directions and this rule or a returnable or reusable pesticide container held for shipment shall be stored until disposed or recycled as though it contained pesticide.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-313. Pesticide Storage Facility**

**A.** Each company shall provide a facility for safe storage of pesticides and devices, and the use of such facility shall not violate laws, ordinances or regulations relating to pesticide storage of the political subdivision where it is located. A designated pesticide storage place on a service vehicle may be included within the meaning of pesticide storage facility.

**B.** The facility shall be secure from unauthorized entry and equipped with an entrance or access which shall be locked when unattended. A sign shall be conspicuously posted in the entrance or access area which warns individuals that pesticides are stored inside.

**C.** The facility shall provide ventilation to the outside so as to prevent build-up of chemical odors and to preclude chemical injury to persons, domestic animals or wildlife.

**D.** In or about the pesticide storage facility, including a location where all pesticides are stored on a service vehicle, the business licensee shall provide:

1. Adequate lighting to read pesticide labels.
2. Operational fire extinguisher which is appropriate for the pesticides stored.
3. First-aid kit.
4. Emergency medical information including telephone numbers for poison control centers.
5. Absorbent materials capable of absorbing spills of at least one gallon and leaks.
6. A specimen label and material safety data sheet for each pesticide stored therein.
7. Washing facilities which shall include soap, fresh water, and toweling.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-314. Pesticide Storage on Service Vehicles**

**A.** A locking storage space designed to prevent pesticide containers from becoming damaged while in transit shall be used whenever a pesticide is stored on a service vehicle.

**B.** No pesticide product, including a pesticide in portable application equipment such as a spray tank in a truck bed, shall be left in an unattended and accessible manner.

**C.** All pesticide products in original containers or service containers and all empty pesticide containers not yet prepared for disposal in accordance with label directions shall be kept locked when in unattended service vehicles or shall be kept within view and under the direct and personal supervision of the employee responsible for that service vehicle. Cases of unopened pesticide products which are sealed in the manufacturer's or distributor's outer coverings and which are transported but are not stored upon a service vehicle are exempt from the requirements of this subsection.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-315. Required on Service Vehicles**

The business licensee shall assure that each service vehicle used in the conduct of pest control applications is provided with:

1. Measuring and pouring devices compatible with the pesticides carried thereon.
2. Protective clothing and equipment suitable for the pesticides stored, transported or used on that service vehicle.
3. Absorbent materials capable of absorbing or containing spills of at least one gallon and leaks and equipment to collect and store contaminated absorbent materials.
4. A basic first-aid kit which shall contain information regarding the practical treatment for pesticide poisonings and emergency medical information including telephone numbers for poison control centers.
5. A specimen label and material safety data sheet for each pesticide transported or stored on the vehicle.
6. A change of clothing for use in the event that the applicator's garments are contaminated while using a pesticide.
7. Potable water for emergency washing of hands, face or body.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-316. Fumigants and Fumigation; Qualified Personnel Required**

**A.** No company shall use fumigants or hold themselves out to perform fumigation unless licensed by the Commission in the classification of fumigation. Except as specifically permitted by rule, fumigants shall be used only in license classification D.

**B.** Unless otherwise specified on the label, a minimum of two persons, one of whom shall be a qualifying party qualified or applicator certified in the classification of fumigation shall be present at the site of the fumigation of a commercial, institutional, or residential structure or other structure as defined by A.R.S. § 32-2301 during the entire time fumigants are being released, during ventilation from the time the first seal is broken until tarps or seals are removed, and at the time a property is released for safe occupancy.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-317. Fumigants and Fumigation; Special Safety Precautions Required**

**A.** Fumigation shall be performed in compliance with applicable state, county, and city laws and city and county ordinances and applicable laws and regulations of the United States.

**B.** All label directions for special safety precautions shall be followed.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-318. Fumigation Precautions; Space Shall Be Vacant and Secure**

**A.** During the process of fumigation of a habitable structure, joint air spaces shall be vacated of all occupants. This shall include, but shall not be limited to, the room or apartment being fumigated, together with all rooms and apartments, including rooms and apartments on the same floor and those above, below and adjacent thereto. Vacating of premises shall be done according to label directions.

**B.** The space to be fumigated shall be vacated by all occupants and domestic pets prior to the commencement of fumigation and shall be fumigated according to the fumigant label directions.

**C.** A watchperson or registered employee shall be on duty at the site of the fumigation of a commercial or residential structure which is normally occupied by persons at all times from the release of fumigant until ventilation is commenced and at any other time during which such structure is not safe for occupancy. The watchperson shall have in the watchperson's possession all information required in R4-29-319(A)(2).

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-319. Warnings Required for Fumigation**

**A.** Label requirements for warnings shall be followed.

**B.** If the label does not specify warning requirements, the following shall apply:

1. Prior to the commencement of fumigation, warning signs shall be posted in plainly visible locations on or in the immediate vicinity of all pedestrian entrances to and on every side of the space under fumigation. These signs shall be firmly attached and shall not be removed until fumigation and ventilation are completed and the spaces under fumigation are safe for occupancy.
2. Warning signs shall be printed in red on white background and shall contain a skull and crossbones and the following words in bold letters not less than two inches in height: "DANGER", and "FUMIGATION" or "POISON GAS". They shall also state in letters not less than 1/2 inch in height the name of the fumigant, the date and time the fumigant was injected, and the name, address and telephone number of the licensed company performing the fumigation.
3. A company performing fumigation in spaces normally occupied by persons or domestic animals shall use a warning agent with all fumigants which lack such properties.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-320. Spot Fumigation**

Label requirements for spot fumigation shall be followed. If the label does not specify such requirements, when spot fumigation treatments are made to machinery or other items located within a commercial building, that building, but not the enclosed space under fumigation, shall be exempt from sign posting and vacating requirements only if building ventilation provides air, during all phases of fumigation, with a fumigant concentration at or less than the reentry level as specified on the label.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

## ARTICLE 4. TERMITES AND OTHER WOOD-DESTROYING ORGANISMS

**R4-29-401. Definitions**

For the purpose of this Article:

1. "Bulletin 64" means the United States Department of Agriculture Forest Service, Home and Garden Bulletin 64 as revised February 1989 and incorporated herein by reference and on file with the Office of the Secretary of State.
2. "Calibration or calibrated" means a method of determining the amount of pesticide that will be applied.
3. "Drywood termites" means the several species of termites which can attack dry, sound wood and do not require contact with the soil. These may include representatives of the families Kalotermitidae and Hodotermitidae.
4. "Pretreatment and preconstruction treatment" are considered synonymous and are used interchangeably.
5. "Project" means an individual address or a privately owned or individually owned dwelling.
6. "Post-treatment and post-construction treatment" are considered synonymous and are used interchangeably.
7. "Subterranean termites" means the several species of termites which usually maintain contact with the soil. These may include representatives of the families Rhino-termitidae and Termitidae.
8. "Termiticide" means a chemical registered and used for the control of termites.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-402. Chemicals**

Chemicals used for either preconstruction treatments or post-construction treatments shall be currently registered for such use by both the Environmental Protection Agency and the Arizona Department of Agriculture. Applications of termiticide shall be made only in the specific quantities, strengths and dosages as recommended on the product label unless otherwise prescribed by Commission rule or order.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-403. Equipment Shall Be Calibrated**

**A.** Equipment used to apply termiticides shall be accurately calibrated.

**B.** The business licensee shall accurately ascertain and have recorded the amount of chemical preparation delivered to a treatment site.

**C.** The business licensee or their agent shall demonstrate the calibration and measuring systems and calculation method used by the company to the Commission, its executive director, their designee, or a Commission inspector, upon their request.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-404. Samples May Be Collected**

**A.** The Commission, its executive director, their designee, or a Commission inspector may gather samples on or at preconstruction or post-construction sites. Samples may be collected with or without the knowledge of the business licensee.

**B.** Soil which has been disturbed by sampling and then retreated shall not be cause for a business licensee to void a termite soil treatment guarantee.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-405. Reserved**

**R4-29-406. Preconstruction Treatments; General Provisions**

**A.** Preconstruction treatments for control of subterranean termites shall be made to provide a continuous chemical barrier between the cellulose products in the structure and termites in the soil in accordance with the specifications listed on the label of the termiticide being used.

**B.** When a chemical label refers to but does not define coarse material, it shall be considered to be any rock which is over 1/8 inch in diameter and which is not mixed with soil or sand.

**C.** When a chemical label refers to but does not define low pressure spray, pressure at the nozzle shall not exceed 50 pounds per square inch.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-407. Preconstruction Treatments; Establishment of Barriers; Soil Disturbed; Concrete Poured Prior to Treatment; Effective Date**

**A.** Horizontal barriers shall be established prior to pouring of all slab construction under roof, slab-supported or constructed porches, patios, garages, carports, and entrance and utility platforms.

**B.** Vertical barriers shall be established in critical areas visible at the time of treatment. For the purpose of pretreatment, critical areas shall include critical areas identified by the label and soil in the immediate vicinity of:

1. Penetrations or protrusions through the slab.
2. Observable presets for controlled cracks or joints.
3. Formed-up changes of grade.
4. Abutting slabs.
5. Bathtraps and tear-outs.
6. Interior of foundation or stem walls.
7. Piers, pillars, pipes or other objects that extend from the soil to the structure.

**C.** Unless specifically precluded by label, critical areas shall be treated at a rate of four gallons of chemical preparation per ten linear feet for each foot of depth from the top of the grade to the footer. In the absence of an adjacent footer, depth shall be considered to be one foot.

**D.** Vertical barriers at the exterior of foundation walls in stem-wall construction or exterior of grade beam in monolithic construction shall be established after grading and other construction-related soil disturbance has been completed. This treatment shall be a required preventative treatment which may be completed post-construction. A record of this treatment shall be conspicuously posted or left with the property agent. The business licensee shall be responsible for the establishment of this barrier.

**E.** If a licensee or their agent is advised that soil or fill which has been treated is disturbed and the continuous chemical barrier is broken before the concrete is poured, the soil shall be retreated to establish a continuous horizontal and vertical chemical barrier. Retreatment shall include all areas of soil disturbance.

**F.** A business licensee shall not issue a termite soil treatment guarantee for a site where a cement slab was poured and the soil thereunder was not pretreated until a complete post-construction treatment in accordance with R4-29-410 is rendered.

**G.** The effective date of treatment as recorded on a termite soil treatment guarantee issued for residential slab-on-grade construction of one or two units shall be the date of the application of termiticide to the soil beneath the primary slab. In the case of multi-slab construction in which no primary slab is identified, the effective date of treatment is the date of the last application of termiticide prior to pouring the final slab at the project.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-408. Pretreatment Tagging and Records Required**

**A.** A tag shall be prominently placed and securely affixed at the site of each pretreatment project immediately after completion of the termiticide application. In the event that a pretreatment site must be abandoned before a treatment is complete, a tag representing work accomplished and including all information required in subsection (B) shall be posted and marked "TREATMENT INCOMPLETE". The tag shall be in sight and readily available for inspection after the treatment has been made and, if applicable, the slab has been poured. The tag may be placed upon an on-site contractor's permit or inspection board. If a customer file tag is required by the contractor, a duplicate tag marked "DUPLICATE" may be prepared and posted or delivered to the requestor.

**B.** Tags shall contain at a minimum the following information:

1. Name of business.
2. Address of business.
3. Telephone number of business.
4. Business license number.
5. Location of project.
6. Date of application.
7. Time application was begun.
8. Time application was completed.
9. Trade name of chemical used.
10. Strength of chemical preparation used, written as a percentage of active ingredient.
11. Number of gallons of chemical preparation applied.
12. Square footage treated.
13. Linear footage treated.
14. Type of slab construction.
15. Signature of applicator.
16. Certification number of applicator or written "NONE" if not certified.

**C.** The information written on the pretreatment tag shall be an accurate representation of the treatment performed.

**D.** Information described in subsection (B)(5) through (16) shall be made part of a company's treatment records. The name of the applicator may be recorded in lieu of the applicator's signature.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-409. Occurrence of Termites After a Pretreatment**

**A.** If, within five years of the date of the original pretreatment, subterranean termites occur in or on a structure that has been pretreated, retreatment shall be applied in accordance with the specifications on the label of a termiticide available for use.

**B.** For residential structures of one or two units, complete treatment of the entire exterior perimeter of the structure shall be rendered upon the third occurrence of subterranean termites on the exterior of a structure in a five-year period from the date of the original pretreatment.

**C.** For residential structures of one or two units, complete post-construction treatment as specified in R4-29-410 of the entire structure shall be rendered upon the third occurrence of subterranean termites within the interior of a structure in a five-year period from the date of the original pretreatment.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-410. Post-construction Treatments for Subterranean Termites**

**A.** Applications of pesticides for post-construction control of subterranean termites shall be made in accordance with specifications of the label of the termiticide used and in a manner to provide an unbroken chemical barrier between the termites in the soil and the cellulose products in the structure. Critical areas shall be treated. Treatment holes shall be spaced to provide a continuous chemical barrier. When drilling and injection is used as a method of application, treatment holes shall be spaced no greater than 24 inches apart except when such application is precluded by label, unique structural feature or application technique.

**B.** For the purpose of post-construction treatments, critical areas shall include critical areas identified by the label and soil in accessible or visible areas of:
1. Penetrations or protrusions through the slab including all plumbing, utility services, and other openings.
2. Controlled cracks and expansion joints.
3. Other visible cracks greater than 1/16 inch wide.
4. Abutments of slabs and of slabs and foundation walls.
5. Changes of grade including sunken or elevated slab construction.
6. Interior and exterior of foundation walls except in monolithic slab construction where only the exterior is treated.
7. Perimeter of interior areas where concrete is not poured.
8. For raised foundation construction, around piers, pillars, pipes or other objects that extend from the soil to the structure.

**C.** In the event that a particular aspect of post-construction termite control is not specifically covered on the chemical labeling, the minimum standards of good and workmanlike post-construction termite control shall be determined by evidence of compliance with these rules and use in accordance with pesticide manufacturers' recommendations, established usage, procedure and acceptable industry practice prevailing in the state when such work was performed.

**D.** Holes drilled in construction elements of commonly occupied areas of the structure including unfinished basements, enclosed porches, garages and workshops shall be securely plugged with a nonporous and noncellulose material.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-411. Treatment of Drywood Termites and Other Wood-destroying Organisms**

**A.** Post-construction treatments for drywood termites and other wood-destroying organisms shall be made in accordance with specifications on the label of chemicals currently registered for use in the control of such infestations. Treatments involving nonchemical methods and devices may be used when efficacious and not otherwise prohibited. Minimum standards shall be determined by compliance with pesticide manufacturers' recommendations, if any, and established usage, procedure, and acceptable industry practices prevailing in the state when such work was performed.

**B.** When fumigation is used as a post-construction treatment for any wood-destroying organism, all rules regarding fumigation shall apply.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-412. Wood Infestation Reports; General Provisions**

**A.** When used in conjunction with a sale or refinancing of a structure, the terms "termite report", "termite inspection" or "wood-destroying organism report" shall be considered synonymous with a wood infestation report.

**B.** Wood infestation reports shall be made on the form specified in Appendix A. When required by other state or federal agencies, other wood infestation reports may be completed in addition to, but not in lieu of, the form specified in Appendix A. Within 180 days of the effective date of this rule, each business licensee who prepares wood infestation reports shall adopt and use the form specified in Appendix A.

**C.** Wood infestation reports shall be completed and signed by the employee who made the inspection and who is certified in the category of wood-destroying organisms.

**D.** Location of evidence of infestation and damage shall be represented on the wood infestation report by a graph or diagram.

**E.** The final office copy of a wood infestation report shall be completed and filed at the registered office within seven working days.

**F.** The number of the termite action registration reports prepared subsequent to a wood infestation report shall be placed on the office copy of the wood infestation report.

**G.** Each wood infestation report prepared shall be consecutively numbered and retained by the company for at least three years. Each wood infestation report shall be filed in consecutive order except that a licensee who chooses to file wood infestation reports other than in consecutive order may do so only if a master list is maintained which shall be sorted by consecutive number and which shall include the date of action and file heading under which the wood infestation report is maintained.

**H.** Logos and other statements of advertisement shall not be placed upon the report.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-413. Wood Infestation Reports; Information Required**

**A.** A wood infestation report shall accurately list or report:
1. Name, address, phone number and business license number of the inspecting company. This information may be preprinted.
2. Date of inspection.
3. Name of owner, seller or buyer.
4. Address of inspected property.
5. Areas of the property which were obstructed or inaccessible at the time of inspection.
6. Inspected and uninspected structures at a site.
7. Purpose of the report.
8. Visible and accessible evidence of past or present infestation from wood-destroying pests or organisms.
9. Visible and accessible evidence of damage from wood-destroying organisms.
10. When treatment is indicated, the organisms to be treated, chemicals to be used, and warranty to be issued.
11. Visible and accessible evidence of previous treatment
12. Visible conditions conducive including those listed in R4-29-414.
13. Signature and certification number of person making the inspection.

**B.** Inspection may be limited to only those areas which are visible and accessible by probing or sounding at the time of inspection. For the purposes of this rule, visible and accessible shall include that which can be seen or is accessible to physical sounding or probing with inspection instruments such as screwdrivers, ice picks and knife blades. Inspection shall include attics and crawl spaces which permit entry by the person making the inspection. Inspection may exclude areas concealed or obstructed by floor coverings, wall coverings,

paneling, built-in structures such as bookcases, cabinets, appliances, equipment or furniture or portions of the structure to which access would require the removing or marring of finish work or moving of furniture, appliances or equipment.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-414. Wood Infestation Reports; Conditions Conducive**

**A.** Conditions conducive shall be considered to be those conditions deemed likely to lead to infestation from wood-destroying pests or organisms.

**B.** For purposes of a wood infestation report, these conditions shall include but not be limited to:

1. Faulty grade level. For construction where slab or floor is on or near grade, the existing earth level shall be considered grade. A faulty grade level shall exist when:
   a. Top of foundation is even with or below the adjacent earth;
   b. Bottom of stucco or siding is even with or below outside grade;
   c. Bottom of joists or stringers is less than 12 inches above grade; or,
   d. Slope is such that surface water drains toward the structure.
2. Inaccessible subareas or portions thereof. This shall include areas where there is less than 18 inches clear space between the bottom of the floor joists and the unimproved ground area.
3. Excessive cellulose debris. This shall include cellulose debris of a size that can be raked, or larger, and forms an aggregate of one cubic foot or more, stumps and wood imbedded in footings and in contact with earth, and firewood and lumber piles within six inches of a structure.
4. Earth to wood contact. Wood, whether it is internal or external in relation to the structure, and which is attached, affixed or securely abuts the structure and is in contact with the ground shall be considered earth-to-wood contact.
5. Excessive moisture. Conditions of excessive moisture shall be considered to exist when there is evidence of present or past moisture conditions which would foster the growth of fungus or visible moisture occurs on structural timbers.
6. Insufficient ventilation. Conditions of insufficient ventilation shall be considered to exist when there is less than one square foot of ventilation opening per 150 square feet of crawl space area, less than one square foot of ventilation opening for every 1,500 square feet of ground area covered by a vapor barrier, less than two areas permitting cross ventilation, or excessive moisture in an area because ventilation through the prescribed openings is not effective.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-415. Supplemental Wood Infestation Reports**

**A.** A supplemental wood infestation report may be completed when an inspection is required from the original inspecting company to verify that either a corrective treatment has been performed or conditions previously listed as conducive have been corrected.

**B.** Each supplemental inspection shall be reported on a form of the same style as the original inspection and shall include the original inspection number clearly marked to show that it is now supplemental.

**C.** A business licensee may choose to perform a complete inspection and issue an original wood infestation report if the licensee cannot otherwise verify that all corrections have been made.

**D.** An inspection made over 30 days after an original inspection date shall require a complete inspection and not a supplemental inspection.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-416. Structural Treatment Proposals**

**A.** A structural treatment proposal shall be prepared when a written opinion is rendered or a contract is prepared and offered prescribing methods for the control of wood-destroying pests or organisms or prescribing corrections of conditions conducive to such pests in an existing structure. Treatment or corrective action performed under an existing warranty and between the same warranty holder and provider shall not require the preparation of a treatment proposal unless a proposal is requested by the person requesting service. The proposal shall be prepared on a form which has been approved by the Commission and shall be signed by the employee who makes the inspection. The employee making the inspection shall be certified in the classification of control of wood-destroying organisms.

**B.** A structural treatment proposal shall not be construed as a wood infestation report. A structural treatment proposal shall not be submitted to a lending institution, title company, real estate office or agent or other person without a wood infestation report when a wood infestation report, wood-destroying organism report, termite inspection or termite report has been requested for the sale or refinancing of real property to verify that a structure is free of visible evidence of wood-destroying organisms or damage. A structural treatment proposal may be submitted upon request as a proposal for services to be provided.

**C.** The structural treatment proposal shall include the following information:

1. The address of the property to be treated.
2. A statement describing that the work is preventative or corrective.
3. A statement describing the evidence of infestation or damage.
4. As applicable, a diagrammatic description showing the nature and location of evidence of infestation or damage or both.
5. A statement describing the treatment or repair method including the name of the chemical, agent or device to be used and a diagrammatic description showing where such treatment or repair will be rendered.
6. A written statement of alternative treatments and methods to alleviate the problem. If no alternative method would be either more effective or equally effective as the proposed treatment, the business licensee may so state.
7. The price for the work.
8. The terms of the guarantee provided by the company.
9. The signature and certification number of the person who made the inspection of the structure to be treated and, if different, the signature of the preparer of the proposal.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-417. Termite Action Registration Report**

**A.** A termite action registration report shall be submitted to the Commission on a form or in a format provided by the Commission for each termite action performed at a project.

**B.** A termite action shall mean a completed preventative or initial corrective control method or treatment for any termite species, or a wood infestation report. Post-construction treatments performed under a previously existing warranty and supplemental wood infestation reports shall not be reported.

**C.** For the purpose of reporting, a pretreatment shall be considered complete on the date of the application of termiticide to the substrate beneath the primary slab at a project. In the event of multiple-slab establishment at a single project, the completion date may be the date of the last treatment prior to final concrete pour.

**D.** For each action involving a pretreatment, the registration form shall be marked to indicate if the exterior barrier has been established.

**E.** A separate termite action registration report form shall be filed for the post-construction preventative treatment performed to establish the exterior barrier except as required in R4-29-409(B) or an existing warranty.

**F.** Data submitted on the termite action registration report shall include all items listed in A.R.S. § 32-2304(A)(13) and:

1. The business license number of the company which performed the work;
2. The qualifying party or advisor number; and
3. For a wood infestation report: an indication of evidence of infestation, treatment performed, damage present, conditions conducive, and corrective actions taken; or
4. For a post-construction termite treatment: an indication of type of treatment, target organism, chemical used, strength of chemical used as represented by the percentage of active ingredient, and amount of chemical used; or
5. For a preconstruction termite treatment or a post-construction preventative treatment to establish the exterior vertical barrier: the chemical used, strength of chemical used as represented by the percentage of active ingredient, amount of chemical used, and, as applicable, square and linear footage treated.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-418. Termite Action Registration Report Fee**

**A.** A filing fee as set forth in A.R.S. § 32-2304(D) shall accompany each completed form for any termite action as described in R4-29-417(B) except as exempted in subsection (B) of this rule.

**B.** Actions which are supplemental to a completed project shall be exempt from a filing fee. A fee shall not be paid for preventative treatments performed by the original pretreating company after a pretreatment for the purpose of establishing an exterior barrier.

**C.** Each termite action registration report or fee submitted to the Commission later than 30 days from a completed termite action shall be subject to the late filing fee set forth in R4-29-211.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

## ARTICLE 5. HEARINGS AND CONSENT ORDERS

**R4-29-501. Hearings, Settlement Conferences and Consent Orders**

**A.** These rules of practice shall be applicable to hearings before the Commission and its duly appointed hearing officers.

**B.** A person may appear on the person's own behalf or be represented by counsel.

**C.** Hearings shall be judicial but not formal. The hearing officer shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, and directs the order of proof, and may question the parties and witnesses. Witnesses shall testify under oath or affirmation, and a record of the proceedings shall be made and kept. Each party has the right to cross-examine the witnesses who testify, to inspect documents, and to submit rebuttal evidence.

**D.** Attendance at hearings may be compelled. The affixing of the seal of the Commission and the signature of a member of the Commission or executive director or their agent shall be attestation of a subpoena compelling the appearance of a witness or the production of documentary evidence. A party desiring the Commission to issue a subpoena to compel the appearance of a witness at a hearing shall make written application to the executive director. Service of such subpoena shall be made by the party applying for same. Service shall be deemed to be complete at the time actually made.

**E.** Service by the Commission of a decision, order, subpoena, notice of hearing, other notice or other process may be made by enclosing the same or a copy thereof in a sealed envelope, addressed to the party served at the last address shown in the Commission records, and mailed by certified mail in the United States Mail, and such service shall be deemed complete when so deposited in the mail.

**F.** Service upon an attorney who has appeared on behalf of a party shall constitute service upon such party.

**G.** In the event of the failure of a party to appear when requested at a proceeding before the Commission, the Commission or its hearing officer shall be free to conduct the proceeding and to act upon the evidence presented in that party's absence.

**H.** Upon the completion of a hearing, the hearing officer shall submit to the Commission the hearing officer's recommended findings of fact, conclusions of law and order. The recommendations of the hearing officer shall be mailed to parties and the Office of the Attorney General. The Commission may adopt, modify, or reject the recommended findings, conclusions or order of the hearing officer. The Commission's decision shall be reduced to writing. A copy of the Commission's findings of fact, conclusions of law and order shall be mailed to the parties and the Office of the Attorney General.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-502. Review or Rehearing of Commission Decisions**

**A.** Except as provided in subsection (G), a party in a contested case before the Commission who is aggrieved by a decision rendered in such case may file with the Commission, not later than 20 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the person's last known residence or place of business when personal service or delivery cannot otherwise be accomplished.

**B.** A motion for rehearing or review under this rule may be amended at any time before it is ruled upon by the Commission. A response may be filed within ten days after service of such motion by any other party. The Commission may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of a decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the Commission or of its hearing officer or the prevailing party, or an order or abuse of discretion, whereby the moving party was deprived of a fair hearing.

2. Misconduct of the Commission or its hearing officer or the prevailing party.
3. Accident or surprise which could not have been prevented by ordinary prudence.
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Commission may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.

**E.** Not later than 20 days after a decision is rendered, the Commission may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on this matter, the Commission may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting such a rehearing or review shall specify the grounds therefor.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after such service, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days by the Commission for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Commission makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health or safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Commission's final decisions.

**H.** For purposes of this Section, the terms "contested case" and "party" are defined as provided in A.R.S. § 41-1001.

**I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing or review of decisions of the Commission, such statutory provisions govern.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-503. Settlement Conferences**

**A.** The Commission may designate one or more staff members to conduct an informal settlement conference, negotiate resolutions between parties, and make recommendations of resolution to the Commission.

**B.** Written notice of settlement conference shall be served on the complainant and, as applicable, on the business licensee, pest control advisor, qualifying party, applicator or registered employee. Notice shall be served personally or by mail to the last address known to the Commission and shall include time and place of the conference and issues to be discussed.

**C.** Parties may be represented by legal counsel.

**D.** Conferences shall be conducted informally. Witnesses shall not be placed under oath. Subpoenas shall not be issued.

**E.** Proceedings of a settlement conference shall not be recorded by recording or stenographic device. A general written record of the proceeding may be made.

**F.** Statements made at a settlement conference shall not be introduced in evidence at a formal hearing unless all parties have consented to such.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**R4-29-504. Settlement Conference Consent Orders**

**A.** After a settlement conference the Commission may impose a disciplinary sanction, requirement for remedial action, or penalty by means of a consent order.

**B.** The Commission may choose to accept or reject the agreement reached between agency staff and licensee, advisor, qualifying party, applicator or registered employee.

**C.** After review and approval by the Commission, a consent order shall be prepared in writing and signed by the chairman of the Commission or a designated agent. Each consent order shall include:
1. The general nature of complaint;
2. The specific action to be taken by the licensee, advisor, qualifying party, applicator or registered employee;
3. The penalty, if any; and
4. The time for compliance, if any, for corrective action.

**D.** The consent order shall be executed only upon written acceptance of, as applicable, the business licensee, advisor, qualifying party, applicator or registered employee.

**Historical Note**
Adopted effective December 24, 1992 (Supp. 92-4).

**Appendix A. Wood Infestation Report Form**

| STATE OF ARIZONA<br>STRUCTURAL PEST CONTROL COMMISSION<br>**WOOD DESTROYING ORGANISM INFORMATION FOR EXISTING INFORMATION** | 1A. VA CASE NUMBER | 2. DATE |
|---|---|---|
| | 1B. HUD/VA CASE NUMBER | 1E. WIR # |
| | 1C. ☐ ORIGINAL REPORT<br>☐ SUPPLEMENTAL REPORT | 1F. TARF # |
| | 1D. PURPOSE OF REPORT<br>☐ REAL ESTATE: ☐ Sale of Property ☐ Refinancing<br>☐ TREATMENT ONLY: ☐ Preventative ☐ Corrective | |

IT IS NOT ALWAYS POSSIBLE TO DETECT EVIDENCE OF WOOD-DESTROYING ORGANISM INFESTATION. READ THIS INSPECTION REPORT IN ITS ENTIRETY.

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM

1. The VA case number or HUD/FHA case number shall be inserted in item 1 by the lender or pest control company.
2. When treatment is indicated in Item 8C, the organisms treated will be named, the data on application method and chemicals shall be entered in Item 10. Proper control measures may include issuance of warranty. Warranty information should also be entered on this form. Proper control measures are those which follow good acceptable industry practices.
3. If visible evidence is found, organisms causing such evidence will be listed in Item 8A and visible damage resulting from such infestation will be noted in Item 8D.
4. Areas that were inaccessible or obstructed (Item 7) may include, but are not limited to, wall covering, fixed ceiling, floor coverings, furniture or stored articles. The Pest Control Operator (PCO) should list, in Item 7, those obstructions or areas which inhibit the inspection.
5. Item 8A may be checked when the PCO is not authorized to perform control measures by the owner/seller or control measures cannot be performed due to conditions beyond control, e.g. obstructions, weather, etc.
6. Visible evidence of conditions conducive to infestation from subterranean termites shall be reported on the second page of this form (earth-wood contact, faulty grades, insufficient ventilation, etc.).

| 3A. NAME OF INSPECTION COMPANY | | 5A. NAME OF PROPERTY OWNER/SELLER |
|---|---|---|
| 3B. ADDRESS OF INSPECTION COMPANY (Include ZIP Code) | | 5B. ADDRESS OF PROPERTY (Street, City, ZIP) |
| 3C. TELEPHONE NUMBER (Include Area Code) | 4.PEST CONTROL BUSINESS LICENSE NUMBER | 5C. STRUCTURE(S) INSPECTED |
| 5D. UNINSPECTED STRUCTURES | | |

**FINDINGS**

| 6. WERE ANY AREAS OF THE PROPERTY OBSTRUCTED OR INACCESSIBLE?<br>☐ YES ☐ NO<br>(If yes, complete Item 7) | 7. OBSTRUCTIONS OR INACCESSIBLE AREAS This inspection did not include areas which were obstructed or inaccessible at the time of the inspection. ALSO SEE PAGE 2. |
|---|---|

8. BASED ON CAREFUL VISUAL INSPECTION OF THE READILY ACCESSIBLE AREAS OF THE PROPERTY (See item 11A before completing):

☐ A. Visible evidence of wood-destroying organisms was observed. No control measures were performed. Evidence and organisms observed _____
_____
_____

☐ B. No visible evidence of infestation from wood-destroying organisms was observed.

☐ C. Visible evidence of infestation was noted; proper control measures were performed.

☐ D. Visible damage due to: _____ has been observed in the following areas:_____
_____
_____

☐ E. Visible evidence of previously treated infestation, which is now inactive, was observed. (Explain in Item 10.)

☐ F. Visible evidence of previous treatment was observed. List evidence:
_____

| 9. DAMAGE OBSERVED ABOVE, IF ANY (Check One) | 10. ADDITIONAL COMMENTS (ALSO SEE PAGE 2.) |
|---|---|
| ☐ A. Will be/has been corrected by this company.<br>☐ B. Will be corrected by another company (see attached contract).<br>☐ C. Will not be corrected by this company. Recommend that damage be evaluated by qualified building expert and that needed repairs be made.<br>☐ D. Will not be corrected by this company. | |

**11. STATEMENT OF PEST CONTROL OPERATOR**

**A. The inspection covered the readily accessible areas of the property, including attics and crawl spaces which permit entry. Special attention was given to those areas which experience has shown to be particularly susceptible to attack by wood-destroying organisms. Probing and/or sounding of those areas and other visible accessible wood members showing evidence of infestation was performed.**
**B. The inspection did not include areas which were obstructed or inaccessible at the time of inspection. (See instruction number 4 and item 7 above.)**
**C. This is not a structural damage report. Neither is this a warranty as to the absence of wood-destroying organisms.**
**D. Neither I nor the company for which I am acting have had, presently have, or contemplate having any interest in the property. I do further state that neither I nor the company for which I am acting is associated in any way with any party to this transaction.**
**E. There is always important information on the second page of this form.**

| 12A. SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE | 12 B. TITLE AND CERTIFICATION NUMBER | 13. DATE OF INSPECTION |
|---|---|---|

**STATEMENT OF PURCHASER**

**I HAVE RECEIVED THE ORIGINAL OR LEGIBLE COPY OF THIS FORM. I HAVE READ PAGE TWO OF THIS FORM.**

| 14. SIGNATURE OF PURCHASER | 15. DATE |
|---|---|

(PAGE 1 OF _____)

| PROPERTY NAME/ADDRESS | DATE OF INSPECTION |
|---|---|

**CONDITIONS CONDUCIVE TO INFESTATION**

**Wood-to-Earth Contact.**..... ☐ YES ☐ NO

(If YES, check appropriate conditions):

☐ Fence Abutting Structure ☐ Pier Posts in Crawl
☐ Concrete Form Boards in Crawl ☐ Porch Stairs
☐ Porch Post ☐ Trellis(es)

Other:_____
_____

**Excessive Celluiose Debris**..... ☐ YES ☐ NO

**Faulty Grades**..... ☐ YES ☐ NO

(If YES, check appropriate conditions):

☐ Slope; surface water tends to drain toward house
☐ Floor level at or below grade
☐ Wood siding or stucco at or below grade
☐ Joists in crawl space less than 12" above grade

Other:_____
_____

**Excessive Moisture**..... ☐ YES ☐ NO

(If YES, check appropriate conditions):

☐ Water Leak--Shower
☐ Water Leak--Roof ☐ Insufficient Ventilation-Attic
☐ Water Leak--Crawl Space ☐ Insufficient Ventilation-Crawl

Other:_____
_____

**INACCESSIBLE AREAS**

| AREA | REASON |
|---|---|
| ☐ Attic--All | _____ |
| ☐ Attic--Joints | _____ |
| ☐ Plumbing Trap | _____ |
| ☐ Attic--Partial | _____ |
| ☐ Floors | _____ |
| ☐ Wall Interiors | _____ |
| ☐ Enclosed Stairwell | _____ |
| ☐ Dropped Ceiling | _____ |
| ☐ Sub Area--Clearance | _____ |
| ☐ Sub Area--Access | _____ |

☐ Other (Specify where and why.):_____
_____
_____
_____
_____

☐ Areas obstructed by furniture and/or stored articles:_____
_____
_____
_____

☐ Other:_____
_____
_____

**EVIDENCE OF PREVIOUS TREATMENT**

☐ **BY ANOTHER COMPANY:** While evidence of previous treatment does exist, it is impossible for the inspecting company to ascertain if such treatment was properly performed. Further investigation is left to the Buyer's discretion to determine if such treatment was done properly and if valid guarantee exists against the target pest of such treatment.

☐ **BY THE INSPECTING COMPANY:** Previous treatment is recorded for this property. At the buyer's discretion, the treatment records may be viewed at the inspecting company's local office.

Account Number:_____ Date of Treatment: _____

Target Pest: _____ Expiration Date: _____

OTHER: _____

| YES | CODE | SEE DIAGRAM BELOW | YES | CODE | SEE DIAGRAM BELOW | YES | CODE | SEE DIAGRAM BELOW | YES | CODE | SEE DIAGRAM BELOW |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | S | SUBTERRANEAN TERMITES | | B | BEETLES--OTHER WOOD PESTS | | Z | DAMPWOOD TERMITES | | EM | EXCESSIVE MOISTURE |
| | K | DRY WOOD TERMITES | | FG | FAULTY GRADE LEVELS | | SL | SHOWER LEAKS | | IA | INACCESSIBLE AREAS |
| | F | FUNGUS OR DRY ROT | | EC | EARTH-WOOD CONTACTS | | CD | CELLULOSE DEBRIS | | FI | FURTHER INSPECTION RECOM. |

**(PAGE 2 OF ___ )**

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

(Authority: A.R.S. § 32-101 *et seq.*)

*Chapter 30 consisting of Sections R4-30-101 through R4-30-126, R4-30-201 through R4-30-284, R4-30-301 through R4-30-307 adopted effective August 3, 1983.*

*Former Chapter 30 consisting of Sections R4-30-01 through R4-30-04, R4-30-13 through R4-30-19, R4-30-27 through R4-30-31, R4-30-41 through R4-30-43, R4-30-52 through R4-30-56, R4-30-66, and R4-30-76 repealed effective August 3, 1983.*

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R4-30-102. Repealed
R4-30-103. Repealed
R4-30-104. Repealed
R4-30-105. Repealed
R4-30-106. Fees
R4-30-107. Registration expiration dates; Mandatory issuance of codes and rules
R4-30-108. Reserved
thru
R4-30-119. Reserved
R4-30-120. Complaint Review Process
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R4-30-122. Issuance of subpoenas
R4-30-123. Informal Compliance Procedures
R4-30-124. Hearings
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R4-30-126. Service of Board Decisions; Rehearing of Board's Decisions

### ARTICLE 2. REGISTRATION PROVISIONS

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R4-30-208. Educational and Work Experience Requirements
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Appendix A. Professional Application - Long Form
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Appendix D. In-Training Application
Appendix E. NCARB 1989-1990 Circular of Information No. 1
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## ARTICLE 1. GENERAL PROVISIONS

**R4-30-101. Definitions**

The following definitions shall apply in this Chapter unless the context otherwise requires:

1. "Active engagement" means actually practicing or providing professional services.
2. "Act" means the Technical Registration Act, Title 32, Chapter 1, Arizona Revised Statutes.
3. "Bona fide employee" means any person employed by a town, city, county, state, or federal agency working under the direction or supervision of a registrant or any individual working under the direct supervision of a registrant who:
   a. Receives direct wages from the registrant; or
   b. Receives contract compensation from the registrant; or
   c. Receives direct wages from the project prime professional who has a contract with another registrant and whose work product is the responsibility of the latter registrant.
4. "Branch" means a specialty area within the category of engineering.
5. "Category" means the registration categories of architecture, assaying, geology, engineering, landscape architecture and land surveying.
6. "Detached single family dwelling" as used in the Act means a single family dwelling unit such as a house which is structurally and physically separate from all other family dwelling units. This does not mean any single family dwelling unit which is part of a multiple dwelling unit building such as a duplex, townhouse, apartment building, condominium or cooperative. The term "detached single family dwelling" also includes all subsidiary buildings, structures and improvements such as garage, storage areas, swimming pool, and landscaping.
7. "Direct supervision" means a registrant's critical examination and evaluation of the work product for purposes of compliance with applicable laws, codes, ordinances, and regulations pertaining to the registrant's professional practice.
8. "Experience" is classified as follows:
   a. "Subprofessional experience" means task work done under direct supervision and not falling within the definition of professional experience, including but not limited to time spent as a rodman, chainman, recorder, instrument technician, survey aide, technician, clerk of the works, or similar work.
   b. "Professional experience" means work calling for substantial technical knowledge, skill and responsibility as well as a lesser degree of supervision.
   c. "Responsible charge experience" means work in the field or in the office, where the applicant had responsibility for the direction of the work and its successful accomplishment and where the applicant had to make professional decisions without relying on advice or instructions from or first referring the decisions for approval to a superior.
   d. "Design experience" means professional experience, including work defined under "responsible charge experience", where the applicant must fulfill the requirements of local circumstances and conditions and yet not violate any of the requirements of the profession and ensure that the executed plan meets the purpose for which it was designed.
9. "Federal agency" means the United States or any agency or instrumentality, corporate or otherwise, of the United States.
10. "Good moral character and repute" shall be established if the registration candidate:
    a. Has not, within five years of application for registration, been convicted of a felony or misdemeanor if such offense has a reasonable relationship to the functions of the employment or occupation for which the license or certificate is sought;
    b. Has not, within five years of application for registration, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence reasonably related to the candidate's proposed area of practice;
    c. Is not currently incarcerated in a penal institution;
    d. Has not engaged in fraud or misrepresentation in connection with this application for registration or related examination;
    e. Has not had registration revoked or suspended for cause by this state or by any other jurisdiction, or surrendered a professional license in lieu of disciplinary action; or
    f. Has not practiced without the required technical registration in this state or in another jurisdiction within the United States within the two years immediately preceding the filing of the application for registration.
11. "Gross negligence" means a substantial deviation in professional practice from the standard of professional care exercised by members of the registrant's profession, or a substantial deviation from any technical standards issued by a nationally recognized professional organization comprised of members of the registrant's profession, or a substantial deviation from requirements contained in state, municipal, and county laws, ordinances and regulations pertaining to the registrant's professional practice.
12. "Incompetence" means to lack the professional qualifications, experience or education to undertake a professional engagement or assignment.
13. "Other misconduct" means the registrant:
    a. Has been convicted of a felony or misdemeanor if such offense has a reasonable relationship to the functions of the license;
    b. Is presently incarcerated in a penal institution;
    c. Has had a professional license or registration suspended or revoked for cause by this state or by any other jurisdiction or has surrendered a professional license in lieu of disciplinary action; or
    d. Has knowingly acted in violation or knowingly failed to act in compliance with any provisions of the Act, or rules of the Board or any state, municipal or county law, code, ordinance, or regulation, pertaining to the practice of the registrant's professional practice.
    e. Has refused to respond fully to a Board inquiry relating to an applicant's qualifying experience, or provided the Board with false information relating to an applicant's qualifying experience.
14. "Practicing" means offering or performing professional services regulated by the Act within the state of Arizona.
15. "Prepared" means to exercise direct supervision over the preparation of professional documents.
16. "Project Prime Professional" means the person responsible for the coordination, continuity and compatibility of

the various collaborating professional's work (when retained by the project prime professional).

17. "Public Works" project means a work or undertaking which is financed, in whole or in part, by a federal agency or by a state public body, as defined in this Article.
18. "Registrant" means a person who has been granted registration to practice any profession authorized to be registered pursuant to the Act.
19. "Retired from active practice" means that the registrant no longer performs professional services.
20. "State public body" means the state or a county, city, town, municipal corporation, authority, or any other subdivision, agency, or instrumentality thereof, corporate or otherwise.
21. "Structure" as used in the Act means any constructed or designed improvement or improvements to real property including all on-site improvements, fixed equipment and landscaping, pursuant to an engagement or project.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-102. Repealed**

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

**R4-30-103. Repealed**

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

**R4-30-104. Repealed**

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

**R4-30-105. Repealed**

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

**R4-30-106. Fees**

**A.** The triennial renewal fee is $126.

**B.** Payment of fees shall be in United States dollars in the form of cash, check, or money order; however, if a check is returned for insufficient funds, repayment, including payment of the returned check charge, shall be made in cash, or by money order or certified check.

**C.** Upon written request, the Board shall waive renewal fees for registrants who are retired from active practice and who have attained the age of 65 or more years during the immediately preceding registration period.

**D.** No application fee refunds will be allowed after the application has been assigned an application number and processing commences.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Emergency amendments adopted effective May 7, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency amendments readopted without change effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments readopted without change effective February 13, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency amendments readopted without change effective May 31, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency amendments readopted with changes effective October 22, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments permanently adopted with changes effective December 18, 1991 (Supp. 91-4). Amended effective July 6, 1993 (Supp. 93-3). Amended effective May 1, 1995 (Supp. 95-2). Amended effective January 12, 1996 (Supp. 96-1). Amended effective January 15, 1998 (Supp. 98-1).

**R4-30-107. Registration expiration dates; Mandatory issuance of codes and rules**

**A.** Registrants' triennial registration expiration dates are based upon the date of initial registration. The following table indicates registration renewal periods:

| Initial Registration Granted Date | Initial Triennial Renewal Expiration Date |
|---|---|
| Jan. 1 thru Mar. 31 | 3 years from Mar. 31 |
| Apr. 1 thru Jun. 30 | 3 years from Jun. 30 |
| Jul. 1 thru Sep. 30 | 3 years from Sep. 30 |
| Oct. 1 thru Dec. 31 | 3 years from Dec. 31 |

**B.** Subsequent triennial renewal dates will be three years from the initial triennial renewal expiration date.

**C.** The Board shall issue to each new and renewing registrant a copy of the statutes and rules governing the practice of the registered professions. All costs of this program shall be included in the renewal fees assessed by the Board.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-108. Reserved**
**thru**

**R4-30-119. Reserved**

**R4-30-120. Complaint Review Process**

**A.** The Board shall appoint registrants and public members to enforcement advisory committees as needed. Each committee shall have as a minimum four registrants, at least one of whom is registered in the same category or branch as the respondent, and one public member. These committees shall be used by staff to provide technical assistance in the evaluation and the disposition of complaints. Members are to be selected from volunteers submitting resumes and letters of interest.

**B.** During the preliminary informal investigation of a complaint, registrants named as respondents shall be offered an opportunity to appear before an advisory committee for an informal conference relating to the complaint. Respondents may elect to appear with or without counsel. The committee will be comprised of registrants, at least one of which is registered in the same category and/or branch as the respondent, and a public member. The committee shall attempt to assess the complaint and discuss the complaint with the respondent and others, if deemed necessary, and prepare a recommendation for disposition of the complaint.

**C.** Respondents are not required to participate in the informal conference and no inference shall be drawn from a respondent's decision not to attend.

**D.** If a respondent chooses not to attend the informal conference, the committee may meet and review information presented by staff and others and prepare a recommendation for disposition of the complaint.

**E.** The respondent shall be advised of the committee recommendation and shall be offered the opportunity to attend an infor-

mal compliance conference as outlined in R4-30-123 as part of the informal investigation.

**F.** After the informal investigation has been completed and if the committee recommendation supports a determination that the complaint is unfounded, the recommendation shall be forwarded to the Board for review and final disposition.

**G.** In all cases where the advisory committee finds probable cause to believe that disciplinary action is warranted, the staff will attempt to obtain a signed consent order for review by the Board. The Board shall be presented the committee recommendation, a staff recommendation and, in the event a signed consent order cannot be obtained, any counterproposal from the respondent.

**Historical Note**
Adopted effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-121. Investigation of violations**

If any information concerning a possible violation of the Act or any of these rules should be received or obtained by the Board, an investigation shall be conducted prior to the initiation of formal proceedings. Investigative reports, enforcement advisory committee recommendations and other documents and materials relating to an investigation shall remain confidential until the matter is closed, until the issuance of a hearing notice pursuant to A.R.S. § 32-128, or until the matter is settled by consent order; however, the registrant will be informed and the public may obtain information that an investigation is being conducted and of its general nature. The Board may refer investigative information to other public agencies as appropriate under the circumstances.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-122. Issuance of subpoenas**

Any party desiring the Board or its hearing officers to issue a subpoena shall make application, stating the substance of the testimony expected of the witness or the relevancy of the evidence to be produced. If such testimony or evidence appears to the Board or its hearing officer to be material and necessary, a subpoena shall be supplied. The affixing of the seal of the Board and the signature of the Chairman or Secretary shall be sufficient attestation of the same. Service of a subpoena shall be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-123. Informal Compliance Procedures**

**A.** Upon notification of the findings of an investigation by an enforcement advisory committee, a registrant may attend an informal compliance conference with Board staff. The registrant may appear either with or without counsel. Notice of the compliance conference shall be mailed at least 15 days prior to the date of the conference. The purpose of the compliance conference shall be to discuss informal settlement of the investigative matter. Upon completion of the interview, the Board's enforcement officer shall make recommendations to the Board.

**B.** At any time either before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of settlement whereby, in lieu of formal disciplinary action by the Board, the registrant agrees to accept certain sanctions such as suspension, civil penalties, enrolling in continuing education courses, limiting the scope of practice, submitting work product to professional peer review, or other sanctions. If the Board determines that the proposed settlement will adequately protect the public welfare, the Board may accept the offer and enter a decision consented to by the registrant incorporating the proposed settlement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-124. Hearings**

All hearings before the Board, or a Board-appointed hearing officer, shall be held in accordance with A.R.S. § 32-128 and the adjudicative proceedings Article of the Administrative Procedures Act, A.R.S. §§ 41-1061 through 41-1066.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-125. Reserved**

**R4-30-126. Service of Board Decisions; Rehearing of Board's Decisions**

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in a case may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. A decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party's last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of a motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the agency, members of the Board or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. The decision is unjustified based upon the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review of its decision on motion of a party. After giving the parties or their counsel notice and an opportunity to

be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If, in a particular decision, the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public welfare, health or safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

## ARTICLE 2. REGISTRATION PROVISIONS

### R4-30-201. Professional Registration

**A.** A candidate for professional registration shall submit the following application package to the Board:
1. An original and 1 copy of a completed application;
2. Evidence of successful completion of the current national professional examination or waiver of the examination pursuant to A.R.S. § 32-126 and R4-30-203 in the category, and branch if applicable, for which registration is sought. Candidates shall arrange to have their examination results sent directly to the Board from the applicable testing agency holding the examination results;
3. The information set forth in subsections (B)(1) through (15); and
4. The applicable fee.

**B.** A candidate who wishes to sit for a professional examination shall submit to the Board an original and 1 copy of a completed application for professional examination, and provide the following information:
1. Name, residence address, e-mail address, residence telephone number, and residence facsimile number of the candidate;
2. Date of birth and social security number of the candidate;
3. Citizenship or legal residence;
4. Category, and branch of engineering if applicable, for which the candidate is seeking registration;
5. A detailed explanatory statement, regarding:
   a. Any disciplinary action, including suspension and revocation, taken by any other state or jurisdiction on any registration or license held by the candidate in any other state or jurisdiction;
   b. Refusal of registration or license by any other state or jurisdiction;
   c. Any pending disciplinary action in any other state or jurisdiction on any registration or license held by the candidate;
   d. Any alias or other name used by the candidate; and
   e. Any conviction for a felony or misdemeanor, other than a minor traffic violation.
6. Jurisdiction in which any other registration or license is held, type of registration, number, year granted, how registration was granted (that is, by examination, education, experience, or reciprocity), and the number of examination hours taken by the candidate;
7. Name of the state or jurisdiction, the type of registration the candidate is seeking, and the current status of any application for registration pending in any other state or jurisdiction;
8. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution that the candidate attended;
9. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution that the candidate attended;
10. Name, current address, telephone number, and facsimile number of the candidate's current and former employers in the category for which registration is sought; dates of employment; candidate's title; description of the work performed; and number of hours worked per week;
11. Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. Candidates who have been working in the category for which registration is sought for 10 or more years shall provide the names and addresses of all immediate supervisors during the most recent 10-year period. If a candidate cannot supply the names and addresses of supervisors for at least 3 engagements, the candidate shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of 3 additional references, unrelated to the candidate, at least 2 of whom are registered in the category for which registration is sought;
12. A release authorizing the Board to investigate the candidate's education, experience, moral character, and repute;
13. Certificate of Experience Record and Reference Forms from the candidate's present and past immediate supervisors. The candidate shall also provide Certificate of Experience Record and Reference Forms to additional references as required by the Board. The candidate shall provide the name, address, and telephone numbers of all references. The candidate shall ensure that completed reference forms are provided to the Board;
14. Evidence of successful completion, or waiver by the Board, of the applicable in-training examination. A candidate for professional registration, who has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona, shall submit proof of examination directly from the authority that administered the original examination. A candidate seeking professional registration as an architect or landscape architect may take the in-training examination at the same time as the professional examination. A candidate seeking professional registration as an assayer, engineer, geologist, or land surveyor shall pass the applicable in-training examination prior to admission to the professional examination;
15. An affidavit that the information provided to the Board is accurate, true, and complete.

**C.** A candidate holding a certificates of qualification issued by 1 of the national registration bodies recognized in R4-30-203(B) shall arrange to have the record forwarded to the Board by the national registration body. If the forms provided by the national registration body contain all the information

described in A.R.S. § 32-122.01 and subsection (B), the Board may accept the forms in lieu of requiring the candidate to furnish the information directly to the Board.

**D.** The Board staff shall review all applications and, if necessary, refer completed applications to an advisory committee for evaluation. If the application is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the candidate is eligible in all other aspects to be registered in the field for which the application was filed, the Board staff or committee shall recommend that the Board certify the candidate as eligible to take the examination, or if exempt from examination pursuant to statute or rule, as eligible for registration. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the candidate is eligible in all respects for examination or registration, the Board staff shall make a further investigation of the candidate. The Board staff and committee shall submit recommendations to the Board for approval. The Board may also require a candidate to submit additional oral or written information if the candidate has not furnished satisfactory evidence of qualifications for examination or registration.

**E.** The Board may permit an applicant who has successfully satisfied the requirements of an intern development program approved by the Board to qualify for an appropriate examination.

**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective November 10, 1998 (Supp. 98-4).

**R4-30-202. In-training Designation**

**A.** A candidate for in-training designation shall submit the following application package to the Board:
1. An original and 1 copy of a completed application;
2. Evidence of successful completion, or waiver by the Board, of the current in-training examination in the category and branch, if applicable, for which in-training designation is sought;
3. The information set forth in subsections (B)(1) through (9); and
4. The applicable fee.

**B.** An in-training candidate who wants to sit for an in-training examination shall submit to the Board an original and 1 copy of a completed application for in-training designation, providing the following information:
1. Name; residence address, telephone number, and facsimile number; and current or school address, telephone number, and facsimile number, if different from residence, of the candidate;
2. Date of birth and social security number of the candidate;
3. Citizenship or legal residence;
4. Category, and branch of engineering if applicable, for which the candidate is seeking an in-training designation;
5. Information regarding any conviction for a felony or misdemeanor, other than a minor traffic violation, and any alias or other name used by the candidate;
6. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution that the candidate attended;
7. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution that the candidate attended;
8. A release authorizing the Board to investigate the candidate's education, experience, moral character, and repute;
9. An affidavit that the information provided to the Board is accurate, true, and complete.

**C.** If otherwise qualified, the Board shall permit a candidate for in-training designation to take the in-training examination in the final year of a baccalaureate, masters, or other degree program accepted by the Board and accredited in the category for which the application is made. The candidate shall have the application form endorsed by the candidate's college dean or faculty advisor or, if already a graduate, may arrange to have a final transcript, indicating the degree awarded, sent directly from the registrar to the Board, in lieu of the endorsement.

**D.** The Board shall permit a candidate for in-training designation without an accredited college degree to take the in-training examination after submitting to the Board evidence of 4 years, or if an architect-in-training candidate, 5 years of satisfactory experience or education or both. The candidate shall provide the name, current address, telephone number, and facsimile number of all current and former employers; names of all supervisors and their titles; dates of employment; candidate's title; and a description of the work performed. The candidate shall provide Certificate of Experience Record and Reference Forms to immediate supervisors at present and past employers. The candidate shall ensure that the completed reference forms are submitted to the Board. The candidate shall meet all other requirements of this Section.

**Historical Note**

New Section R4-30-202 renumbered from R4-30-203 and amended effective November 10, 1998 (Supp. 98-4).

**R4-30-203. Waiver of Examination**

**A.** The Board shall grant a waiver of the professional examination requirement in A.R.S. §§ 32-122.01 and R4-30-201 to a candidate for professional registration who holds a valid registration and is in good standing in another state, jurisdiction, territory, or country provided:
1. The candidate submits verifiable documentation to the Board that the education, experience, and examination requirements under which the candidate was registered in the original jurisdiction were substantially identical to those existing in Arizona at the time of the candidate's original registration; or
2. The candidate submits verifiable documentation to the Board that the candidate has been actively engaged as a professional registrant in another state, jurisdiction, territory, or county for at least 10 years in the category for which registration is sought. For purposes of this subsection, "actively engaged as a professional registrant" means that the candidate holds a valid registration in good standing, and has been practicing or offering professional services for at least 10 of the last 15 years.

**B.** The Board shall grant a waiver of the professional examination requirement in A.R.S. § 32-122.01 and R4-30-201 to a candidate for professional registration who submits verifiable documentation to the Board that the candidate holds 1 of the following professional records, issued by a national registration body, and is registered in good standing in another state or jurisdiction. The Board recognizes the following national registration body records:
1. National Council of Architectural Registration Boards Certificate Record, with design and seismic (lateral forces) qualifications;
2. National Council of Examiners for Engineers and Surveyors Council Record; or
3. Council of Landscape Architectural Registration Boards Council Record and Certification.

**C.** When reviewing an engineering candidate's experience and examination information, the Board shall take into account the specific branch of engineering in which the candidate is seeking proficiency recognition.

**D.** The Board shall waive the in-training examination if a candidate has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought, which is equivalent to those examinations administered in Arizona. The candidate shall ensure that proof of successful completion is forwarded directly from the authority that administered the original examination.

**E.** The Board shall waive the in-training examination for a candidate who has a degree listed in R4-30-208(A) or other educational credit approved by the Board in the category, and branch if applicable, for which registration is sought, and meets all other requirements of A.R.S. § 32-126(C).

**F.** All candidates who request a waiver of any examination requirement shall meet all other requirements for professional registration or in-training designation set forth in R4-30-201 and R4-30-202. A candidate applying for a waiver under subsection (B) shall ensure that the required documentation is forwarded directly to the Board from the national registration body.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). R4-30-203 renumbered to R4-30-202; new Section R4-30-203 renumbered from R4-30-207 and amended effective November 10, 1998 (Supp. 98-4).

**R4-30-204. Examinations**

**A.** All examinations shall be given at the times and places determined by the Board. Once the Board approves a candidate to sit for any examination, the candidate shall communicate all questions and concerns regarding extensions and refunds to the applicable testing agency. The candidate shall make any request for additional time or other special test accommodation to the Board within a reasonable time before the test date. The Board shall not refund any examination fee paid to a testing agency.

**B.** A candidate who fails to achieve a passing grade on any division of any examination may request re-examination by notifying the Board in writing of the candidate's desire to re-take the examination and paying the appropriate examination fee. A candidate who re-takes any examination shall advise the Board of any changes in the information provided under R4-30-201(B) and R4-30-202(B) within 30 days from the date of the change. The Board shall close a candidate's file if the Board does not receive written confirmation from the candidate of the candidate's desire to re-take the examination within 1 year from the request for re-examination. A candidate whose file has been closed and who later wishes to apply for professional registration shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.

**C.** A candidate who has failed any division of an examination shall be re-examined only on the division failed. The Board shall deny a candidate's application, if a candidate fails to pass all divisions of an examination within 5 years after 1st taking any division of an examination. The candidate shall submit a new application, and retake and pass those divisions of the examination, except the in-training examination, whose results are 5 or more years old.

**D.** A candidate who wishes to review the candidate's examination scores shall file a written request with the Board within 30 days after receiving notification of the failing grade. The candidate may review an examination by making prior arrangements with the staff and paying the applicable fee. The candidate shall complete any review within 60 days of the request for a review. In reviewing multiple choice questions, a candidate may review only those questions that were incorrect.

**E.** A candidate who desires a regrade of an examination shall file a written request with the Board within 30 days after receiving notification of the failing grade or within 30 days after reviewing the examination, whichever is applicable, and pay the applicable fee. The candidate shall identify the questions to be reviewed. The candidate shall state why a review of the item is justified. The candidate shall provide specific facts, data, and references to support any assertion that the solution deserves more credit. The Board shall determine whether it will regrade the examination or whether it will send the examination to the applicable testing agency for re-grading.

**F.** If a candidate does not have the required education and experience, the Board may hold the application for a period of time not exceeding 1 year upon request of the candidate. All timeframes adopted pursuant to Title 41, Chapter 6, Article 7.1 are suspended during the above-referenced time.

**G.** A candidate may withdraw an application for registration or designation by written request to the Board. Any fee paid by the candidate is non-refundable. If a candidate withdraws an application, the Board shall close the file. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). Amended effective November 10, 1998 (Supp. 98-4).

**R4-30-205. Reserved**

**R4-30-206. Repealed**

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Repealed effective November 10, 1998 (Supp. 98-4).

**R4-30-207. Registration Without Examination**

**A.** A candidate who holds a valid registration in another state, jurisdiction, territory or country may be granted registration without examination, provided:

1. The candidate submits evidence acceptable to the Board that the education, experience and examination requirements under which the candidate was registered in the original jurisdiction were substantially identical to those existing in Arizona at the time of the candidate's original registration; or
2. The candidate submits evidence acceptable to the Board that the candidate has been actively engaged as a professional registrant in another state, jurisdiction, territory or country for at least ten years in the profession in which registration is sought. For purposes of this paragraph, "actively engaged as a professional registrant" shall mean that the candidate both holds a valid registration in, and has been practicing or offering professional services for the most recent ten-year period in that state, jurisdiction, territory or country.

**B.** A candidate who submits evidence acceptable to the Board that the candidate meets all of the criteria in subsection (A)(1) of this rule and holds one of the following certificates of qualification issued by a national bureau of registration may be

granted registration in that profession without further examination:

1. National Council of Architectural Registration Boards' Record, with design and seismic (lateral forces) qualifications; or
2. National Council of Examiners for Engineers and Surveyors Record; or
3. Council of Landscape Architectural Registration Board Record.

**C.** In the case of candidates applying for registration under the provisions of subsection (A) of this rule, "evidence acceptable to the Board" shall mean a completed Board application as shown in Appendix A and registration documentation forwarded directly to the Board from the registering authority.

**D.** In the case of candidates applying for registration under the provisions of subsection (B) of this rule, "evidence acceptable to the Board" shall mean:

1. A completed short form application as shown in Appendix C;
2. Documentation from the certifying agency verifying the candidate has taken and successfully completed a national examination recognized by the Board, in the category in which registration is sought; and
3. Documentation from the certifying agency that verifies the candidate's employment history and education.

**E.** The Board shall waive the in-training examination for a candidate who has a degree listed in R4-30-208(A) in the category in which registration is sought and meets all other requirements of A.R.S. § 32-126(C).

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-208. Educational and Work Experience Requirements**

**A.** Educational credit.

1. Full educational credit shall be granted in accordance with the following:
   a. Architectural applicants with five-year National Architectural Accrediting Board accredited degree (NAAB) . . . . . .60 months
   b. Architectural applicants with four-year NAAB accredited degree . . . . . .48 months
   c. Landscape Architectural applicants with five-year Landscape Architectural Accrediting Board accredited degree (LAAB) . . . . . .60 months
   d. Landscape Architectural applicants with four-year LAAB accredited degree . . . . . .48 months
   e. Engineering applicants with an Accreditation Board of Engineering and Technology (ABET) accredited bachelor degree and a (ABET) master's or doctorate degree in the branch of engineering that registration is sought . . . . . .60 months
   f. Engineering applicants with an ABET accredited bachelor degree in the branch of engineering that registration is sought . . . . . .48 months
   g. Engineering applicants with four-year ABET accredited degrees in a branch other than that in which registration is sought . . . . .36 months
   h. Land Surveying applicants with ABET accredited bachelor degree in land surveying48 months
   i. Geology applicants with four-year degree in geology . . . . . .48 months
   j. Assayer applicants with four-year degree in chemistry, metallurgy or other science directly related to the analysis of metal and ores . . .48 months
2. All other educational credit shall be granted according to the following:
   a. No credit shall be granted for course work obtained in the United States or its possessions unless attained at an institution of higher education accredited by an accrediting agency recognized by the U.S. Department of Education.
   b. Pro rata credit shall be granted for successful completion of courses substantially equivalent to the courses contained in the pertinent degree program identified in subsection (A) of this rule.
   c. No credit shall be given for general education courses in excess of the number of hours allowed in the pertinent program identified in subsection (A) of this rule.
   d. In determining pro rata credit, 30 semester hours or 45 quarter hours shall equal 12 months' credit.
   e. An applicant may be granted both education and work experience for the same period provided the total months' credit granted in a period does not exceed the number of months in that period.
   f. Foreign education evaluation service acceptable to the Board shall be required of foreign-educated applicants and shall be provided at applicants' cost.

**B.** Work experience shall be credited as follows:

1. One hundred and thirty hours work per month is equal to one month of work experience.
2. Eighty-five hours per month is equal to one-half month of work experience.
3. No credit shall be granted for less than 85 hours of work experience in a month.
4. Experience shall be substantiated by the employer before credit may be granted.

**Historical Note**
Adopted effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-209. Time-frames for Professional Registration or In-training Designation**

**A.** Within 60 days of receiving the initial application package for professional registration or in-training designation, the Board shall finish an administrative completeness review.

1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.
4. If a candidate requests to sit for the professional or in-training examination, the time-frames in R4-30-210 apply until the Board grants or denies the candidate's request to sit for the examination.

5. If a candidate requests a waiver of examination under R4-30-203, the time-frames in R4-30-211 apply until the Board grants or denies the waiver of examination.

**B.** The Board shall complete its substantive review of the application package and render a decision no later than 60 days after the date the Board mails the notice of administrative completeness to the candidate.
1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall approve the candidate for professional registration or in-training designation.
2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny the candidate professional registration or in-training designation. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information and documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 30 days.
5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.

**C.** Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.

**D.** For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate applying for professional registration or in-training designation:
1. Administrative completeness review time-frame: 60 days;
2. Substantive review time-frame: 60 days; and
3. Overall time-frame: 120 days.

**Historical Note**
Adopted effective November 10, 1998 (Supp. 98-4).

**R4-30-210. Time-frames for Approval to Sit for the Professional or In-training Examination**

**A.** Within 60 days of receiving the initial application package to sit for the professional or in-training examination, the Board shall finish an administrative completeness review.
1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to sit for the in-training or professional examination shall submit a new application package and pay the applicable fee.

**B.** The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.
1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall approve the candidate to sit for the next available in-training or professional examination.
2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall not allow the candidate to sit for the in-training or professional examination. The Board shall provide written notice of its refusal to allow the candidate to sit for the examination. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 45 days.
5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to sit for the in-training or professional examination shall submit a new application package and pay the applicable fee.

**C.** Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.

**D.** For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate wishing to sit for either the in-training or professional examination:
1. Administrative completeness review time-frame: 60 days;
2. Substantive review time-frame: 120 days; and
3. Overall time-frame: 180 days.

**Historical Note**
Adopted effective November 10, 1998 (Supp. 98-4).

**R4-30-211. Time-frames for Waiver of the Professional or In-training Examination**

**A.** Within 60 days of receiving the initial application package for a waiver of the professional or in-training examination, the Board shall finish an administrative completeness review.
1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.

**B.** The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.
1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall waive the professional or in-training examination requirement for the candidate.
2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny the waiver. The Board may allow the candidate to sit for the professional or in-training examination, or the Board may require the candidate to submit an application to sit for the professional or in-training examination. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 45 days.
5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.

**C.** Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.

**D.** For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate requesting a waiver of the professional or in-training examination:
1. Administrative completeness review time-frame: 60 days;
2. Substantive review time-frame: 120 days; and
3. Overall time-frame: 180 days.

**Historical Note**
Adopted effective November 10, 1998 (Supp. 98-4).

**R4-30-212. Architect-in-training Registration Requirements**

**A.** To qualify for admission to the in-training examination solely on the basis of education, a candidate shall be a graduate of a five-year architectural degree program accredited at the time of graduation by the National Architectural Accrediting Board (NAAB).

**B.** To qualify for admission to the in-training examination, a candidate who is not a graduate of a five-year NAAB-accredited degree program shall have at least five years of education or experience or both directly related to the practice of architecture. Experience directly related to the practice of architecture of a character satisfactory to the Board includes but is not limited to the following:
1. Consultation: The active involvement in meetings, discussions, or the development of reports intended to provide information, facts or advice for the purpose of planning, designing or locating buildings, structures, alterations or construction projects.
2. Evaluation: The analysis of client's requirements involving space relations, expansion needs, site requirements and flexibility which serves as a basis for the development of appropriate design objectives.
3. Site design: Design experience including the utilization of land, placement of structures, form relationships, traffic patterns, parking facilities and utility systems based upon an analysis of surface and subsurface conditions, ecological requirements and the requirements imposed by law.
4. Building design: Design experience including the preparation of architectural, structural and interior drawings and the development of specifications, and the selection and layout of building systems involving structural, mechanical, electrical, civil and interior considerations.
5. Construction review: The review or supervision of construction to ensure conformance with architectural or contract specifications or requirements (maximum 12 months' credit).
6. Administration: Administrative experience including office and field administration, field testing, quotation requests, change orders, cost accounting and project closeouts (maximum 12 months' credit).
7. Editing or writing: The editing or writing for publication of articles, books, newsletters or other written materials on architectural subjects (maximum 6 months' credit).
8. Other architectural-related experience: As defined in Appendices A and B of the 1994-1995 National Council of Architectural Registration Boards Circular of Information No. 1 (Appendix E).
9. Subprofessional experience: As defined in rule R4-30-101 (maximum 6 months' credit).

**C.** A candidate shall take and pass the architect-in-training examination administered by the Board and provided by the National Council of Architectural Registration Boards. A candidate shall receive a minimum score of 75% as established by the Board on each section (division) of the architect-in-training examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-213. Reserved**

**R4-30-214. Architect registration requirements**

**A.** A candidate shall take and pass the professional architect examination administered by the Board and provided by the National Council of Architectural Registration Boards. A candidate shall receive a minimum score of 75% as established by the Board on each section (division) of the professional examination to complete successfully this requirement.

**B.** Candidates seeking registration under the provisions of A.R.S. § 32-126(A) and registered by 36-hour examination prior to December 1965 in states [or U.S. territories] other than Alaska, California, Colorado, Guam, Hawaii, Idaho, Nevada, New Mexico, Oregon, Utah, or Washington, or by education and experience only, shall be required to take and pass a seismic structural technology examination administered by the Board and provided by the National Council of Architectural Registration Boards. A candidate shall receive a minimum score of 75% as established by the Board on this examination to successfully complete this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Correction to subsection (B) (Supp. 96-1).

**R4-30-215. Reserved**

**R4-30-216. Reserved**

**R4-30-217. Reserved**

**R4-30-218. Reserved**

**R4-30-219. Reserved**

**R4-30-220. Reserved**

**R4-30-221. Engineering Branches Recognized**

**A.** The Board shall recognize the branches of engineering described below for review of experience, selection of examination, definition of examination areas, and definition of demonstrated proficiency areas to be inscribed on the seal. The categories do not limit the areas of a registrant's practice of engineering. (See R4-30-301(A)(10),(11), and (12)).

1. Agriculture: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for agricultural machinery, drainage, irrigation, terracing, farm electricity or water pumps and wells for the maintenance of adequate potable water supplies for crops, people, animals, and industry.
2. Chemical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for chemical enterprises, chemical and biological processes, plant layout, production of pilot plants, water, wastewater and pollution control plants, piping and distribution systems, heat exchanges, energy production management and distribution systems, process instrumentation and control systems, biomedical equipment, mining and minerals benefication, corrosion retardation, heat, mass and momentum transfer systems, reaction kinetics, thermodynamics, quality assurance controls, and systems for heat transmission.
3. Civil: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for highways, streets, transportation systems, drainage and flood control structures, surface and subsurface hydrologics, sewers, tunnels, railroads, geotechnical analysis, waterfronts, water and wastewater systems, water power and supply apparatus, wells, pumps, bridges, dams, irrigation structures, water purification apparatus, incinerators or site fire protection systems.
4. Control Systems: Consultation, investigation, evaluation, planning, design, location, development, and review of construction of control systems and their constituent devices including, but not limited to, dynamic stability and the application of instrumentation and feedback control principles to regulate and operate chemical plants, petroleum refineries, food processing plants, water and waste treatment plant, power plants, pollution abatement system, transportation system, and other dynamic processes and systems.
5. Electrical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for use in power systems, electronic and transmission equipment, electric service and supply systems, lighting systems, communication service and supply systems, fire alarm and detection systems, control systems or electrical installations.
6. Environmental: Consultation, investigation, evaluation, planning, design, location, development, and review of construction of water and wastewater systems, both domestic and process (industrial/commercial) solid waste and hazardous materials system, air quality system, and health, safety, and environmental protection including, but not limited to, emergency response, risk analysis, radiation protection, noise toxicology, and industrial hygiene.
7. Fire Protection: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for building exiting and life safety systems, fire suppression systems and devices, fire detection and alarm systems and devices, smoke exhaust and smoke management systems, fire resistance for building components and assemblies, water supplies and pumping systems for fire protection, including the hydraulic analysis of such systems, and the reduction and control of fire hazards due to processes subject to fire or explosion.
8. Geological: Consultation, investigation, evaluation, planning, design, location, development, and review of construction or geological studies related to surface and subsurface excavations and foundations, stability of slopes, groundwater locations, geological material age and strength determinations near surface or deep subsurface geological structure determinations, and geophysical mapping of geological formations and groundwater locations.
9. Industrial: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for factory layouts, tools and fixtures, factory planning, time and motion study systems, rate plans, production plans, quality control systems and analysis, work simplification systems, methods studies and cost, production control, organizational, operational and labor needs, or safety analysis.

10. Mechanical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for air conditioning, refrigeration, ventilation, combustion, heat transfer, energy, power, fuels, propulsion, machinery, tools, manufacturing, fluids, plumbing, fire suppression systems and devices, water supplies and pumping systems for fire protection, including the hydraulic analysis of such systems.
11. Metallurgical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects in the production of metals or metal objects, testing procedures, metal processing, failure analysis procedures, mining and mineral benefication or the development of metal alloys.
12. Mining: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning the construction of plants, shaft and bottom layouts, ventilation and hoisting systems, head frames, washery or concentration mills, mining methods and testing procedures or metallurgical works and production procedures.
13. Nuclear: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for nuclear waste management, alternative waste management systems, disposal criteria and risk evaluation, transportation, packaging, decontamination, handling, welding evaluation, site stabilization, recovery techniques, water and air quality control systems, waste volume management, evaporation systems, reactor safety methods, health safety systems, cycle analysis or nuclear fuels.
14. Petroleum: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for drilling equipment, pipelines, refinery plants, gathering systems, handling and storage systems, exploitation and selection methods, gas measurement and core analysis, phase behavior studies, reserve calculations or the development of petroleum products.
15. Sanitary: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for water treatment and sewage disposal plants, water systems, sewers, incinerators, distribution systems, sewage and industrial waste treatment plants, pollution reduction systems, sanitary facilities or public health systems.
16. Structural: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for force-resisting and load-bearing members and their connections for structures such as foundations, bridges, walls, columns, slabs, beams, trusses or similar members used singly or as part of a larger structure.

**B.** A candidate shall submit a separate application and application fee for each branch for which application is made. A candidate who wishes to change the branch of application after the application has been evaluated shall submit the request in writing and pay an additional application fee.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Amended effective July 6, 1993 (Supp. 93-3). Amended effective May 1, 1995 (Supp. 95-2). Amended effective December 18, 1997 (Supp. 97-4).

**R4-30-222. Engineer-In-Training Registration Requirements**

**A.** To qualify for admission to the in-training examination solely on the basis of education, a candidate must be a graduate of a four-year engineering degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology (ABET) or an equivalent predecessor organization.

**B.** To qualify for admission to the in-training examination, a candidate who is not a graduate of a four-year ABET-accredited engineering degree program shall have at least four years of education or experience or a combination of both directly related to the practice of engineering. Experience directly related to the practice of engineering of a character satisfactory to the Board includes but is not limited to the following in the candidate's branch of engineering:
1. Consultation: The active involvement in meetings, discussions or development of reports intended to provide information, facts or advice regarding the application of the accepted engineering principles to fulfill the client's specific requirements.
2. Research investigation: The search, examination or study to determine the practicality or effectiveness of accepted principles for adaptation and application to novel situations or the development of new or alternative solutions to solve problems.
3. Evaluation: The analysis, testing or study to determine or estimate the merit, effect, efficiency or practicality of approaches, methods, designs, structures or materials for use in a given situation or to achieve a specific result.
4. Planning: The preliminary development of objectives, statements, outlines, drafts, drawings or diagrams showing the arrangement, scheme, schedule, program or procedure for determining the most effective solution to a problem.
5. Design: Design, development and location experience.
6. Construction review: The review or supervision of construction projects in the candidate's branch of engineering to determine conformance with contract documents and design specifications (maximum 12 months' credit).
7. Administration: Administrative experience in the candidate's branch of engineering, including office and field administration, field or laboratory testing, quotation requests, change orders, bidding procedures, cost accounting and project closeouts (maximum 12 months' credit).
8. Surveying: The measurement, using accepted methods of surveying, of units of space, water, land or structures to determine boundaries, areas, shapes, slopes, distances, angles or other calculations (maximum 12 months' credit).
9. Editing or writing: The editing or writing for publication of articles, books, newsletters or other written materials directly relating to the candidate's branch of engineering (maximum 6 months' credit).
10. Other engineering experience: Experience of a nature set forth in this subsection but in other recognized branches of engineering (maximum 6 months' credit).
11. Subprofessional experience: As defined in rule R4-30-101 (maximum 6 months' credit).

**C.** A candidate shall take and pass the engineer-in-training examination administered by the Board and provided by the National Council of Examiners for Engineers and Surveyors. A candidate shall receive a minimum score of 70% as established by the Board on the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-223. Reserved**

**R4-30-224. Engineer Registration Requirements**

**A.** Work experience credited toward the eight-year active engagement requirement shall be directly related to the applicant's branch of engineering and of a character satisfactory to the Board and attained as described in R4-30-221, except that work experience for specific branches of engineering as described in R4-30-221 shall be for the purpose of qualifying a candidate for registration only and shall not be construed to restrict or confine the work practices of or engineering engagements accepted by a registrant.

**B.** A candidate shall take and pass the professional engineer examinations offered in the candidate's branch of engineering administered by the Board.

**C.** For candidates requesting registration as Civil, Sanitary or Structural Engineers, the Board shall designate the required examination questions to be answered.

**D.** A candidate shall receive a minimum score of 70% as established by the Board on the examination or, if a structural candidate, on each part of the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective July 6, 1993 (Supp. 93-3). Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-225. Reserved**

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**R4-30-241. Reserved**

**R4-30-242. Geologist-in-training Registration Requirements**

**A.** To qualify for admission to the in-training examination solely on the basis of education, a candidate shall be a graduate of a four-year degree program with a major in geology at a college or university accredited at the time of graduation by a regional accrediting agency recognized by the Arizona Board of Regents.

**B.** To qualify for admission to the in-training examination, a candidate who is not a graduate of a four-year degree program as specified in subsection (A) of this rule shall have at least four years of education or experience or both directly related to the practice of geology. Experience directly related to the practice of geology of a character satisfactory to the Board shall include but not be limited to the following:

1. Consultation: The active involvement in meetings, discussions and development of reports intended to provide information, facts or advice regarding natural resources and surface and subsurface geological conditions and the preparation of geological maps for use in consultations with clients.
2. Evaluation: The evaluation of mining and petroleum properties, groundwater resources, unconsolidated earth materials, mineral fuels, natural hazards and land use limitations.
3. Supervision of exploration: The supervision of the geological phases of engineering investigation, exploration for mineral and natural resources, metallic and nonmetallic ores, petroleum and groundwater resources.
4. Administration: Administrative experience, including office and field administration, field or laboratory testing, quotation requests, change orders, cost accounting, bidding procedures and project closeouts (maximum 12 months' credit).
5. Editing or writing: The editing or writing for publication of articles, books, newsletters or other written materials on geological subjects (maximum 6 months' credit).
6. Engineering: Experience in related branches of engineering (maximum 6 months' credit).
7. Subprofessional experience: As defined in rule R4-30-101 (maximum 6 months' credit).

**C.** A candidate shall take and pass the geologist-in-training examination administered by the Board and provided by the Association of State Boards of Geology. A candidate shall receive a minimum score of 70% as established by the Board on the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3. 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-243. Reserved**

**R4-30-244. Geologist Registration Requirements**

A candidate shall take and pass the professional geologist examination administered by the Board and provided by the Association of State Boards of Geology. A candidate shall receive a score of 70% as established by the Board on the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-245. Reserved**

**R4-30-246. Reserved**

**R4-30-247. Reserved**

**R4-30-248. Reserved**

**R4-30-249. Reserved**

**R4-30-250. Reserved**

**R4-30-251. Reserved**

**R4-30-252. Landscape Architect-in-training Registration Requirements**

**A.** To qualify for admission to the in-training examination solely on the basis of education, a candidate shall be a graduate of a four- or five-year landscape architectural degree program accredited at the time of graduation by the Landscape Architectural Accreditation Board (LAAB) or an equivalent predecessor organization.

**B.** To qualify for admission to the in-training examination, a candidate who is not a graduate of a four- or five-year LAAB-accredited landscape architectural degree program shall have at least four years of education or experience or both directly related to the practice of landscape architecture. Experience directly related to the practice of landscape architecture of a character satisfactory to the Board shall include but not be limited to the following:

1. Consultation: The active involvement in meetings, discussions and development of reports intended to provide information, facts or advice regarding the application of landscape architectural principles to fulfill the client's specific requirements.
2. Investigation, reconnaissance and research: The search, examination or study to determine the practicality or effectiveness of accepted landscape architectural principles to novel situations or the development of new or alternative solutions to landscape architectural problems.

3. Planning: The preliminary development of objectives, statements, outlines, drafts, drawings, maps or diagrams showing the arrangement, scheme, schedule, program or procedure for determining the most effective solution to a landscape architectural problem.
4. Design: The preparation and use of sketches, plans, drawings, outlines, models or schemes to convey the use and development of land, plantings, landscapings, settings, approaches to buildings, structures or facilities, traffic patterns and drainage or erosion patterns.
5. Supervision of development: The supervision of the development of land and incidental water areas for the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and esthetic values, settings and approaches, natural drainage and the consideration and determination of inherent problems of the land, including erosion, wear and tear, light and other hazards.
6. Administration: Administrative experience, including office and field administration, field testing, quotation requests, change orders, cost accounting, bidding procedures and project closeouts (maximum 12 months' credit).
7. Editing or writing: The editing or writing for publication of articles, books, newsletters or other written materials on landscape architectural subjects (maximum 6 months' credit).
8. Subprofessional experience: As defined in rule R4-30-101 (maximum 6 months' credit).

**C.** A candidate shall take and pass the landscape architect-in-training examination administered by the Board and provided by the Council of Landscape Architectural Registration Boards. A candidate must receive a minimum score of 75% as established by the Board on each examination subject to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-253. Reserved**

**R4-30-254. Landscape Architect Registration Requirements**
A candidate shall take and pass the professional landscape architect examination administered by the Board and provided by the Council of Landscape Architectural Registration Boards. A candidate shall receive a minimum score of 75% as established by the Board on each examination subject to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-255. Reserved**

**R4-30-256. Reserved**

**R4-30-257. Reserved**

**R4-30-258. Reserved**

**R4-30-259. Reserved**

**R4-30-260. Reserved**

**R4-30-261. Reserved**

**R4-30-262. Assayer-in-training registration requirements**

**A.** To qualify for admission to the in-training examination solely on the basis of education, a candidate must be a graduate of a four-year degree program with a major in chemistry, metallurgy or other science directly related to the analysis of metals and ores at a college or university accredited at the time of graduation by a regional accrediting agency recognized by the Arizona Board of Regents.

**B.** To qualify for admission to the in-training examination, a candidate who is not a graduate of a four-year degree program with a major in chemistry, metallurgy or other science directly related to the analysis of metals and ores at an accredited college or university specified in subsection (A) of this rule, shall have at least four years of education or experience or both directly related to the practice of assaying. Experience directly related to the practice of assaying of a character satisfactory to the Board shall include but not be limited to the following:
1. Experience in the analysis of ferrous and nonferrous metals, minerals, fabrics and rock or powdered ores.
2. Experience in all phases of fire analysis for the isolation or quantification of precious metals or minerals or any other substance in them, the experience to include: identification of sample metals, ores, minerals or alloys; preweighing of sample preparations; use of assaying weights; grit sizing; dehydration; sampling; crushing; mixing; rolling; coning; truncating; quartering; firing; choice and use of fluxes; button processing; cupellation; weighing; parting; and calculation.
3. Experience in wet analysis or titration procedures.
4. Experience in analysis by atomic absorption.
5. Experience in the use of mineral standards.
6. Consultation with clients or colleagues in service or work requiring the use of the knowledge of mineral sciences and assaying and the application of this knowledge in assignments involving the evaluation and analysis of metals, minerals and ores.
7. Editing or writing for publication of articles, books, newsletters or other written materials on assaying-related subjects (maximum 6 months' credit).
8. Subprofessional experience as defined in rule R4-30-101 (maximum 6 months' credit).

**C.** A candidate shall take and pass the assayer-in-training examination administered and provided by the Board. A candidate shall receive a minimum score of 70% as established by the Board on the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-263. Reserved**

**R4-30-264. Assayer registration requirements**
A candidate shall take and pass the professional assayer examination administered and provided by the Board. A candidate shall receive a minimum score of 70% as established by the Board on the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-265. Reserved**

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**R4-30-281. Reserved**

**R4-30-282. Land surveyor-in-training registration requirements**

**A.** To qualify for admission to the in-training examination solely on the basis of education, a candidate shall be a graduate of a

four-year land surveying degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology (ABET) or an equivalent predecessor organization.

**B.** To qualify for admission to the in-training examination, a candidate who is not a graduate of a four-year ABET-accredited land surveying degree program shall have at least four years of education or experience or both directly related to the practice of land surveying. Experience directly related to the practice of land surveying of a character satisfactory to the Board shall include but not be limited to the following:

1. The measurement of space, water, land or structures located or to be located upon or within them, to determine boundaries, areas or other necessary calculations through the use of any mechanical, physical, electric or electronic equipment or devices commonly used by registered professional land surveyors.
2. The analysis of measurement data through the use of professional knowledge or education or practical experience in the mathematical and physical sciences and in the principles of land surveying.
3. The location or relocation, establishment or re-establishment of boundaries, easements, rights-of-way, bench marks or corners.
4. Consultation with clients to determine the necessity of land surveying services and the determination of the correct type of services necessary to fulfill the client's needs and objectives.
5. The search of any source of public or private records for the purpose of performing a survey or to determine and, if necessary, to reconcile differences between the surveyor's collected data and such records.
6. The platting or subdividing of land or the planning and design of parcels of land for development purposes.
7. The preparation and maintenance of survey records.
8. Other land surveying activities, analyses or investigations defined in the Act.
9. The participation in office and field administration, quotation requests, bidding procedures, cost accounting and project closeouts (maximum 12 months' credit).
10. The editing or writing for publication of articles, books, newsletters or other written materials on land surveying subjects (maximum 6 months' credit).
11. Construction staking (maximum 12 months' credit).
12. Subprofessional experience as defined in R4-30-101 (maximum 6 months' credit).

**C.** The candidate shall take and pass the land surveyor-in-training examination administered by the Board and provided by the National Council of Engineering Examiners. A candidate shall receive a minimum score of 70% as established by the Board to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-283. Reserved**

**R4-30-284. Land Surveyor Registration Requirements**
The candidate shall take and pass the professional land surveyor examination. Part One of the professional examination is administered by the Board and provided by the National Council of Examiners for Engineering and Surveying. Part Two of the professional examination is administered and provided by the Board. A candidate shall receive a minimum score of 70% as established by the Board on each part of the examination to complete successfully this requirement.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

## ARTICLE 3. REGULATORY PROVISIONS

**R4-30-301. Rules of Professional Conduct**

**A.** All registrants shall comply with the following standards of professional conduct:

1. A registrant shall not submit any materially false statements or fail to disclose any material facts requested in connection with an application for registration.
2. A registrant shall not engage in fraud, deceit, misrepresentation or concealment of material facts in advertising, soliciting or providing professional services to members of the public.
3. A registrant shall not sign, stamp or seal any plans, drawings, prints, land surveys, reports, specifications or other documents not prepared by the registrant or a bona fide employee.
4. A registrant shall not knowingly commit bribery of a public servant as proscribed in A.R.S. § 13-2602, knowingly commit commercial bribery as proscribed in A.R.S. § 13-2605, or violate any federal statute concerning bribery.
5. A registrant shall comply with state, municipal, and county laws, codes, ordinances, and regulations pertaining to the registrant's professional practice.
6. A registrant shall not violate any state or federal criminal statute involving dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, bribery, or breach of fiduciary duty, where the violation is reasonably related to the registrant's area of practice.
7. A registrant shall apply the technical knowledge and skill which would be applied by other qualified registrants who practice the same profession in the same area and at the same time.
8. A registrant shall not accept an assignment where the duty to a client or the public would conflict with the registrant's personal interest or the interest of another client without full disclosure of all material facts of the conflict to each person who might be related to or affected by the project or engagement in question.
9. A registrant shall not accept compensation for services related to the same project or professional engagement from more than one party without making full disclosure to all such parties and obtaining the express written consent of all parties involved.
10. Except as provided in subsections (A)(11) and (12) of this Section, a registrant shall not accept any professional engagement or assignment outside the registrant's professional registration category unless:
    a. The registrant is qualified by education, technical knowledge, or experience to perform such work; and
    b. Such work is exempt under A.R.S. § 32-143.
11. A registered professional engineer may accept professional engagements or assignments in branches of engineering other than that branch in which the registrant has demonstrated proficiency by registration but only if the registrant has the education, technical knowledge or experience to perform such engagements or assignments.
12. Except as otherwise provided by law, code, ordinance or regulation, a registrant may act as the prime professional for a given project and select collaborating professionals; however, the registrant shall perform only those professional services for which the registrant is qualified by registration to perform and shall seal and sign only the

work prepared by the registrant or by the registrant's bona fide employee.

13. A registrant shall make full disclosure to all parties concerning:
    a. Any transaction involving payments to any person for the purpose of securing a contract, assignment or engagement, except for actual and substantial technical assistance in preparing the proposal; or
    b. Any monetary, financial or beneficial interest the registrant may hold in a contracting firm or other entity providing goods or services, other than the registrant's professional services, to a project or engagement.
14. A registrant shall not solicit, receive or accept compensation from material, equipment or other product or services suppliers for specifying or endorsing their products, goods or services to any client or other person without full written disclosure to all parties.
15. If a registrant's professional judgment is overruled or not adhered to under circumstances where a serious threat to the public health, safety, or welfare may result, the registrant shall immediately notify the responsible party, appropriate building official, or agency, and the Board of the specific nature of the public threat.
16. If called upon or employed as an arbitrator to interpret contracts, to judge contract performance, or to perform any other arbitration duties, the registrant shall render decisions impartially and without bias to any party.
17. To the extent applicable to the professional engagement, a registrant shall conduct a land survey engagement in accordance with the "Minimum Standards for Arizona Land Boundary Surveys" as adopted by the Board August 19, 1994, the provisions of which are incorporated herein by reference and on file with the Office of the Secretary of State.

**B.** A violation of any provision of this Section constitutes evidence of gross negligence, misconduct, or professional incompetence.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-302. Electrical engineering**

**A.** A registrant shall prepare and submit drawings and specifications for a new electrical system or an addition or modification to an existing electrical system provided the service and associated electrical feeders exceeds 600 amperes 120/240 volts, single phase or 225 amperes 120/208 volts, three phase and the fault current exceeds 10,000 amperes.

**B.** In all cases a registrant shall design:
1. Electrical installations in hospitals or other buildings with surgical operating rooms regulated by Article 517 of the National Electrical code (1990 edition) incorporated herein by reference and on file with the Office of the Secretary of State.
2. Electrical installations in locations classified as hazardous in Article 500 of the National Electrical Code (1990 edition) incorporated herein by reference and on file with the Office of the Secretary of State.
3. Electrical installations in locations classified as hazardous in Article 500 of the National Electrical Code (1990 edition) with the exception of gasoline dispensing or repair garages.
4. A registrant shall design an alarm or signaling system that is required for life safety or code compliance.

**Historical Note**
Adopted effective December 18, 1991 (Supp. 91-4).

**R4-30-303. Securing Seals**

**A.** Each registrant shall secure and use an ink seal 1 1/2 inches in diameter and identical in style, size, and appearance to the sample shown in Appendix F. The upper portion of the annular space between the second and third circles shall bear whichever of the following phrases is applicable to the registrant:
1. The upper portion of the annular space between the second and third circles shall bear whichever of the following phrases is applicable to the registrant:
   "Registered Architect"; "Registered Professional Engineer" together with the branch of engineering in which registered; "Registered Geologist"; "Registered Landscape Architect"; "Registered Land Surveyor"; or "Registered Assayer".
2. The inscription "Arizona, U.S.A." shall appear at the bottom of the annular space between the second and third circles; the inner circle shall contain the name of the registrant, registration number, and the words "date signed".

**B.** The registrant may order the seal through any vendor and shall pay the cost of its manufacture. Immediately upon receipt of the seal and prior to using the seal for any purpose, the registrant shall file with the Board, for its records, on a form provided by the Board, an imprint of the seal with an original signature superimposed over it and an affidavit regarding the use of the seal. The Board, within ten working days of receipt of the form from the registrant, shall disapprove any seal not meeting the exact specifications of subsection (A) of this rule and shall require the registrant to obtain and pay for another seal meeting those specifications prior to sealing any work. Engineers registered in more than one branch shall secure and use a seal for each branch of engineering in which registration has been granted. No additional or replacement seal shall be ordered or obtained by a registrant without first providing the Board, for its records, a sworn statement attesting to the need and purpose. No additional replacement seal shall be obtained without following the procedures set forth in this subsection for securing seals.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-304. Use of Seals**

**A.** A permanently legible imprint of the registrant's seal and signature shall appear on the following:
1. On each sheet of drawings or maps, when several master sheets are reproduced into a single set of finished drawings or maps, on each of the master sheets;
2. On either the cover, title, index page, or first sheet of each set of project specifications;
3. On the cover, index page, or first sheet of addenda or change orders to specifications;
4. On the cover, index page, or first sheet of bound details when prepared to supplement project drawings or maps;
5. On the cover, index, table of contents page, or first sheet of reports, specifications, and other professional documents prepared by a registrant or the registrant's bona fide employee; and
6. On shop drawings requiring professional services or work as described in the Act. Examples of shop drawings not requiring seals are those showing only:
   a. Sizing and dimensioning information for fabrication purposes; or
   b. Construction techniques or sequences; or

c. Components with previous approvals or designed by the registrant of record; or
d. Modifications to existing installations not affecting the original design parameters and which do not require additional computations.

**B.** A label describing the name of the project and an original imprint of the registrant's seal and signature shall be applied to all video cassettes containing copies of professional documents.

**C.** When this rule requires that a document be sealed, such a seal must be place on the document before it is submitted to:
1. The client, unless the document is marked "preliminary" and/or "not for construction" and/or "not for recording"; or
2. Any regulatory or review body unless the document is marked "preliminary" and/or "not for construction" and/or "not for recording".

**D.** For purposes of subsection (A) all original documents shall:
1. Include an original seal imprint or a computer-generated seal which matches the seal on file at the Board office;
2. Include an original signature that does not in anyway obscure the registrant's printed name or registration number; and
3. Include, in handwriting, the date the document was sealed.

**E.** Methods of transferring a seal other than an original seal imprint or a computer-generated seal are not acceptable.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2).

**R4-30-305. Reserved**

**R4-30-306. Securing and Using Identifying Markers**

**A.** Registered land surveyors shall obtain at their expense identifying markers such as tags, caps or embossed nails which shall show the registrant's Arizona Registration Number as issued by the Board, and each registration number shall be prefixed by the letters L.S.

**B.** Registered land surveyors shall securely attach an identifying marker to every permanent survey point set when making land boundary surveys.

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

**R4-30-307. Repealed**

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

**APPENDIX A. Professional Application - Long Form**

## State of Arizona
## BOARD OF TECHNICAL REGISTRATION

FOR ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, LANDSCAPE ARCHITECTS AND LAND SURVEYORS
1951 W. CAMELBACK ROAD, SUITE 250 • PHOENIX, ARIZONA 85015 • (602) 255-4053

APPLICATION FEE $90.00

# Application for Registration to Practice

### 1. GENERAL INFORMATION

Date Filed _____, 19____

Name in Full _____

Residence Address_____

City _____State_____

Zip Code_____Telephone (___)_____

Business Address_____

City _____State_____

Zip Code_____Telephone (___)_____

Present Position _____

Date of Birth _____Citizenship _____

Social Security Number (Voluntary
(To Facilitate Accuracy of Records _____

Legal Resident of what state or country_____

Insert unmounted recognizable photograph in this space with face not less than 3/4" wide. Affix signature at bottom of photograph.

**Fill Out This Form on Typewriter Only**

(Separate applications are required if registration is desired in more than one profession or more than one branch of engineering.)

In what profession are you applying for registration: Architecture, Assaying, Engineering, Geology, Landscape Architecture or Land Surveying?_____

If Engineering, proficiency in (Branch)? _____

### 2. REGISTRATION

If any answer to any of the following questions is "yes" attach a detailed explanatory statement

1. Have you ever been refused registration in any state or other jurisdiction? Yes _____ No _____
2. Has your registration ever been suspended or revoked in any state or other jurisdiction? Yes _____ No _____
3. Have you ever been the subject of professional disciplinary action, or do you now have such action pending against you in any state or other jurisdiction? Yes _____ No _____
4. Have you ever been known by a name other than the one shown on this application?
   Yes _____ No _____ If yes, please state that name: _____
5. Have you ever been convicted of a misdemeanor other than a minor traffic violation?
   Yes _____ No _____
6. Have you ever been convicted of a felony or a crime of moral turpitude?
   Yes _____ No _____
7. If you answered yes to question 6, have your civil rights been restored?
   Yes _____ No _____ Non-applicable _____

***NOTE: THE ORIGINAL AND A COPY MUST BE SUBMITTED.***

### 3. PREVIOUS REGISTRATIONS

List all prior registrations

IN-TRAINING REGISTRATION:
Profession _____Cert. No. _____State _____Yr. _____Hrs. of written exam. _____
PROFESSIONAL REGISTRATION:

| Profession | State | Year Reg. | Reg. No. | How registered-exam, education and experience, reciprocity, etc. | Hr. of written exam | Active/ Lapsed |
|---|---|---|---|---|---|---|

Have you ever applied for or had registration refused in any state or other jurisdiction?Yes _____ No _____
If so, what state _____and year _____ Explain (attach additional details if necessary):

### 4. PENDING APPLICATIONS

Do you have an application for registration pending in any state or other jurisdiction:Yes _____ No _____
What state/jurisdiction: _____
If yes, profession? _____ In-training? _____ Professional? _____
Hours of written examination taken? _____Results? _____
Current status of application? _____

### 5. NATIONAL CERTIFICATES OF QUALIFICATION

Do you hold a certificate of qualification in your field of application issued by a national bureau of registration or certification?
Yes _____ No _____
If yes, provide the following information:

| Name & Address of Issuing Organization | Type of Certificate | Date of Issue | Status (Active/Lapsed) |
|---|---|---|---|
| | | | |

### 6. EDUCATION

ALL EDUCATION MUST BE VERIFIED BY CERTIFIED TRANSCRIPTS FORWARDED DIRECTLY FROM THE OFFICE OF THE REGISTRAR OF THE COLLEGE OR UNIVERSITY ATTENDED. State in chronological order the name and location of each college, university, or technical school attended, the time spent at each and if a graduate, the year of graduation. (If not an Engineering or Architectural graduate, outline nature and extent of studies.)

| **Name and Location of Institution** | **Years From - To** | **Date Graduated** | **Technical Course** | **Degree Received** |
|---|---|---|---|---|
| Architectural, Assaying, Engineering, Geological, Landscape Architectural or Land Surveying Education. | | | | |
| College or University Work other than Architectural, Assaying, Engineering, Geological, Landscape Architectural or Land Surveying education. | | | | |

## 7. QUALIFYING EXPERIENCE

All experience must be verified by the candidate's current and former employers on Certificates of Experience provided them by the Board. ONLY EXPERIENCE GAINED UNDER THE DIRECT SUPERVISION OF A REGISTRANT MAY BE USED TO QUALIFY FOR EXAMINATION OR REGISTRATION.

LIST EXPERIENCE BELOW STARTING WITH YOUR CURRENT EMPLOYER FIRST.

| | | |
|---|---|---|
| ENGAGEMENT # | | |
| NAME AND CURRENT ADDRESS OF EMPLOYER | | |
| DATES OF EMPLOYMENT | | YOUR JOB TITLE |
| FROM | TO | YOUR SUPERVISOR'S NAME |
| AVERAGE # HOURS WORKED PER WEEK | | YOUR SUPERVISOR'S TITLE |
| ENGAGEMENT # | | |
| NAME AND CURRENT ADDRESS OF EMPLOYER | | |
| DATES OF EMPLOYMENT | | YOUR JOB TITLE |
| FROM | TO | YOUR SUPERVISOR'S NAME |
| AVERAGE # HOURS WORKED PER WEEK | | YOUR SUPERVISOR'S TITLE |
| ENGAGEMENT # | | |
| NAME AND CURRENT ADDRESS OF EMPLOYER | | |
| DATES OF EMPLOYMENT | | YOUR JOB TITLE |
| FROM | TO | YOUR SUPERVISOR'S NAME |
| AVERAGE # HOURS WORKED PER WEEK | | YOUR SUPERVISOR'S TITLE |
| ENGAGEMENT # | | |
| NAME AND CURRENT ADDRESS OF EMPLOYER | | |
| DATES OF EMPLOYMENT | | YOUR JOB TITLE |
| FROM | TO | YOUR SUPERVISOR'S NAME |
| AVERAGE # HOURS WORKED PER WEEK | | YOUR SUPERVISOR'S TITLE |
| ENGAGEMENT # | | |
| NAME AND CURRENT ADDRESS OF EMPLOYER | | |
| DATES OF EMPLOYMENT | | YOUR JOB TITLE |
| FROM | TO | YOUR SUPERVISOR'S NAME |
| AVERAGE # HOURS WORKED PER WEEK | | YOUR SUPERVISOR'S TITLE |

| | | |
|---|---|---|
| ENGAGEMENT # | | |
| NAME AND CURRENT ADDRESS OF EMPLOYER | | |
| DATES OF EMPLOYMENT | | YOUR JOB TITLE |
| FROM | TO | YOUR SUPERVISOR'S NAME |
| AVERAGE # HOURS WORKED PER WEEK | | YOUR SUPERVISOR'S TITLE |

## 8. REFERENCES

If you are unable to provide the names and addresses of supervisors for at least three engagements, provide an explanation in the space below and list the names and addresses of three additional references, unrelated to you, at least two of whom shall be registered in the profession in which registration is sought. Do not provide personal references if you can provide the names and addresses of supervisors for at least three engagements.

| NAME | ADDRESS ZIP CODE | POSITION |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

EXPLANATION (IF UNABLE TO PROVIDE THREE SUPERVISORY REFERENCES):

## 9. AFFIDAVIT

I CERTIFY THE INFORMATION CONTAINED IN THIS APPLICATION TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

STATE OF _____
County of _____

_____ being first duly sworn, deposes and says: I am the Applicant named in this application, have read and understand the contents thereof, and to the best of my knowledge and belief, the foregoing statements are true and correct in every respect.

I hereby authorize any individual, company or institution with whom I have been associated to furnish the Arizona State Board of Technical Registration with any information concerning my qualifications for professional registration in Arizona which they have on record or otherwise, and do hereby release the individual, company or institution and all individuals therewith from all liability for any damage whatsoever incurred by me as a result of their furnishing such information.

_____
(Signature of Applicant)

Subscribed and sworn to before me this ____ day of _____, 19_____.

_____
(Signature of Notary Public)

NOTARY SEAL

My Commission expires _____

NO PROCESSING OF THIS APPLICATION SHALL BEGIN UNTIL ALL VERIFYING INFORMATION IS RECEIVED BY THE BOARD.

**NOTICE**

MAKING A FALSE SWORN STATEMENT IS A FELONY PUNISHABLE BY FINE OR IMPRISONMENT. A.R.S. § 13-2702; 13-2703

**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4).

**APPENDIX B. Certificate of Experience Record and Reference Form**

## State of Arizona
## BOARD OF TECHNICAL REGISTRATION

FOR ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, LANDSCAPE ARCHITECTS AND LAND SURVEYORS
1951 W. CAMELBACK ROAD, SUITE 250 • PHOENIX, ARIZONA 85015 • (602) 255-4053

**APPLICANT NAME** _____ **APPLICATION ID #** _____**DISCIPLINE** _____

### CERTIFICATE OF EXPERIENCE RECORD AND REFERENCE FORM
Section A (to be completed by applicant)

| ENGAGEMENT # | DATES | FROM | TO | FULL-TIME | | PART-TIME | |
|---|---|---|---|---|---|---|---|

Name of Organization: _____
Telephone number/extension

Address:

_____
Name of supervisor/Reference

_____ _____
Your Job Title Supervisor/Reference's Job Title

If the name given above is other than an immediate supervisor, your must indicate below the professional relationship of the person you have chosen for this engagement.

_____ Co-worker _____ Client _____ Other _____

**DETAILED SUMMARY OF QUALIFYING EXPERIENCE**

Note - The detailed summary should include a description of the projects on which you worked when you were in responsible charge and a breakdown of the time spent on the subprofessional and professional duties. Use a second page if necessary to adequately detail your experience.

| DATES OF EMPLOYMENT GIVE MONTH AND YEAR Describe work by project type and accurate outline of what you did. | | TIME IN MONTHS | | | | |
|---|---|---|---|---|---|---|
| | | Total Time | A Subprofessional Work | B Professional Work | C Responsible Charge | D Design |
| FROM | TO | TOTAL | A | B | C | D |

Approximate number of hours worked weekly: _____

**(Professional Engineer or Engineer-in-training candidates only)** Please indicate experience in which engineering proficiency (branch). _____

WORK DESCRIPTION

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENT AND SUPPORTING ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

_____ _____
APPLICANT'S SIGNATURE DATE

**APPLICANT NAME** _____ **APPLICATION ID #** _____ **DISCIPLINE** _____

## Section B (to be Completed by Supervisor/Reference)

**TO THE SUPERVISOR:** The Board will rely on your answers to the following questions in determining whether or not this candidate should be issued a certificate to practice as a professional in Arizona. Please recognize the importance of this information and give due care to your responses. Use additional pages, if required.

**TO THE REFERENCE:** Please evaluate the qualifications of this applicant in the light of professional requirements. Please understand that, while an examination may determine an applicant's technical ability to do the standard task, it does not determine honesty, integrity, dependability, resourcefulness, judgment, ability to take responsible charge and other qualities and traits of character necessary in a competent and ethical professional. These characteristics show up in practice and are known only to the applicant's acquaintances and associates. Thank you for your help.

YOUR NAME ADDRESS

TELEPHONE NUMBER ( ) _____

Your job title at the time you supervised/knew the applicant: _____

Your current job title: _____

Have your personally supervised and examined the applicant's work? Yes _____ No _____

Does the information presented by the applicant accurately reflect his/her experience?

Yes _____ No _____ Don't know _____ If "No" or "Don't Know", please explain on a separate sheet.

Give the last date you observed the applicant performing professional duties either directly or indirectly.

Date: _____ Directly _____ Indirectly _____

How long have you known this applicant? _____

Is the applicant related to you by blood or marriage? Yes _____ No _____

**From your personal knowledge, your appraisal of the applicant would be:**

| RATING FACTORS | Excellent | Very Good | Adequate | Below Par | Poor | Don't Know |
|---|---|---|---|---|---|---|
| Quality of Work | | | | | | |
| Technical Knowledge | | | | | | |
| Professional Attitude | | | | | | |
| Professional Judgment | | | | | | |
| Character & Reputation | | | | | | |

Remarks:

Do you believe the applicant is qualified for registration? Yes _____ No _____ Don't Know _____

If you marked "No" or "Don't Know" please explain on a separate sheet.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS AND SUPPORTING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

_____ _____

SUPERVISOR/REFERENCE SIGNATURE DATE

Professional Registration _____ Registration # _____ State _____

Date of Registration _____ Is your registration current? Yes _____ No _____

Place imprint of seal to right---

**NOTE: THIS FORM WILL NOT BE CONSIDERED UNLESS SEALED IF THE SUPERVISOR/REFERENCE IS A REGISTERED PROFESSIONAL.**

**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4).

**APPENDIX C. Professional Application - Short Form**

**State of Arizona**
# BOARD OF TECHNICAL REGISTRATION

FOR ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, LANDSCAPE ARCHITECTS AND LAND SURVEYORS
1951 W. CAMELBACK ROAD, SUITE 250 • PHOENIX, ARIZONA 85015 • (602) 255-4053

APPLICATION FEE $90.00

## Application for Registration to Practice

### 1. GENERAL INFORMATION

Date Filed _____, 19____

Name in Full _____

Residence Address_____

City _____State_____

Zip Code_____Telephone (___)_____

Business Address_____

City _____State_____

Zip Code_____Telephone (___)_____

Present Position _____

Date of Birth _____Citizenship _____

Social Security Number (Voluntary _____
(To Facilitate Accuracy of Records

Legal Resident of what state or country_____

Insert unmounted recognizable photograph in this space with face not less than 3/4" wide. Affix signature at bottom of photograph.

**Fill Out This Form on Typewriter Only**

(Separate applications are required if registration is desired in more than one profession or more than one branch of engineering.)

In what profession are you applying for registration: Architecture, Assaying, Engineering, Geology, Landscape Architecture or Land Surveying?_____

If Engineering, proficiency in (Branch)? _____

### 2. REGISTRATION

If any answer to any of the following questions is "yes" attach a detailed explanatory statement.

1. Have you ever been refused registration in any state or other jurisdiction? Yes _____ No _____
2. Has your registration ever been suspended or revoked in any state or other jurisdiction? Yes _____ No _____
3. Have you ever been the subject of professional disciplinary action, or do you now have such action pending against you in any state or other jurisdiction? Yes _____ No _____
4. Have you ever been known by a name other than the one shown on this application?
   Yes _____ No _____ If yes, please state that name: _____
5. Have you ever been convicted of a misdemeanor other than a minor traffic violation?
   Yes _____ No _____
6. Have you ever been convicted of a felony or a crime of moral turpitude?
   Yes _____ No _____
7. If you answered yes to question 6, have your civil rights been restored?
   Yes _____ No _____ Non-applicable _____

***NOTE: THE ORIGINAL AND A COPY MUST BE SUBMITTED.***

### 3. PREVIOUS REGISTRATIONS

List all prior registrations

IN-TRAINING REGISTRATION:
Profession _____ Cert. No. _____ State _____ Yr. _____ Hrs. of written exam. _____
PROFESSIONAL REGISTRATION:

| Profession | State | Year Reg. | Reg. No. | How registered-exam, education and experience, reciprocity, etc. | Hr. of written exam | Active/ Lapsed |
|---|---|---|---|---|---|---|

### 4. NATIONAL CERTIFICATES OF QUALIFICATION

Do you hold a certificate of qualification in your field of application issued by a national bureau of registration or certification?
Yes _____ No _____
If yes, provide the following information:

| Name & Address of Issuing Organization | Type of Certificate | Date of Issue | Status (Active/Lapsed) |
|---|---|---|---|
| | | | |

### 5. AFFIDAVIT

I CERTIFY THE INFORMATION CONTAINED IN THIS APPLICATION TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

STATE OF _____
County of _____

being first duly sworn, deposes and says: I am the Applicant named in this application, have read and understand the contents thereof, and to the best of my knowledge and belief, the foregoing statements are true and correct in every respect.

I hereby authorize any individual, company or institution with whom I have been associated to furnish the Arizona State Board of Technical Registration with any information concerning my qualifications for professional registration in Arizona which they have on record or otherwise, and do hereby release the individual, company or institution and all individuals therewith from all liability for any damage whatsoever incurred by me as a result of their furnishing such information.

(Signature of Applicant)

Subscribed and sworn to before me this _____ day of _____, 19_____._____

NOTARY SEAL

(Signature of Notary Public)
_____

My Commission expires

NO PROCESSING OF THIS APPLICATION SHALL BEGIN UNTIL ALL VERIFYING INFORMATION IS RECEIVED BY THE BOARD.

**NOTICE**

MAKING A FALSE SWORN STATEMENT IS A FELONY PUNISHABLE BY FINE OR IMPRISONMENT. A.R.S. § 13-2702; 13-2703

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4).

**APPENDIX D. In-Training Application**

**State of Arizona**
# BOARD OF TECHNICAL REGISTRATION

FOR ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, LANDSCAPE ARCHITECTS AND LAND SURVEYORS
1951 W. CAMELBACK ROAD, SUITE 250 • PHOENIX, ARIZONA 85015 • (602) 255-4053

APPLICATION FOR THE
**IN-TRAINING PROGRAM**

Architect-in-training _____ Engineer-in-training _____ Landscape Architect-in-training_____
Assayer-in-training _____ Geologist-in-training_____ Land Surveyor-in-training _____

PLEASE USE TYPEWRITER ONLY DATE FILED _____ Application Fee $30

## 1. GENERAL INFORMATION

Name of Candidate_____
Current Mailing Address _____ Telephone No. (_____)_____
_____ Zip Code _____
Permanent Home Address_____
_____ Zip Code _____
Date of Birth _____ Citizenship _____
Are you a current resident of Arizona?_____

If any answer to the following questions is "yes", attach a detailed explanatory statement.

1. Have you ever been known by a name other than the one shown on this application?
   Yes _____ No _____ If yes, please state that name: _____
2. Have you ever been convicted of a misdemeanor other than a minor traffic violation?
   Yes _____ No _____
3. Have you ever been convicted of a felony or a crime of moral turpitude?
   Yes _____ No _____
4. If you answered yes to question 3, have your civil rights been restored?
   Yes _____ No _____ Non-applicable

## 2. EDUCATION

ALL EDUCATION MUST BE VERIFIED BY CERTIFIED TRANSCRIPTS FORWARDED DIRECTLY FROM THE OFFICE OF THE REGISTRAR OF THE COLLEGE OR UNIVERSITY ATTENDED PRIOR TO GRANTING OF IN-TRAINING CERTIFICATION. TRANSCRIPTS OF NON-DEGREED APPLICANTS, OTHER THAN SENIORS, CLAIMING ANY EDUCATIONAL CREDIT MUST BE FORWARDED AND RECEIVED PRIOR TO ADMISSION TO EXAMINATION. SENIORS SHOULD NOT HAVE TRANSCRIPTS FORWARDED UNTIL DEGREE HAS BEEN AWARDED.

| | DEGREE | DATE | UNIVERSITY | DEPT. OF SCHOOL |
|---|---|---|---|---|
| First Professional | | | | |
| Second Professional | | | | |
| Other | | | | |
| | | | | |

## 3. EDUCATION ENDORSEMENT

Must be verified by Dean or Faculty Advisor

I, _____, hereby certify that the education information regarding this applicant and noted in No. 2
(Type Name)
above is true and correct to the best of my knowledge.
Signature _____ Title (please type) _____
NOTE: GRADUATES MAY HAVE TRANSCRIPTS FORWARDED IN LIEU OF ENDORSEMENT; HOWEVER, TRANSCRIPTS MUST BE FORWARDED AND RECEIVED PRIOR TO ADMISSION TO EXAMINATION.

**(CONTINUED ON BACK)**

## 4. EXPERIENCE RELATED TO THE FIELD OF APPLICATION

ALL EXPERIENCE MUST BE VERIFIED BY THE CANDIDATE'S CURRENT OR FORMER EMPLOYERS ON CERTIFICATES OF EXPERIENCE RECORD AND REFERENCE FORMS PROVIDED THEM BY THE BOARD.

Current Work Description

Name and address of employer

Date of Employment From to

Place of employment

Job Title

Supervisor

Title

Work Description

Name and address of employer

Date of Employment From to

Place of employment

Job Title

Supervisor

Title

Work Description

Name and address of employer

Date of Employment From to

Place of employment

Job Title

Supervisor

Title

## 5. EMPLOYMENT ENDORSEMENT

I, _____ hereby certify that this applicant is currently in my employ and that the information
(print name)
noted above regarding his current employment is true and correct.

Signed _____ Title _____

Address _____

## 6. EXAMINATION

If this application is accepted, unless otherwise notified, I will take the examination at (____) Phoenix (____) Tucson (____) Flagstaff
(Check one)

## 7. AFFIDAVIT

I CERTIFY THE INFORMATION CONTAINED IN THIS APPLICATION TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

STATE OF ARIZONA
County of _____ SS.

_____ being first duly sworn, deposes and says: I am the Applicant named in this application; I have read and know the contents thereof, and the same is true and correct in substance and effect.

_____
(Signature of Candidate)

Subscribed and sworn to before me this _____ day of _____, 19_____.

My Commission expires _____ _____
(Notary Public)

**NO PROCESSING OF THIS APPLICATION SHALL BEGIN UNTIL ALL VERIFYING INFORMATION IS RECEIVED BY THE BOARD.**

**NOTICE**

MAKING A FALSE SWORN STATEMENT IS A FELONY PUNISHABLE BY FINE OR IMPRISONMENT. A.R.S. § 13-2702; 13-2703

**Historical Note**
Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4).

## APPENDIX E. NCARB 1989-1990 Circular of Information No. 1

***Editor's Note: The full text of this circular was filed with the Secretary of State. Because of the length of the material, only Appendices A and B are reprinted here.***

**APPENDIX "A" To Circular of Information No. 1**

**EDUCATION, TRAINING AND EXAMINATION REQUIREMENTS FOR NCARB CERTIFICATION RELEASED JULY 1989.**

**THIS EDITION OF APPENDIX "A" SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS. INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS REFER TO APPENDIX "B" FOR THEIR TRAINING REQUIREMENTS.**

### 1. CERTIFICATION STANDARDS

**1.1** To be granted NCARB certification, an applicant must:

**1.1.1** Be of good character as verified by employers, architects and NCARB member boards.

**1.1.2** Hold a professional degree in architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) not later than two years after termination of enrollment or have satisfied NCARB's education requirements as otherwise specified in *Circular of Information No. 3*.

**1.1.3** Have at least 3 years of training credits in accordance with Section 2 or have satisfied the IDP training requirements in accordance with Appendix "B".

**1.1.4** Have passed the NCARB Architect Registration Examination (A.R.E.), or the NCARB Professional Examination (and the Qualifying Test or the Equivalency Examination when applicable by NCARB standards) or the NCARB 7-part, 36-hour Examination; provided such examinations and the grading procedures applied were in accordance with NCARB standards current at the time the applicant sat for the examination.

**1.1.5** Hold a current registration to practice architecture issued by an NCARB member board.

**1.2** Applicants meeting all certification requirements above except 1.1.2 may nonetheless be granted certification if the applicant holds a high school diploma or equivalent and either (a) was registered by NCARB member board prior to July 1, 1984, and has accumulated at least 5 education credits, or (b) had accumulated at least 5 education credits as of June 30, 1984. See *circular of Information No. 3* for explanation of education credits.

**1.3** Other experience may be substituted for the certification requirements outlined above, only insofar as NCARB considers it to be equivalent to the required qualifications.

**1.4** In evaluating records, NCARB may, prior to certification, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical certification requirements set forth above.

### 2. TRAINING STANDARDS

**2.1** To satisfy the NCARB training standards, an applicant must have at least 3 years of training credits or have satisfied the IDP training requirements in accordance with Appendix "B". The following table sets forth the ways in which training credits can be acquired:

| DESCRIPTION OF TRAINING | PERCENT CREDIT ALLOWED | MAXIMUM CREDIT ALLOWED |
|---|---|---|
| **2.1.1** Diversified experience in architecture as an employee in the office of a registered architect. | 100% | No Limit |
| **2.1.2** Diversified experience in architecture as a principal practicing in the office of a registered architect with a verified record of substantial practice. | 100% | No Limit (but see 2.4) |
| 2.1.3 Diversified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect. | 100% | 2 Years |
| 2.1.4 Experience directly related to architecture, when under the direct supervision of a registered architect but not qualifying as diversified experience or when under the direct supervision of a professional engineer, landscape architect, planner or interior designer. | 50% | 1 Year |
| 2.1.5 Experience, other than 2.1.1, 2.1.2, 2.1.3, and 2.1.4, experience directly related to on-site building construction operations or experience involving physical analyses of existing buildings. | 50% | 6 Months |
| 2.1.6 A post professional degree in architecture or teaching or research in an NAAB accredited architectural program. | 100% | 1 Year |

**2. TRAINING STANDARDS (CONTINUED)**

**2.2** No training credits may be earned prior to satisfactory completion of:

(1) three years in an NAAB accredited professional degree program, or
(2) the third year of a four year pre-professional degree program in architecture accepted for direct entry to an NAAB accredited professional master's degree program, or
(3) one year in an NAAB accredited professional master's degree program, or
(4) 96 semester credit hours as evaluated by EESA in accordance with NCARB *Circular of Information No. 3* of which no more than 60 hours can be in the general education category or
(5) five education credits in the circumstances described in 1.2.

Note: 32 semester credit hours or 48 quarter credit hours shall equal one year in an academic program.

**2.3** No experience used to meet education requirements may be used to earn training credits.

**2.4** After satisfying 1.1.2, every applicant must earn at least (i) one year of credit under 2.1.1 or (ii) three years of credit under 2.1.2 provided the applicant has practiced for those three years in association with another architect practicing as a principal or (iii) five years of credit under 2.1.2.

**2.5** To earn credits under 2.1.1, 2.1.2, 2.1.2, 2.1.4, and 2.1.5, an applicant must work at least 35 hours per week for a minimum period or ten consecutive weeks under 2.1.1 or six consecutive months under 2.1.2, 2.1.3, 2.1.4, or 2.1.5. An applicant may earn one-half of the credits specified under 2.1.1 for work of at least 20 hours per week in periods of six or more consecutive months. No credits will be given for part-time work in any category other than 2.1.1.

**2.6** To earn credit under 2.1.6, an applicant's credit hours must be in subjects evaluated by NCARB as directly related to architecture. 20 semester credit hours or 30 quarter credit hours of teaching or equivalent time in research will equal 1 year.

**2.7** An organization will be considered to be "an office of a registered architect" if: (a) the architectural practice of the organization in which the applicant works is in the charge of a person practicing as a principal; and the applicant works under the direct supervision of a registered architect, and (b) the organization is not engaged in construction, and (c) the organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal.

**2.8** An organization (or an affiliate) is engaged in construction if it customarily engages in either of the following activities:

(a) undertakes to provide labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation, or
(b) agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.

**2.9** A person practices as a "principal" by being (a) a registered architect and (b) the person in charge of the organization's architectural practice, either alone or with other registered architects.

**2.10** A "registered architect" is a person registered to practice architecture in the jurisdiction in which (s)he practices.

**2.11** The maximum credit for training as an employee of a person practicing architecture who is not an architect registered in a U.S. jurisdiction shall be one year. No credit will be granted for foreign training other than as an employee of a person practicing architecture. Provided, however, that a person with five years of foreign training under category 2.1.2 shall be deemed to have satisfied the training requirements.

**2.12** In deciding if training represents "diversified experience in architecture," NCARB will compare the training with the training requirements set forth in the Intern-architect Development Program (IDP). See appendix "B" and *IDP Guidelines*.

Applicants employed in settings described in 2.1.1, 2.1.2, and 2.1.3, whose experience is not diversified, may obtain credit only under 2.1.4.

**3. EXAMINATION DEFICIENCIES**

**3.1** Examination deficiencies shall be subject to the following conditions:

**3.1.1** Prior to July, 1973, the NCARB written examination was a 7-part examination of 36 hours duration, but some NCARB member boards administered examinations of a shorter duration. Compensation for each one hour deficiency in duration in the 7-part examination may be achieved by one year of excess training credits. Excess training credits may be earned only after initial registration by accumulating training credits in excess of those required for NCARB Certification. Applicants who have earned under 2.1.2 ten or more years of excess training credits (in the manner described in the preceding sentence) and have received their initial registration by written examination, regardless of hour duration, are eligible for Certification.

**3.1.2** NCARB may waive deficiencies in the applicant's examination procedure arising from the examination transitions which occurred between July 1973 and January 1, 1978, and with the implementation of the A.R.E. in 1983 if, in its judgment, such deficiencies are minor in nature or, if substantial, have been adequately compensated for by some equivalent proof of the applicant's competency.

**3.1.3** The transition rules relating to the implementation of the NCARB A.R.E. will be described in Circular of Information No. 2.

**3.1.4** An applicant whose registration was based in whole or in part on having passed sections of the California Architectural Licensing Examination and who has successfully completed an oral examination administered by NCARB with respect to the subject matter of those sections, shall be deemed to have received a passing grade in the corresponding divisions of the A.R.E.

**APPENDIX "B" To Circular of Information No. 1**

**TRAINING REQUIREMENTS FOR INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS FOR NCARB CERTIFICATION**

**THIS EDITION OF APPENDIX "B" SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS.**

## IDP APPLICANT DEFINED

An IDP Applicant for NCARB Certification is a person who has completed the training requirements listed below in satisfaction of 1.1.3 of Appendix "A".

## TRAINING REQUIREMENTS

An IDP applicant must acquire a total of 700 value units (VU's) to satisfy the training requirements. One VU equals 8 hours of acceptable activity. See Appendix "A" for acceptable experience descriptions. The following chart lists the IDP training categories and areas and the value unit requirements for each.

### CATEGORY A. Design and Construction Documents

| | | Minimum VU's Required |
|---|---|---|
| 1. | Programming | 10 |
| 2. | Site and Environmental Analysis | 10 |
| 3. | Schematic Design | 15 |
| 4. | Building Cost Analysis | 10 |
| 5. | Code Research | 15 |
| 6. | Design Development | 40 |
| 7. | Construction Documents | 155 |
| 8. | Specifications & Materials Research | 15 |
| 9. | Documents Checking and Coordination | 15 |
| **Minimum Total VU's Required** | | **360*** |

### CATEGORY B. Construction Administration

| | | |
|---|---|---|
| 10. | Bidding Procedures | 10 |
| 11. | Construction Phase -- Office | 15 |
| 12. | Construction Phase -- Observation | 15 |
| **Minimum Total VU's Required** | | **70*** |

### CATEGORY C. Office Management

| | | |
|---|---|---|
| 13. | Office Procedures | 15 |
| 14. | Professional Activities | 10 |
| **Minimum Total VU's Required** | | **35*** |

*The differences between the minimum total VU's required in each of categories A, B and C and the sum of the minimums required for each training area within the category must be acquired by earning VU's from training areas within the same category.

### CATEGORY D. RELATED ACTIVITIES

**No Minimum Required 0**

The above listing of required minimums in categories A, B and C totals 465 VU's, allowing for 235 additional VU's to be acquired in any of the listed categories. All of the 235 additional VU's may be acquired in one category or distributed among the categories.

## EXPLANATION OF REQUIREMENTS

**1.** VU's in Categories A, B and C may be acquired only if the applicant meets the time requirements of 2.5 of Appendix "A". VU's may be acquired in category D only if the activity is substantial and continuous.

Full VU credit is earned for acceptable full-time employment in the settings described in 2.1.4 and 2.1.5 of Appendix "A", and for acceptable part-time employment in the setting described in 2.1.1 of Appendix "A".

**2.** No VU's may be acquired prior to meeting the requirements of Appendix "A".

**3.** A post professional degree in architecture qualifies for 235 VU's under category D.

**4.** An IDP applicant may earn VU's by completing NCARB-approved supplementary education programs: credit to be in accordance with a table of credits established by NCARB. Supplementary education cannot be used to satisfy the minimum VU requirements in training areas 1-14. No VU's maybe earned for supplementary education prior to meeting the requirements of 1.1.2 of Appendix "A" or while enrolled in a post professional degree program in architecture.

**5.** The VU's which may be earned under paragraphs 3 and 4 may not exceed in the aggregate 235 VU's.

**6.** To satisfy categories A and B of the training requirements, VU's (including VU's earned from supplementary education) in those categories must be acquired when employed in the settings described in 2.1.1 or 2.1.3 of Appendix "A".

**7.** A minimum of 235 VU's must be acquired in the setting described in 2.1.1 of Appendix "A" after having satisfied 1.1.2.

**8.** In evaluating training, NCARB may, prior to certification, require substantiation of the quality and character of the training notwithstanding the fact that the IDP applicant has complied with the technical training requirements set forth above.

**9.** For detailed descriptions of the IDP training categories and supplementary education requirements, see *IDP Guidelines.*

**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4).

**APPENDIX F. Securing Seal - Sample**

SAMPLE

State of Insert Proper
County of State/County } ss.

AFFIDAVIT

John A. Doe, being first duly sworn upon his oath, deposes and says:

That he is the holder of certificate of registration No. 00000. Issued by the Arizona Board of Technical Registration. That he is familiar with and understands the laws of the State of Arizona and rules and regulations of the Arizona State Board of Technical Registration with reference to the use of his seal. That the accompanying imprint of seal and superimposed signatures is the only one that he is authorized to hold and will use under the above numbered certificate of registration.

REGISTERED ARCHITECT CERTIFICATE NO. 00000 JOHN A. DOE Date Signed 9-30-01 ARIZONA U.S.A.

Signature

Subscribed and sworn to before me this 3rd day of September, 19 01

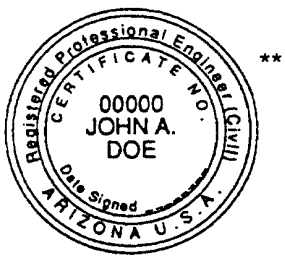
My commission expires August 1, 1902

NOTARY PUBLIC

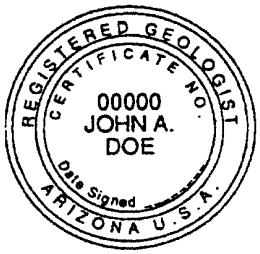
DO NOT FOLD, STAPLE OR MUTILATE

# SAMPLES:

Sign your name across lower portion of the seal. Do **not** cover your name or registration number with your signature.




**




** ENGINEERS MUST LIST DISCIPLINE – Civil, Aeronautical, Chemical, Electrical, Geological, Geophysical, Industrial, Mechanical, Metallurgical, Mining, Nuclear, Petroleum, Sanitary, or Structural.

**Historical Note**
Adopted effective December 18, 1991 (Supp. 91-4).

Recodified

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 31. RECODIFIED

*Title 4, Chapter 31, the rules of the Department of Weights and Measures, has been recodified to Title 20, Chapter 2 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

Repealed

**TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS**

**CHAPTER 32. REPEALED**

(Authority: A.R.S. § 20-1701 et seq.)

**ARTICLE 1. REPEALED**

**ARTICLE 2. REPEALED**

**ARTICLE 3. REPEALED**

**ARTICLE 4. REPEALED**

**ARTICLE 5. REPEALED**

**ARTICLE 6. REPEALED**

**ARTICLE 7. REPEALED**

**ARTICLE 8. REPEALED**

**ARTICLE 9. REPEALED**

**ARTICLE 10. REPEALED**

**ARTICLE 1. REPEALED**

**R4-32-101. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-101 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-102. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-102 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-103. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-103 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-104. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-104 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-105. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-105 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-106. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-106 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-107. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-107 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-108. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-108 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-109. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-109 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 2. REPEALED**

**R4-32-201. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-201 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-202. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-202 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-203. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-203 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-204. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-204 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-205. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-205 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-206. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-206 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 3. REPEALED**

**R4-32-301. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-301 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-302. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-302 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 4. REPEALED**

**R4-32-401. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-401 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-402. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-402 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-403. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-403 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-404. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-404 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-405. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-405 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 5. REPEALED**

**R4-32-501. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-501 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 6. REPEALED**

**R4-32-601. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-601 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-602. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-602 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 7. REPEALED**

**R4-32-701. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-701 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**R4-32-702. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-702 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

**ARTICLE 8. REPEALED**

**R4-32-801. Repealed**

**Historical Note**
Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-801 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

Repealed

## ARTICLE 9. REPEALED

**R4-32-901. Repealed**

**Historical Note**

Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Amended as an emergency effective June 1, 1976 (Supp. 76-3). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-901 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

## ARTICLE 10. REPEALED

**R4-32-1001. Repealed**

**Historical Note**

Adopted as an emergency effective March 19, 1976 (Supp. 76-2). Adopted effective July 26, 1977 (Supp. 77-4). R4-32-1001 repealed by summary action with an interim effective date of June 5, 1998; filed in the Office of the Secretary of State May 15, 1998 (Supp. 98-2).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 33. BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

(Authority: A.R.S. § 36-446.03(A))

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### ARTICLE 2. NURSING CARE INSTITUTION ADMINISTRATOR LICENSING

*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered from R4-33-115 through R4-33-130 effective November 25, 1992 (Supp. 92-4).*

*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-115 through R4-33-130 effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-115 through R4-33-130 effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-126 through R4-33-130 effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-126 through R4-33-130 effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

*Article 2, consisting of Sections R4-33-201 through R4-33-215, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

Section

R4-33-201. Initial Application
R4-33-202. Licensure by Examination
R4-33-203. Licensure by Endorsement
R4-33-204. Qualifications for Initial License by Examination
R4-33-205. Fees
R4-33-206. Renewal Application
R4-33-207. Inactive Status
R4-33-208. Standards of Conduct; Disciplinary Action
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R4-33-211. Display of License and Board Notification
R4-33-212. Temporary License
R4-33-213. Denial of License or Renewal of License
R4-33-214. Criteria for Continuing Education
R4-33-215. Renumbered
R4-33-216. Renumbered

### ARTICLE 3. ADMINISTRATOR IN TRAINING PROGRAM

*Article 3, consisting of Sections R4-33-301 through R4-33-312 renumbered to Article 4, Sections R4-33-401 through R4-33-412; new Article 3, consisting of Sections R4-33-301 through R4-33-303, adopted effective January 15, 1999 (Supp. 99-1).*

*Article 3, consisting of Sections R4-33-301 through R4-33-312, adopted permanently effective November 25, 1992 (Supp. 92-4).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

*Article 3, consisting of Sections R4-33-301 through R4-33-312, adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

Section

R4-33-301. Administrator in Training Program Requirements
R4-33-302. Preceptor Qualifications and Responsibilities
R4-33-303. Administrator in Training
R4-33-304. Renumbered
R4-33-305. Renumbered
R4-33-306. Renumbered
R4-33-307. Renumbered
R4-33-308. Renumbered
R4-33-309. Renumbered
R4-33-310. Renumbered
R4-33-311. Renumbered
R4-33-312. Renumbered

## ARTICLE 4. ASSISTED LIVING FACILITY MANAGER CERTIFICATION

*Article 4, consisting of Sections R4-33-401 through R4-33-412 renumbered from Article 3, Sections R4-33-301 through R4-33-312, effective January 15, 1999 (Supp. 99-1).*

Section
R4-33-401. Training Program Requirements
R4-33-402. Eligibility for Initial Certification
R4-33-403. Initial Application
R4-33-404. Examination
R4-33-405. Fees
R4-33-406. Renewal Application
R4-33-407. Standards of Conduct; Suspension or Revocation
R4-33-408. Criteria for Continuing Education
R4-33-409. Display of Certificate
R4-33-410. Temporary Certificates
R4-33-411. Denial of Certificate
R4-33-412. Rehearing or Review of Decision

## ARTICLE 1. GENERAL

### R4-33-101. Definitions

In this Article, unless otherwise specified:

1. "Accredited" means authorized by the North Central Association of Colleges and Secondary Schools, New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools or Western Association of Schools and Colleges.
2. "Administrator in training" or "AIT" means a person who is taking an NAB-approved program of training to be licensed as an administrator for a nursing care institution.
3. "AIT Program" means an NAB-approved training program lasting not less than 20 weeks nor more than 52 weeks, at 40 hours per week, conducted as an educational experience in a licensed nursing care institution.
4. "ACHCA Certified" means having evidence of completing the Professional Certification Program administered by the American College of Health Care Administrators.
5. "AzACHCA" means the Arizona chapter of the American College of Health Care Administrators.
6. "Contact hour" means an hour during which an administrator or manager is physically present at an instructional activity that is to be used for either continuing education credit or initial training credit required for adult care home managers.
7. "Good standing" means that a nursing care institution administrator is the holder of a current and valid license, not subject to any disciplinary action or consent order, and not currently under investigation for alleged unprofessional conduct.
8. "NAB" means the National Association of Board of Examiners for Nursing Home Administrators.
9. "Preceptor" means a practicing nursing care institution administrator who undertakes the role of teacher through the tutorial process, has taken a board-approved preceptor training course, and helps to develop a new professional in the field of long-term care administration.
10. "Program Advisory Committee "means the group comprised of practicing nursing care administrators that provides oversight to AITs and ensures the application of uniform training standards and guidelines outlined in the NAB-approved AIT Program.
11. "Qualified instructor" means a person who meets 1 or more of the following criteria:
    a. A registered nurse, licensed under A.R.S. Title 32, Chapter 15;
    b. An instructor employed by an accredited junior college, university program, or health care institution to teach health-care related courses; or
    c. A person or entity who possesses a combination of education and training equivalent to the qualifications listed above.
12. "Training program" means an educational syllabus approved by the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers in accordance with the requirements of A.R.S. § 36-446.04(A)(2) and (B)(2).

**Historical Note**
Section R4-33-101 renumbered from R4-33-112 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

### R4-33-102. Board Officers

**A.** At its 1st annual meeting, the Board shall elect from among its membership a president, vice-president, and secretary-treasurer.

**B.** The functions, duties and limitations of these officers are as follows:
1. President. The president shall call and preside at all Board meetings. The president shall act as chief officer of the Board, appoint committees, and delegate authority to other members of the Board as needed.
2. Vice-president. The vice-president shall preside at Board meetings in the absence of the president and may exercise all the powers and duties of the president in the absence of the president.
3. Secretary-treasurer. The secretary-treasurer shall prepare and maintain minutes of all meetings, monitor the attendance of members and keep account of all monies that are collected and disbursed by the Board.

**C.** Board officers shall serve for a term of 1 year. No officer may serve more than 2 consecutive terms.

**Historical Note**
Section R4-33-102 renumbered from R4-33-113 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

### R4-33-103. Time-frames for Licenses, Certifications, and Approvals

**A.** For each type of license, certification, approval, or renewal of license or certification issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.

**B.** For each type of license, certification, approval, or renewal of license or certification issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the Board receives an application and required documents and information.
1. If the application and documents are not administratively complete, the Board shall send to an applicant a deficiency notice.
    a. The deficiency notice shall state each deficiency and the information needed to complete the application and documents.
    b. Within the time provided in Table 1 for response to the deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit to the Board the missing information specified in the deficiency notice. The time-frame for the Board to finish the administrative completeness review is sus-

pended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information.

2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
3. If the application and submitted documents are not completed within the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.

**C.** For each type of license, certification, approval, or renewal of license or certification issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.

1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, beginning on the mailing date of the comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the requested additional information.
2. The Board shall issue a written notice of denial of license or renewal of license if the Board determines that the applicant does not meet all of the substantive criteria required by statute and this Chapter for licensing, certification, approval, or renewal of license or certification.
3. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit requested additional information within the time-frame in Table 1.
4. If the applicant meets all of the substantive criteria required by statute and this Chapter for license, certification, approval, or renewal of license or certification, the Board shall issue the license, certification, approval, or renewal of license or certification to the applicant.

**D.** In computing any period of time prescribed in this Section, the day of the act, event or default after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not Saturday, Sunday, or a state holiday. The computation shall include intermediate Saturdays, Sundays, and state holidays. The time period shall begin on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

**Historical Note**

Section R4-33-103 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-104. Reserved**

**R4-33-105. Reserved**

**R4-33-106. Reserved**

**R4-33-107. Reserved**

**R4-33-108. Reserved**

**R4-33-109. Reserved**

**R4-33-110. Reserved**

**R4-33-111. Repealed**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-11 renumbered as Section R4-33-111 (Supp. 82-1). Emergency amendment effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency repeal adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency repeal adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency repeal adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency repeal adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency expired. Section repealed by final rulemakling at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-112. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-12 renumbered and amended as Section R4-33-112 (Supp. 82-1). Emergency amendments effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Emergency amendments effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency amendments adopted again with changes effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency amendments adopted again with changes effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Amended with changes effective November 25, 1992 (Supp. 92-4). Final Section R4-33-112 renumbered to R4-33-101 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-113. Renumbered**

**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-13 renumbered as Section R4-33-113 (Supp. 82-1). Final Section R4-33-113 renumbered to R4-33-102 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-114. Repealed**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former

Section R4-33-14 renumbered and amended as Section R4-33-114 (Supp. 82-1). Section R4-33-114 renumbered by emergency action to R4-33-201 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3).

**R4-33-115. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-115 renumbered to R4-33-202 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-115 renumbered to R4-33-201 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-115 renumbered to R4-33-201 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-115 renumbered to R4-33-201 effective November 25, 1992 (Supp. 92-4).

**R4-33-116. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered as Section R4-33-116 (Supp. 82-1). Section R4-33-116 renumbered to R4-33-203 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-116 renumbered to R4-33-202 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-116 renumbered to R4-33-202 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-116 renumbered to R4-33-202 effective November 25, 1992 (Supp. 92-4).

**R4-33-117. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-117 renumbered to R4-33-204 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-117 renumbered to R4-33-203 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-117 renumbered to R4-33-203 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-117 renumbered to R4-33-203 effective November 25, 1992 (Supp. 92-4).

**R4-33-118. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-118 renumbered to R4-33-205 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). New Section R4-33-118 adopted effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-118 renumbered to R4-33-205 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Section R4-33-118 renumbered to R4-33-204 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-118 renumbered to R4-33-204 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-118 renumbered to R4-33-204 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-118 renumbered to R4-33-204 effective November 25, 1992 (Supp. 92-4).

**R4-33-119. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments readopted without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-119 renumbered to R4-33-206 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-119 renumbered to R4-33-206 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-119 renumbered to R4-33-205 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-119 renumbered to R4-33-205 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-119 renumbered to R4-33-205 by emer-

gency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-119 renumbered to R4-33-205 effective November 25, 1992 (Supp. 92-4).

**R4-33-120. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-120 renumbered to R4-33-206 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-120 renumbered to R4-33-206 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-120 renumbered to R4-33-206 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-120 renumbered to R4-33-206 effective November 25, 1992 (Supp. 92-4).

**R4-33-121. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-121 renumbered to R4-33-208 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-121 renumbered to R4-33-208 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-121 renumbered to R4-33-207 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-121 renumbered to R4-33-207 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-121 renumbered to R4-33-207 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-121 renumbered to R4-33-207 effective November 25, 1992 (Supp. 92-4).

**R4-33-122. Renumbered**

**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-122 renumbered to R4-33-209 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-122 renumbered to R4-33-209 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-122 renumbered to R4-33-208 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-122 renumbered to R4-33-208 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-122 renumbered to R4-33-208 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-122 renumbered to R4-33-208 effective November 25, 1992 (Supp. 92-4).

**R4-33-123. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-123 renumbered to R4-33-210 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-123 renumbered to R4-33-210 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-123 renumbered to R4-33-209 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-123 renumbered to R4-33-209 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-123 renumbered to R4-33-209 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-123 renumbered to R4-33-209 effective November 25, 1992 (Supp. 92-4).

**R4-33-124. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-124 renumbered to R4-33-211 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-124 renumbered to R4-33-211 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-124 renumbered to R4-33-210 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-124 renumbered to R4-33-210 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-124 renumbered to R4-33-210 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-124 renumbered to R4-33-210 effective November 25, 1992 (Supp. 92-4).

**R4-33-125. Renumbered**

**Historical Note**

Section R4-33-125 renumbered to R4-33-211 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-125 renumbered to R4-33-211 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-125 renumbered to R4-33-211 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-125 renumbered to R4-33-211 effective November 25, 1992 (Supp. 92-4).

**R4-33-126. Renumbered**

**Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3). Former Section R4-33-126 renumbered to R4-33-212 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-126 renumbered to R4-33-212 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-126 renumbered to R4-33-212 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-126 renumbered to R4-33-212 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-126 renumbered to R4-33-212 effective November 25, 1992 (Supp. 92-4).

**R4-33-127. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-127 renumbered to R4-33-212 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-127 renumbered to R4-33-213 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-127 renumbered to R4-33-213 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-127 renumbered to R4-33-213 effective November 25, 1992 (Supp. 92-4).

**R4-33-128. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-128 renumbered to R4-33-213 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-128 renumbered to R4-33-214 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-128 renumbered to R4-33-214 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-128 renumbered to R4-33-214 effective November 25, 1992 (Supp. 92-4).

**R4-33-129. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-129 renumbered to R4-33-214 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-129 renumbered to R4-33-215 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-129 renumbered to R4-33-215 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-129 renumbered to R4-33-215 effective November 25, 1992 (Supp. 92-4).

**R4-33-130. Renumbered**

**Historical Note**

Adopted effective July 24. 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-130 renumbered to R4-33-215 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-130 renumbered to R4-33-216 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-130 renumbered to R4-33-216 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-130 renumbered to R4-33-216 effective November 25, 1992 (Supp. 92-4).

**Table 1. Time-frames (in days)**

| Type of License | Overall Time-Frame | Administrative Review Time-Frame | Time to Respond to Deficiency Notice | Substantive Review Time-Frame | Time to Respond to Request for Additional Information |
|---|---|---|---|---|---|
| Initial License<br>R4-33-201<br>A.R.S. § 36-446.04(A) | 120 | 15 | 90 | 105 | 60 |
| Renewal of License<br>R4-33-206<br>A.R.S. § 36-446.07(E) | 75 | 30 | 15 | 45 | 15 |
| Temporary License<br>R4-33-212<br>A.R.S. § 36-446.06 | 120 | 15 | 90 | 105 | 60 |
| Continuing Education Program Approval<br>R4-33-214<br>A.R.S. § 36-446.07(E) | 60 | 15 | 30 | 45 | 15 |
| Administrator-in-Training Program Approval<br>R4-33-301<br>A.R.S. § 36-446.04 | 60 | 15 | 30 | 45 | 15 |
| Initial Certification<br>R4-33-403<br>A.R.S. § 36-446.04(B) | 120 | 15 | 90 | 105 | 60 |
| Renewal of Certification<br>R4-33-406<br>A.R.S. § 36-446.07(F) | 75 | 30 | 15 | 45 | 15 |
| Approval of Continuing Education Program<br>R4-33-408<br>A.R.S. § 36-446.07(F) | 60 | 15 | 30 | 45 | 15 |
| Temporary Certification<br>R4-33-410<br>A.R.S. § 36-446.06 | 120 | 15 | 90 | 105 | 60 |

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

## ARTICLE 2. NURSING CARE INSTITUTION ADMINISTRATOR LICENSING

*Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective November 25, 1992 (Supp. 92-3).*

*Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered by emergency action from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

*Article 2, consisting of Sections R4-33-201 through R4-33-215, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

### R4-33-201. Initial Application

**A.** A person who desires to be licensed as a nursing care institution administrator shall submit to the Board an application on a form provided by the Board which provides the following information:
1. Full name;
2. Type of license for which application is being submitted; and
3. Sworn statement that applicant has answered all questions on all forms related to the application truthfully and has authorized educational and other institutions, employers, and governmental agencies to provide to the Board any information requested by the Board.

**B.** The applicant shall arrange to have 2 persons who are unrelated to the applicant and not in the applicant's employment complete "Moral Character Certification" forms and return them directly to the Board. The certification shall contain the applicant's full name; type of examination for which the applicant is applying to sit; a certification that person is personally acquainted with the applicant; the number of years of acquain-

tance; the belief that the applicant is of appropriate moral character and suitability; and a recommendation of the applicant to the Board.

**C.** The applicant shall have a licensed physician complete a "Medical Certification" form and return it directly to the Board. The certification shall contain the applicant's full name; type of examination for which the applicant is applying to sit; a certification by the physician that the applicant is in good health, free from contagious diseases, and absent any physical or mental impairments that would interfere with the performance of administrator duties; the number of years the physician has provided care to the applicant; the date the applicant was examined; other remarks; and the signature, full name, address and license number of the physician.

**D.** An applicant who has been convicted of a felony shall submit, with the application, evidence that the applicant is in compliance with all court imposed requirements. The evidence shall be issued by an appropriate court, Board of Parole, or equivalent agency. The evidence shall provide information on the specific type of felony offense and the related circumstances.

**E.** The applicant shall complete and submit a sworn, notarized, and completed personal data sheet form prescribed by the Board which provides the following information:

1. The name as the applicant wants it to appear on the certificate:
2. The full name of the applicant;
3. The home address of the applicant;
4. The home telephone number of the applicant:
5. The applicant's date of birth;
6. The applicant's social security number;
7. The sex of the applicant;
8. The work telephone number of the applicant;
9. Whether the applicant is presently serving as an administrator, and if so, the address of the institution;
10. Whether the applicant has ever had an administrator license suspended or revoked;
11. Whether the applicant has ever had a nursing care institution administrator license denied;
12. Whether the applicant is currently licensed as an administrator in any other state, including name of state, license number, and expiration date;
13. Whether the applicant's administrator license has ever been suspended or revoked;
14. The names of the 2 persons to whom moral character certificates were sent;
15. The name and address of the physician to whom the medical certificate was sent;
16. Whether the applicant has been convicted for a violation of any law other than a minor traffic violation, and, if so, the date, place, and nature of the conviction;
17. The state of current licensure, date license received, and the license number, if the applicant wishes to apply for licensure by reciprocity;
18. The educational record of the applicant, including:
    a. Name of the high school attended by applicant, its location, highest grade completed, whether the applicant received a diploma and year, and if not, GED certificate number and date issued and where the GED exam was taken;
    b. Undergraduate education, including name and location of college or university, course of study, years attended, and degree and date received;
    c. Post-graduate education, including name and location of college or university, course of study, years attended, and degree and date received;
    d. Field training or short courses, including name and location of institution or agency, dates attended, course pursued, and date completed;
    e. Memberships in professional or honorary societies and dates of membership;
    f. Any special honors received and dates;
    g. Professional licenses or certificates held, including type, license number, licensing authority, state, and dates;
    h. Articles or books published, including name of publication, publisher, and copyright year or date of publication;
19. The applicant's employment record for the last 10 years, including name and address of each employer, position held, immediate supervisor, and description of duties;
20. A description of applicant's participation in health care institution association offices and activities;
21. A description of the applicant's involvement in health-related community service activities; and,
22. A finished, unmounted color photograph of the applicant's head and shoulders, not less than 2 1/2 inches nor more than 3 inches square and taken within 6 months before the date of application.

**F.** The applicant shall provide to the Board transcripts, a certificate of AIT program completion, or both, which demonstrate that the requirements of R4-33-204 have been met.

**G.** An applicant shall submit the completed application forms and prescribed fees to the Board at least 45 days before the date of the next regularly scheduled examination.

**H.** An applicant shall appear before the Board upon its request.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-202 renumbered from R4-33-115 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-201 renumbered from R4-33-115 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-202. Licensure by Examination**

**A.** To be eligible for licensing as a nursing care institution administrator, an applicant shall obtain the following:

1. A score of 70% on a written national examination of NAB;
2. A score of 80% on a written examination based on Arizona statutes and rules.

**B.** An applicant who passes 1 of the examinations in subsection (A) but fails the other shall be required to retake only the examination failed to be eligible for licensing.

**C.** The Board shall administer examinations not less than twice each year at times and places specified by the Board.

**D.** An applicant who fails either part of the examination 2 times shall not be eligible to take another examination for 11 months from the date of the last examination. An applicant who fails the examination 3 times may not take another examination until the applicant successfully completes an AIT program.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered as Section R4-33-116 (Supp. 82-1). Section R4-33-203 renumbered from R4-33-116 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as Section R4-33-116 effective August 6, 1991 (Supp. 91-3). Section R4-33-202 renumbered from R4-33-116 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-202 renumbered from R4-33-116 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-202 renumbered from R4-33-116 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-202 renumbered from R4-33-116 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-202 renumbered from R4-33-116 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-203. Licensure by Endorsement**

The Board, in its discretion and otherwise subject to the law pertaining to the licensing of nursing care institution administrators, shall issue a nursing care institution administrator license upon application and payment of the prescribed fee and submission of evidence satisfactory to the Board that an applicant:

1. Has met the requirements specified in R4-33-201. Instead of meeting the requirements of R4-33-201(F), the applicant may submit evidence of ACHCA certification.
2. Holds a valid and current license as a nursing care institution administrator for a state or territory which was obtained by passing the NAB examination required by R4-33-202(A)(1). If the applicant took the national examination before January 1990, a passing score shall be a raw score of 105 or better. After January 1990, a passing score shall be 70%. The applicant shall arrange to have the licensing agency of the state in which the applicant is licensed complete and directly return to the Board a certification on a form provided by the Board which provides the name of the secretary of the state board providing the certification, the full name of the applicant, the applicant's license number, date of licensing, expiration date of the license, the national examination taken by the applicant and the applicant's score, a statement that the applicant is fit and proper for licensing, the signature of the secretary, and the agency name and address.
3. Has met or exceeded a score of 80% on the written examination administered by the Board in accordance with R4-33-202(A)(2).

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-204 renumbered from R4-33-117 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as Section R4-33-117 effective August 6, 1991 (Supp. 91-3). Section R4-33-203 renumbered from R4-33-117 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-203 renumbered from R4-33-117 by emergency action effective February 28. 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-203 renumbered from R4-33-117 by emergency action effective May 28. 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-203 renumbered from R4-33-117 by emergency action effective September 10. 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-203 renumbered from R4-33-117 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-204. Qualifications for Initial License by Examination**

An applicant for licensing as a nursing care institution administrator who completes the requirement of R4-33-201 and meets either of the following requirements shall be eligible to take the licensure examination:

1. Has successfully completed a Board-approved AIT program and holds a minimum of a baccalaureate degree from an accredited college or university; or
2. Holds a minimum of a masters degree in health care administration or long-term care administration from an accredited college or university.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-205 renumbered from R4-33-118 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-204 renumbered from R4-33-118 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-204 renumbered from R4-33-118 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-204 renumbered from R4-33-118 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-204 renumbered from R4-33-118 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-204 renumbered from R4-33-118 effective November 25, 1992 (Supp. 92-4). Final amendment at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-205. Fees**

The Board shall charge and collect the following fees:

1. Application and examination for licensure, $350; $100 of this fee is nonrefundable.
   a. Re-administration of national examination, $150;

b. Re-administration of state examination, $100;
2. Issuance of license, up to $240, prorated monthly;
3. Biennial renewal of license, $240;
4. Biennial renewal of inactive license, $100;
5. Temporary license fee, $250;
6. Duplicate license fee, $25;
7. Penalty fee for late renewal, $50;
8. Certification of license status, $10; and
9. Board review of sponsored continuing education programs, $20.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments adopted again without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-206 renumbered from R4-33-119 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended as R4-33-119 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-206 renumbered from R4-33-119 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-205 renumbered from R4-33-119 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-205 renumbered from R4-33-119 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-205 renumbered from R4-33-119 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-205 renumbered from R4-33-119 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-206. Renewal Application**

**A.** A license year begins July 1 and ends June 30.

**B.** All licenses, except temporary, expire at midnight on June 30 of each even-numbered year. Temporary licenses expire at midnight on the date designated on the license.

**C.** A licensee shall submit an application for renewal of license, accompanied by the prescribed fee and evidence of completion of 50 hours of continuing education credit under R4-33-214, not later than June 1. A licensee who received an original license on or after January 1 and before June 30 of the renewal year shall submit evidence of completion of 10 hours of continuing education credit under R4-33-214.

**D.** A person whose license has expired because of failure to renew in accordance with subsection (C) may apply for renewal if:
1. The person's license was not revoked under A.R.S. § 36-446.07;
2. No more than 30 days have lapsed since expiration of the license;
3. The person pays the prescribed fees; and
4. The person meets the applicable continuing education requirements.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Section R4-33-207 renumbered from R4-33-120 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as R4-33-120 effective August 6, 1991 (Supp. 91-3). Section R4-33-207 renumbered from R4-33-120 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-207 renumbered from R4-33-120 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-207 renumbered from R4-33-120 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-207 renumbered from R4-33-120 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-206 renumbered from R4-33-120 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-207. Inactive Status**

**A.** The Board shall place a person's license on inactive status if the licensee:
1. Is currently licensed in good standing in Arizona;
2. Notifies the Board in writing of the wish to be placed on inactive status; and
3. Meets the continuing education requirements. These continuing education requirements may be prorated, based upon the commencement of the renewal period.

**B.** The Board shall provide the licensee written confirmation of inactive status.

**C.** To resume active licensure status, the licensee shall complete the 25 hours of continuing education credits required in A.R.S. § 36-446.07(H) within 6 months before making written request to the Board for resumption of active licensure status.

**D.** The Board shall grant the request to resume active status if the requirements of subsection (C) are met. The Board shall send written notice to the licensee granting or denying active status. If denied, the licensee shall have 15 days from the date of receipt of the notice to file a request for hearing with the Board, appealing the denial. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 and Article 10.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-208 renumbered from R4-33-121 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-208 renumbered from R4-33-121 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-

208 renumbered from R4-33-121 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-208 renumbered from R4-33-121 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-208 renumbered from R4-33-121 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-207 renumbered from R4-33-121 effective November 25, 1992 (Supp. 92-4). Section R4-33-207 renumbered to R4-33-208, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

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

**A.** The following standards of conduct apply to an administrator licensed under this Article:
1. An administrator shall not engage in unprofessional conduct.
2. An administrator:
   a. Shall be familiar with the federal and state laws and regulations applicable to operation of a nursing care institution.
   b. Shall not be addicted to or dependent upon the use of narcotics or other drugs, including alcohol, which interferes with the performance of the duties as a nursing care institution administrator.
   c. Shall not wilfully permit a nursing care institution or its owners, officers, or employees to solicit, offer, or receive any premium, rebate, or other valuable consideration in connection with the furnishing of items or services to patients of the institution or for referral of patients to another person or place if the resulting economic benefit is not directly passed on to the patients.
   d. Shall not wilfully permit the unauthorized disclosure of information relating to a patient or a patient's records.
   e. Shall not discriminate against patients or employees, on the basis of race, sex, age, religion, disability, or national origin.
   f. Shall not misrepresent qualifications, education, experience or affiliations.
   g. Shall not aid or abet anyone in misrepresenting that person's qualifications, education, experience, or affiliations.
   h. Shall not defend, support, or ignore unethical conduct perpetrated by employees, owners, or peers.
   i. Shall not engage in any conduct or practice contrary to recognized community standards or ethics of a nursing care institution administrator or any conduct or practice which does or might constitute incompetence, gross negligence, repeated negligence or negligence that might constitute a danger to the health, welfare or safety of the patient or the public.
   j. Shall not procure or attempt by fraud or misrepresentation to procure a license or renewal of a license to practice as a nursing care institution administrator.
   k. Shall not violate a formal order, condition of probation, or stipulation issued by the Board.
   l. Shall not commit an act of sexual abuse, misconduct, harassment, or exploitation.
   m. Shall not retaliate against any person who reports in good faith to the Board alleged incompetence, illegal, or unethical conduct of any practitioner.

**B.** Final judgment or conviction for a felony or any offense involving moral turpitude, or direct or indirect elder abuse shall be grounds for disciplinary action under A.R.S. § 36-446.07 et seq., or denial of license application or renewal.

**C.** An administrator who has violated any provision of this Article shall be subject to discipline in accordance with A.R.S. § 36-446.07.

**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-209 renumbered from R4-33-122 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-209 renumbered from R4-33-122 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-209 renumbered from R4-33-122 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-209 renumbered from R4-33-122 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-209 renumbered from R4-33-122 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-208 renumbered from R4-33-122 effective November 25, 1992 (Supp. 92-4). Section R4-33-208 renumbered to R4-33-209, new Section R4-33-208 renumbered from R4-33-207 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-209. Rehearing or Review of Decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in the case may file with the Board, not later than 30 days after service of the decision, a written motion for rehearing or review of the decision which specifies the particular grounds on which it is based. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the party's last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of the motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** The Board may grant a rehearing or review of the decision for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party or any order or abuse of discretion that deprived the moving party of a fair hearing,
2. Misconduct of the Board or its hearing officer or the prevailing party,
3. Accident or surprise that could not have been prevented by ordinary prudence,
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing,
5. Excessive or insufficient penalties,
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, and
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons listed in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only the specified matters.

**E.** Not later than 30 days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting a rehearing shall specify the grounds on which it is granted.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended for 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** Except as provided in subsection (H), a decision shall be final when rendered if further review is unavailable, upon expiration of the time for filing a request for rehearing, or upon denial of a request for rehearing, whichever is later. If a rehearing is granted, the decision shall be stayed until affirmed, amended, or reversed.

**H.** If in a particular decision the Board makes specific findings that the immediate effectiveness of the decision is necessary for the immediate preservation of the public peace, health, or safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, the decision shall be effective when issued. Any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**I.** For purposes of this Section, the terms "contested case" and "party" have the meanings provided in A.R.S. § 41-1001.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-210 renumbered from R4-33-123 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-210 renumbered from R4-33-123 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-210 renumbered from R4-33-123 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-210 renumbered from R4-33-123 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-210 renumbered from R4-33-123 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-209 renumbered from R4-33-123 effective November 25, 1992 (Supp. 92-4). Section R4-33-209 renumbered to R4-33-210, new Section R4-33-209 renumbered from R4-33-208 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-210. Restoration of Revoked License**

**A.** No earlier than 12 months from the date of revocation, a former licensee may file a request for license restoration. The former licensee shall submit evidence satisfactory to the Board that the basis for revocation has been removed. The former licensee shall meet all of the requirements of R4-33-201, R4-33-202 and R4-33-204. The requirements of R4-33-201(D) shall be applicable to a former licensee who was convicted of a felony.

**B.** Following receipt of a request for license restoration, the Board shall require the former licensee to appear before the Board and provide evidence that all the requirements of R4-33-210(A) have been met. If a request for license restoration is denied, the former licensee may request a hearing under A.R.S. § 41-1065.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-211 renumbered from R4-33-124 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-212 renumbered from R4-33-124 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-210 renumbered from R4-33-124 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-210 renumbered from R4-33-124 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-210 renumbered from R4-33-124 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-210 renumbered from R4-33-124 effective November 25, 1992 (Supp. 92-4). Section R4-33-210 renumbered to R4-33-211, new Section R4-33-210 renumbered from R4-33-209 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-211. Display of License and Board Notification**

**A.** A licensee shall display the licensee's certificate of licensure and current renewal certificate in a conspicuous place in the licensee's office or place of business or employment.

**B.** A licensee shall notify the Board, within 30 days, of any change of name or mailing address, providing both former and new name or address.

**C.** A licensee shall notify the Board, within 30 days, each time that the licensee is appointed administrator of a nursing care institution and each time an appointment terminates. Each notification shall include the name and address of the facility or facilities involved and the dates of appointment or termination.

**Historical Note**

Section R4-33-211 renumbered from R4-33-125 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-211 renumbered from R4-33-125 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-211 renumbered from R4-33-125 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-211 renumbered from R4-33-125 effective November 25, 1992 (Supp. 92-4). New Section R4-33-211 renumbered from R4-33-210 and amended by final rulemaking at 5 A.A.R. 423, effec-

tive January 15, 1999 (Supp. 99-1).

**R4-33-212. Temporary License**

**A.** To qualify for a temporary license to fill a nursing care institution administrator position, an applicant shall submit the application required in R4-33-201 and provide evidence of the following:
1. That the applicant meets or exceeds the requirements specified in R4-33-201 and R4-33-203, or R4-33-204.
2. That an administrator's position is available and that the applicant will be engaged in the capacity of administrator if the applicant is successful in obtaining a temporary license;
3. That the applicant has not held an Arizona temporary license within the past 3 years; and
4. That the applicant has not failed a state or national examination within 1 year before applying for a temporary license.

**B.** At the Board's request an applicant shall appear or be available by telephone for an interview with the Board.

**C.** A temporary license is valid for 150 days. Before expiration of the temporary license, the temporary licensee shall become licensed under the terms of A.R.S. § 36-446.04 and this Article or discontinue as administrator of the nursing care institution.

**Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3). Section R4-33-211 renumbered from R4-33-126 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-212 renumbered from R4-33-126 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-212 renumbered from R4-33-126 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-212 renumbered from R4-33-126 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-212 renumbered from R4-33-126 effective November 25, 1992 (Supp. 92-4). Section R4-33-212 amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-213. Denial of License or Renewal of License**

**A.** A person who is denied the right to take an examination may file a request for an informal interview before the Board within 15 days after receipt of the notice of denial.

**B.** A person who is denied a license or renewal of license shall be notified in writing and may file a request for a hearing before the Board under AR.S. § 41-1092.03.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-212 renumbered from R4-33-127 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed as R4-33-127 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-213 renumbered from R4-33-127 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-213 renumbered from R4-33-127 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-213 renumbered from R4-33-127 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-213 renumbered from R4-33-127 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-213 renumbered from R4-33-127 effective November 25, 1992 (Supp. 92-4). Section R4-33-213 renumbered from R4-33-214 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-214. Criteria for Continuing Education**

**A.** A licensee shall obtain 50 hours of continuing education credit per renewal period for renewal of license except that, if an administrator is initially licensed on or after January 1 and before June 30 of the renewal year, only 10 hours shall be required for that 1st renewal period.

**B.** No later than June 1, a licensee shall submit evidence of attendance at continuing education programs with the application for renewal of license required under R4-33-206. Evidence of attendance includes a certificate, letter of attendance, or grade report from the provider of the continuing education program.

**C.** Licensees shall complete continuing education programs between June 1 and May 31, during the renewal period.

**D.** To be eligible for credit, a continuing education program shall be approved by the Board and shall be in at least 1 of the following subject areas:
1. Statutes and regulations on environmental health and safety (OSHA),
2. Principles of management,
3. Psychology and principles of patient care,
4. Personal and social care,
5. Therapeutic and supportive care and services in long-term care, and
6. Community health and social resources.

**E.** Continuing education credits shall be awarded as follows:
1. Seminars or workshops: 1 hour of credit for each contact hour.
2. College accredited courses: 15 credit hours for each semester hour.
3. Annual meetings of national health care organizations and annual state association meetings affiliated with national health care organizations: 1/2 hour credit for each business meeting.
4. Two continuing education credits for each month that an AIT preceptor trains an AIT. A preceptor shall receive a maximum of 50% of required continuing education hours during a renewal period from serving as a preceptor.

**F.** A licensee who participates as an instructor in an approved continuing education program shall receive the same credit as a student. The licensee may receive continuing education credit for instructing the same approved program only once during a renewal period.

**G.** A licensee shall receive credit for no more than 20 hours of required continuing education during a renewal period from correspondence courses.

**H.** Requests for approval of a continuing education program shall be submitted by individuals or sponsors in writing and shall contain the following information:
1. Title of program;
2. Sponsor: name, address and contact person;
3. Date, time and place of program;
4. Content and applicability to nursing home administration;
5. Qualification of instructors;
6. Number of contact hours; include a time schedule of events and an agenda with specific times for instruction, breaks and meals; and

7. If an accredited college course, the number of semester credits available.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-213 renumbered from R4-33-128 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-214 renumbered from R4-33-128 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-214 renumbered from R4-33-128 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-214 renumbered from R4-33-128 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-214 renumbered from R4-33-128 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-214 renumbered from R4-33-128 effective November 25, 1992 (Supp. 92-4). Section R4-33-214 renumbered from R4-33-216 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-215. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-214 renumbered from R4-33-129 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-214 renumbered from R4-33-129 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-215 renumbered from R4-33-129 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-215 renumbered from R4-33-129 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-215 renumbered from R4-33-129 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-215 renumbered from R4-33-129 effective November 25, 1992 (Supp. 92-4).

**R4-33-216. Renumbered**

**Historical Note**

Adopted effective July 24. 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Section R4-33-215 renumbered from R4-33-130 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended as R4-33-130 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-216 renumbered from R4-33-130 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-216 renumbered from R4-33-130 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-216 renumbered from R4-33-130 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-216 renumbered from R4-33-130 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-216 renumbered from R4-33-130 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Section R4-33-216 renumbered to R4-33-214 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

## ARTICLE 3. ADMINISTRATOR IN TRAINING PROGRAM

**R4-33-301. Administrator in Training Program Requirements**

**A.** An AIT program shall have a program advisory committee that is responsible for all aspects of the training program. The committee shall conduct at least 2 on-site visits during each training period. For 20 to 52 week approved training periods, the 2 site visits shall be conducted upon completion of 30 and 80% of the program requirements. Additional site visits may be conducted upon request of the AIT, the preceptor or the committee.

**B.** The program advisory committee shall endorse a preceptor for each AIT. A preceptor shall provide training to no more than 1 AIT at a time.

**C.** The program advisory committee shall appoint a site evaluator for each preceptor/administrator training relationship who shall conduct the site visits. A site visit check list shall be completed by the site evaluator during each site visit and reviewed with the preceptor and the AIT if program discrepancies or concerns are identified.

**D.** A site evaluator shall:

1. Review the AIT application as approved by the program advisory committee;
2. Review the individualized training programs as approved by the advisory committee;
3. Make initial contact by telephone with the AIT and the preceptor to introduce the site evaluator, confirm receipt of the NAB AIT/preceptor domains of practice manual, answer any questions, and schedule the 1st site visit;
4. Review all monthly reports, daily logs, and other information received from the AIT or preceptor before the 1st site visit;
5. Tour the facility with the AIT, review the AIT's daily log, and interview the AIT and preceptor, both individually and together, during the site visit;
6. Complete the site visit report and review the findings with the AIT and preceptor before leaving the facility. The site visit report shall address the following:
   a. Whether the evaluator met with the AIT and preceptor, individually and together;
   b. Whether the NAB AIT/preceptor domains of practice manual and instructions were reviewed with both the AIT and preceptor and any comments;
   c. Whether the AIT and preceptor appeared to understand their respective roles and responsibilities as outlined in the NAB AIT/preceptor domains of practice manual;
   d. Whether the facility was toured with the AIT and preceptor, and any comments;
   e. Examples of staff and resident interaction with the AIT, the apparent position occupied by the AIT in

the facility, and whether the AIT appeared to know and recognize staff and residents;

f. Whether the evaluator met with any departments with which the AIT had worked and any comments made by department heads regarding AIT's learning experience;

g. Which written reports, time logs, and other program materials were reviewed, whether the monthly reports were timely and complete, and what other reports, tests, and workshops had been completed by the AIT;

h. Which approved AIT training program is being used as a primary resource and what supplementary texts or other materials are being used;

i. What concerns were expressed or questions asked during the interview with the AIT and preceptor;

j. The frequency and duration of meeting between the AIT and preceptor, scheduled or unscheduled;

k. The locations outside the facility where AIT has been assigned or visited, and the purpose, length and supervision provided;

l. The community meetings or events attended by the AIT as part of the program, including any AzA-CHCA meeting or peer group sessions;

m. How closely the actual training program has adhered to the proposed training schedule, any variations and whether the variations have negatively affected the program;

n. An overall assessment of the training program and its progress and whether there are any apparent problems that may prevent the AIT from completing the program as planned; and,

o. Any additional comments;

7. Schedule additional site visits if a significant change occurs in the program outline, if there is a change in either the AIT or preceptor, or upon request of the AIT, preceptor, or program advisory committee; and

8. Conduct telephone interviews with the AIT upon receipt of the monthly progress report to validate the learning experience and respond to any questions or concerns.

**E.** A site program evaluator shall maintain a file on each assigned AIT that includes the following:

1. The AIT application and attachments reviewed by the advisory committee;
2. A copy of each monthly report and daily log;
3. A copy of each site visit report;
4. Copies of any correspondence and interim reports; and,
5. Copy of the program completion from the NAB AIT/preceptor domains of practice manual, completed by the preceptor and co-signed by the AIT when the training program is finished.

**F.** An individualized training plan shall be prepared at the beginning of the training by the preceptor and the AIT. Any changes to the training plan shall be submitted, in writing, to the program evaluator, for review by the advisory committee.

**G.** A training program shall not permit the following:

1. A preceptor to train the preceptor's employer or supervisor; or
2. A preceptor to train the preceptor's spouse, child, parent, brother, sister, 1st or 2nd cousin, niece, nephew, uncle, or aunt.

**H.** A program advisory committee shall provide semiannual reports in June and December to the Board which include the names of preceptors trained, number of administrators in training, number of administrators in training who have completed training, and the names of facilities where training is being provided.

**I.** If a preceptor is no longer able or willing to be a preceptor or the AIT chooses to change location or preceptor, the AIT program ceases and the following shall occur:

1. The original preceptor and AIT shall write a letter to the program advisory committee stating the reasons for the change and the last date of training. The letter shall be signed by both the AIT and original preceptor. The AIT shall complete and sign the last monthly report.
2. The AIT and new preceptor shall submit a letter of application for continuance to the program advisory committee stating that the preceptor or training location has changed. The new preceptor shall complete and submit the preceptor portion of the application form, including the preceptor's credentials.
3. At the next meeting of the program advisory committee following receipt of the letter, the committee shall review the documentation and send written notification to the AIT and the preceptor of the committee's decision and program continuance date within 5 working days after the meeting.
4. Change requests may be completed in advance to allow for a smooth and timely transition.

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-301 renumbered as a permanent rule to R4-33-302; new rule R4-33-301 adopted effective November 25, 1992 (Supp. 92-4). Former Section R4-33-301 renumbered to R4-33-401, new Section R4-33-301 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-302. Preceptor Qualifications and Responsibilities**

**A.** A preceptor shall have the following qualifications:

1. Be an administrator of record with a current nursing care institution administrator's license in good standing in Arizona with no disciplinary actions taken against the preceptor's license in the last 3 years, excluding letters of concern;
2. Be a full-time practicing nursing care institution administrator with a minimum of 2 years of experience as an administrator within the last 3 years;
3. Comply with all required continuing education in the long-term care field; and
4. Complete a preparatory educational seminar approved by the Board.

**B.** A preceptor shall:

1. Implement the AIT training program in a facility.
2. Interview a prospective AIT to ensure that the preceptor and AIT understand the required training plan, develop the AIT program experience, identify individual responsibilities, and assure compatibility between them. A proposed training program shall be prepared by the preceptor and AIT for submission to and approval by the program

advisory committee. The training plan shall include the following:
a. The name of the AIT;
b. The date;
c. The name of the training site, and its address and phone number;
d. The number of weeks or hours to complete the program;
e. The start, completion and examination dates of the program, including the hours in administration, human resources, nursing, rehabilitation, medical records, activities, social services, business office, dietary, housekeeping, laundry, maintenance, and other;
f. The total assigned time in weeks or hours;
g. Other comments; and
h. The dated signatures of the AIT and preceptor.

3. Provide the AIT with an initial orientation to the facility, its philosophy, its staff and basic operation.
4. Alert the facility's staff to the presence of the AIT and the purpose of the clinical experience and solicit staff cooperation in providing information and encouragement to the AIT.
5. Meet with the AIT on at least a weekly basis to evaluate performance, apprise the AIT of areas of competency and weakness, identify problem areas, and modify the training plan to meet altered needs.
6. Provide information and guidance to the AIT in test-taking techniques to prepare for state licensure.
7. Provide follow-up with the AIT's progress upon completion of the training program and provide information regarding job opportunities in the field of long-term care administration.
8. Report on a monthly basis to the program advisory committee any concerns or problems regarding the progress of the AIT, including comments on the professional competence of the AIT as well as the attitudes about long-term care and general suitability of the AIT for the field.
9. Modify the structure and content of the AIT program in response to feedback received from the AIT's evaluation of the preceptor.
10. Incorporate into the AIT program visits to other facilities to provide broader exposure to the field, and visits to relevant governmental and community agencies.
11. Upon completion of training, prepare a certification of program completion and provide it to the program advisory committee, which shall notify the Board that the AIT has successfully completed training. The certification of program completion shall provide the following information:
a. The full name of the AIT;
b. The place of training, including mailing and street address;
c. The telephone number of the place of training;
d. The dates the AIT began and completed the program;
e. The number of weeks spent in administration, human resources, nursing department, rehabilitation department, medical/patient records, activities department, social services/admissions, business office, dietary department, housekeeping/laundry, environment/maintenance and other;
f. The total number of weeks in the AIT training program;
g. A certification that the AIT has satisfactorily completed the program under the preceptor's personal supervision;
h. A narrative evaluation of the suitability of the AIT for licensure as a nursing care institution administrator; and
i. The signatures of the AIT and preceptor, the date, and the preceptor's license number.

**C.** A preceptor shall immediately inform the site evaluator when the preceptor is absent for more than 10 consecutive working days for any reason. The site evaluator may extend or suspend the program if the preceptor is absent for a cumulative total of 25 working days for any reason. An AIT may train at another facility under another preceptor who has no other AIT during the absence of the original preceptor.

**Historical Note**

R4-33-302 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-302 renumbered as a permanent rule to R4-33-303; new R4-33-302 renumbered from emergency rule R4-33-301 and adopted with changes effective November 25, 1992 (Supp. 92-4). Former Section R4-33-302 renumbered to R4-33-402, new Section R4-33-302 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-303. Administrator in Training**

**A.** An AIT shall comply with the standards of conduct applicable to nursing care institution administrators.

**B.** An AIT shall serve an internship between the hours of 6:00 a.m. and 7:00 p.m., Monday through Friday, on a regular basis. An AIT may train on weekends and on 2nd and 3rd shifts for limited periods of time and for specific purposes.

**C.** An AIT shall not serve in any capacity in a facility other than that of trainee during the training period.

**D.** An AIT shall send a report at the end of the 1st calendar month and every month thereafter to the site evaluator. Each monthly report, together with daily logs, shall be completed for review and signature by the preceptor and submitted to the site evaluator. The report shall provide the following information:
1. The full name of the AIT;
2. The training facility name, address, and phone number;
3. The date of the report;
4. The dates covered by the report;
5. The date the internship began and its expected completion date;
6. A list of assignments and departments with time spent in each;
7. A summary of learning experiences;
8. A brief analysis of any problems observed, new experiences, and insights gained;
9. A statement of any problems that arose during the training;
10. A list of visits made outside the facility and educational conference attended;

11. A certification that the information presented is true and accurate; and,
12. The signatures of the AIT and preceptor.

**E.** An AIT shall complete the training program in not less than 20 weeks nor more than 52 weeks after beginning training.

**F.** Any consecutive absence of an AIT of more than 5 working days shall result in the suspension of the program effective with the 1st day of absence. The preceptor shall immediately notify the site evaluator. The program may resume upon the return of the AIT to the program schedule if reviewed by the site evaluator. The program shall be extended equivalent to the period of time lost. Absences of 5 consecutive working days or less shall be worked out between the preceptor and the AIT.

**G.** An AIT shall develop professional competency and a personal code of ethics through the following:

1. In collaboration with the preceptor, become involved in decision-making activities of increasing difficulty and their implementation.
2. Increase knowledge and appreciation of the clinical aspects of delivering quality long-term care services through observation and participation, including involvement with nursing, rehabilitative, and social services.
3. Develop a familiarity with the patient population in the facility and with the unique problems associated with the delivery of multiple services to an aged, chronically ill, and disabled dependent population.
4. Become familiar with all departments and services in the facility, including dietary, housekeeping, laundry, maintenance and others, to understand both their individual functions and how they interface which each other.
5. Complete all projects and assignments made by the preceptor.
6. Communicate openly with the preceptor at all times.
7. Evaluate the preceptor's performance in the tutorial role.
8. Apply the theories, concepts, principles, and techniques learned through formal academic preparation to practical situations in the facility.

**Historical Note**

R4-33-303 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-303 renumbered as a permanent rule to R4-33-304; new R4-33-303 renumbered from emergency rule R4-33-302 and adopted with changes effective November 25, 1992 (Supp. 92-4). Former Section R4-33-303 renumbered to R4-33-403, new Section R4-33-303 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-304. Renumbered**

**Historical Note**

R4-33-304 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-304 renumbered as a permanent rule to R4-33-305, new rule R4-33-304 renumbered from emergency rule R4-33-303 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-304 renumbered to R4-33-404 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-305. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-305 renumbered as a permanent rule to R4-33-306, new R4-33-305 renumbered from emergency rule R4-33-304 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-305 renumbered to R4-33-405 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-306. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-306 renumbered as a permanent rule to R4-33-307, new R4-33-306 renumbered from emergency rule R4-33-305 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-306 renumbered to R4-33-406 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-307. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emer-

gency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-307 renumbered as a permanent rule to R4-33-308, new R4-33-307 renumbered from emergency rule R4-33-306 and adopted with changes effective November 25, 1992 (Supp. 92-4). Amended effective February 6, 1995 (Supp. 95-1). Section R4-33-307 renumbered to R4-33-407 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-308. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-307 renumbered to R4-33-311 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days; new emergency rule adopted as R4-33-307 renumbered from R4-33-312 and amended by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-308 renumbered as a permanent rule to R4-33-309, new R4-33-308 renumbered from emergency rule R4-33-307 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-308 renumbered to R4-33-408 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-309. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. New emergency rule adopted as R4-33-308 renumbered from emergency rule R4-33-309 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-309 renumbered as a permanent rule to R4-33-310, new R4-33-309 renumbered from emergency rule R4-33-308 and adopted without change effective November 25, 1992 (Supp. 92-4). Section R4-33-309 renumbered to R4-33-409 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-310. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-309 renumbered to emergency rule R4-33-308; new emergency rule adopted as R4-33-309 renumbered from emergency rule R4-33-310 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-310 renumbered as a permanent rule to R4-33-311, new R4-33-310 renumbered from emergency rule R4-33-309 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-310 renumbered to R4-33-410 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-311. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-310 renumbered to R4-33-309; new emergency rule R4-33-310 renumbered from emergency rule R4-33-311 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-311 renumbered as a permanent rule to R4-33-312, new R4-33-311 renumbered from emergency rule R4-33-310 and adopted without change effective November 25, 1992 (Supp. 92-4). Section R4-33-311 renumbered to R4-33-411 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-312. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. R4-33-312 renumbered from emergency rule R4-33-311 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-312 renumbered to R4-33-412 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

## ARTICLE 4. ADULT CARE HOME MANAGER CERTIFICATION

**R4-33-401. Training Program Requirements**

The adult care home manager training program shall meet the following minimum requirements:

1. Consist of no less than 34 clock hours of training;
2. Contain, at minimum, the following curriculum:
   a. Resident rights - two hours;

b. Hands-on care of the elderly, disabled, and physically handicapped - ten hours. Practical hands-on skills shall include the following: bathing; grooming; oral hygiene; toileting; eating; dressing; ambulation; transferring in and out of bed, chair and tub; safety/fall prevention; assessing and monitoring skin integrity; and common problems and illnesses of the elderly;

c. Nutrition, food preparation, and special diets - four hours;

d. Care of the confused residents - to include special needs of confused and agitated residents, common behavior problems, and communication skills - four hours;

e. Pharmacology of medications commonly prescribed for adults - to include understanding medication orders, understanding effects of commonly prescribed medications, understanding residents' need for medications, recordkeeping and documentation related to medications, communication about medications, and assisting with medications - four hours;

f. Care plan development - four hours;

g. Safety with regard to fire hazards, environmental hazards, safety codes, emergency equipment, resident safety, and evacuation plans - two hours; and

h. Business practices; recordkeeping; assessment, management, supervision, and evaluation of residents and staff; and documentation of residents' status - four hours;

3. Include direct hands-on care in which the trainee demonstrates skills of grooming, oral hygiene, bathing/showering, assistance with ambulation, and transfer techniques by performing these tasks on an individual while under the direct supervision of a qualified instructor;

4. For the hands-on care portion of the training program, the instructor-to-student ratio shall not exceed 12 trainees per qualified instructor; and

5. All training programs approved by the Board shall be made available to the general public.

**Historical Note**

Section R4-33-401 renumbered from R4-33-301 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-402. Eligibility for Initial Certification**

**A.** A person may apply for an initial adult care home manager certificate by examination pursuant to A.R.S. § 36-446.04(B) if one of the following requirements is met:

1. The applicant has successfully completed a Board-approved adult care home manager training program; or

2. In lieu of a Board-approved training program, the applicant may provide a certified transcript from an accredited university or college or provide other evidence of a combination of education and training which verifies a total of at least 34 hours of instruction, including a minimum of the indicated hours in the following areas: resident rights (two hours); hands-on care of elderly, disabled or physically handicapped adults (ten hours); nutrition and food preparation (four hours); caring for confused individuals (four hours); pharmacology of medications commonly prescribed for adults (four hours); care plan development (four hours); environment and fire safety (two hours); business practices and recordkeeping (four hours).

**B.** The applicant shall also provide evidence of successful completion of an adult cardiopulmonary resuscitation program and a basic first-aid training program.

**Historical Note**

Section R4-33-402 renumbered from R4-33-302 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-403. Initial Application**

**A.** All applicants for adult care home manager shall submit a sworn, notarized application form supplied by the Board releasing information to the Board and identifying both the type of certificate requested and the statute under which they are applying.

**B.** The applicant shall submit a "Character Certification" form from at least two persons who are not related to or in the employment of the applicant who attest to the good character of the applicant.

**C.** An applicant shall submit a "Medical Certification" form completed by a licensed physician attesting to the applicant's physical and mental fitness to perform the duties of manager.

**D.** Each applicant shall certify in writing that he or she has not committed any of the acts listed in A.R.S. § 36-446.07(B) or 36-448.02(B).

**E.** An applicant shall complete and submit a properly sworn and notarized personal data sheet form prescribed by the Board which provides general information about the applicant, including name and address, telephone number, social security number (optional), date of birth, sex, history of any conviction of a violation of federal, state or local statutes other than for minor traffic violations, educational background, employment background, and an affidavit that the application is complete and accurate. A color photograph showing head and shoulders of the applicant shall be attached to the personal data sheet. The photograph shall not be less than 2 1/2 inches nor more than 3 inches square and shall have been taken within six months prior to the date of application.

**F.** An applicant shall submit to the Board the following documents indicating the requirements of R4-33-301(A), as applicable, have been met: certified transcripts; evidence of completion of a training program; or other evidence of education and training.

**G.** The completed application forms and the prescribed fees shall be received by the Board at least 45 days before the date of the next regularly scheduled examination.

**Historical Note**

Section R4-33-403 renumbered from R4-33-303 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-404. Examination**

**A.** The adult care home manager's examination shall test the applicant's knowledge of adult care home residents' needs, the laws and rules governing operation of adult care homes, and elements of good health facilities management. The minimum passing score shall be 70%.

**B.** Examinations shall be administered not less than twice each year at such times and places in Arizona as may be specified by the Board.

**C.** The score sheets and record of the examination shall be filed and retained by the Board for at least four years.

**Historical Note**

Section R4-33-404 renumbered from R4-33-304 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-405. Fees**

Fees prescribed by the Board are as follows:

1. Examination for certification as an adult care home manager, $40.00.
2. Issuance of adult care home manager certificate, $100.00 prorated monthly.
3. Biennial renewal of adult care home manager certificate, $100.00.
4. Biennial renewal of inactive adult care home manager certificate, $25.00.
5. Temporary adult care home manager certification fee, $25.00.
6. Penalty fee for late renewal, $25.00.
7. Review of continuing education programs, $20.00.

**Historical Note**

Section R4-33-405 renumbered from R4-33-305 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-406. Renewal Application**

**A.** All certificates, except temporary certificates, expire at midnight on June 30 of each odd-numbered year. Temporary certificates expire at midnight on the date designated on the certificate.

**B.** A certified adult care home manager seeking renewal shall submit an application for biennial renewal of certificate, accompanied by the prescribed fee, showing address and current employment, and shall submit evidence of completion of six hours of continuing education credit per year, pursuant to R4-33-308, by not later than June 1 of the renewal year. A certificate holder who received an original certificate on or after January 1 of the same year that renewal is required need only submit evidence of completion of three hours of continuing education credit.

**C.** An individual whose Arizona certificate has expired may apply for late renewal provided the following requirements are met:

1. The certificate was not revoked pursuant to A.R.S. § 36-446.07;
2. No more than 30 days have elapsed since the expiration of the certificate;
3. The prescribed fees have been paid; and
4. The applicable continuing education requirements have been met.

**Historical Note**

New Section R4-33-406 renumbered from R4-33-306 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R-4-33-407. Standards of Conduct; Suspension or Revocation**

**A.** A certified manager is responsible for the operation of any adult care home which he manages, as well as for his or her own conduct. In addition to the requirements of A.R.S. § 36-446.07(B), a manager shall adhere to the following standards.

1. The certified adult care home manager must be knowledgeable about federal and state laws and rules applicable to the operation of adult care homes.
2. The certified adult care home manager is prohibited from working in a home that solicits, offers, or receives any premium, rebate, or other valuable consideration to or from any person or entity, except that the certified adult care home manager may be employed in adult care homes that pay referral fees only when those adult care homes have a contract on file with private referral agencies and keep on file names of residents who were referred by such referral agencies.
   a. When a referral fee is paid, the certified adult care manager shall keep on file a disclosure statement signed by the competent resident, resident's representative, or resident's legal guardian upon admission indicating knowledge that the adult care home will pay a fee to the referral agency for the resident's placement into the home, and indicating that the competent resident, resident's representative, or resident's legal guardian was informed of the fee payment prior to or upon admission into the adult care home. If a referral is made to a home that has an ownership interest in the referral agency, or by a referral agency that has an ownership interest in the adult care home, the certified adult care home manager shall keep on file a disclosure statement signed by the competent resident, resident's representative, or resident's legal guardian indicating knowledge of the relationship between the referral agency and the home prior to, or upon admission to the home.
   b. Upon renewal of certification, the certified adult care home manager who is employed by an adult care home that pays referral fees shall provide to the Board an affidavit avowing that the above disclosure requirements have been met.

**B.** A manager who has violated the provisions of this Article as an applicant for a certificate, renewal of certificate, or late renewal of certificate or in a capacity as a manager is subject to the provisions of A.R.S. § 36-446.07 relating to suspension, revocation, or denial of a certificate.

**Historical Note**

Section R4-33-407 renumbered from R4-33-307 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-408. Criteria for Continuing Education**

**A.** Evidence of attendance at Board-approved continuing education programs shall be submitted with the application for renewal of certificate. Continuing education credits shall be acquired during the period of the certificate but completed by May 31 prior to the renewal period.

**B.** All continuing education programs require Board approval and shall be in at least one of the following subject areas:

1. Statutes and rules on environmental health and safety (OSHA);
2. Principles of management, including human resources, financial accounting, marketing, development;
3. Principles of patient care, patient rights, psychology;
4. Therapeutic and supportive care services, nutrition, pharmacology, disease process, caring for confused residents;
5. Community health and social resources, case management, ombudsman program;
6. Rules governing adult care homes, Medicare, Arizona Health Care Cost Containment System.

**C.** Continuing education credits shall be awarded as follows:

1. Programs of study - shall contain at least 25 contact hours and shall receive 25 credit hours.
2. Seminars or workshops - one hour of credit for each contact hour.
3. College accredited courses - 13 credit hours for each semester hour.
4. Annual meeting of national health care organizations - three credit hours for each annual meeting attended up to a maximum of six hours per year.
5. State association meetings affiliated with national health care organizations - one-half hour credit for each meeting up to a maximum of three hours per year.

**D.** A certificate holder who participates as an instructor in an approved program shall receive the same credit as a student.

**E.** The Board may disapprove requests for approval which have not been submitted at least 45 days prior to the commencement of a program.

**F.** Requests for approval may be submitted by individuals or sponsors in writing and shall contain at least the following information:

1. Title of program;
2. Sponsor: name, address and contact person;
3. Date, time and place of program;
4. Content and applicability to adult care home management;
5. Credentials of qualified instructors;
6. Number of contact hours, including a time schedule of events where possible;
7. If an accredited college course, the number of semester hours granted;

**G.** Sponsored educational program requests for approval shall be accompanied by the prescribed fee for Board review.

**H.** Sponsored programs shall be submitted to the Board for reapproval prior to changes in content, instructor or hours.

**I.** Continuing education programs shall be taught by qualified instructors as defined in R4-33-112(B)(9).

**Historical Note**

Section R4-33-408 renumbered from R4-33-308 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-409. Display of Certificate**

Every person certified and employed as an adult care home manager shall display the original certificate and the current renewal certificate in a conspicuous place in the adult care home.

**Historical Note**

Section R4-33-409 renumbered from R4-33-309 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-410. Temporary Certificates**

**A.** To qualify for a temporary certificate to fill an adult care home manager position, the applicant shall have completed one of the following:

1. 27 hours of instruction in an approved adult care home manager training program; or
2. Be registered as a Nurse's Aide in Arizona; or
3. Have current licensure with the State Board of Nursing.

**B.** The requirements specified in R4-33-303 and R4-33-305 shall also be met.

**C.** The owner or governing authority of the adult care home shall submit a letter indicating the manager position is available and that the applicant shall be engaged in the capacity of manager if the applicant is successful in obtaining a temporary certificate.

**D.** Prior to the expiration of the 150-day period, the temporary certificate holder shall become certified under the terms of A.R.S. § 36-446.04(B) or discontinue as the manager of the adult care home.

**Historical Note**

Section R4-33-410 renumbered from R4-33-310 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-411. Denial of Certificate**

Any person who has been denied a certificate or denied the right to take an examination shall be notified as provided in A.R.S. § 41-1061.

**Historical Note**

Section R4-33-411 renumbered from R4-33-311 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-412. Rehearing or Review of Decision**

**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than ten days after service of the decision, a written request for rehearing or review of the decision which specifies the particular grounds therefor. For purposes of this rule, a decision shall be deemed to have been served when mailed by certified mail to the party at his last known residence or place of business.

**B.** A request for rehearing under this rule may be amended at any time before it is ruled upon by the Board. Any party may file a response to the request within ten days after service of the request on that party. The Board may require the filing of written argument upon the issues raised in the request and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the requesting party's rights:

1. Irregularity in the administrative proceedings of the Board or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the requesting party was deprived of a fair hearing.
2. Misconduct of the Board or its hearing officer or the prevailing party.
3. Accident or surprise which could not have been prevented by ordinary prudence.
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on request of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a request for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.

**F.** When a request for rehearing is based upon affidavits, they shall be served with the request. An opposing party may, within ten days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final deci-

sion without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** For purposes of this rule, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.

**Historical Note**

Section R4-33-412 renumbered from R4-33-312 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

# TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

## CHAPTER 34. BOARD OF MANUFACTURED HOUSING

(Authority: A.R.S. § 41-2141 et seq.)

### ARTICLE 1. MANUFACTURING AND CONSTRUCTION STANDARDS AND CODES

Section
R4-34-101. General
R4-34-102. Manufactured homes
R4-34-103. Recreational Vehicles and Subassemblies
R4-34-104. Factory-built Buildings and Subassemblies
R4-34-105. Alterations standards
R4-34-106. Reconstruction of units
R4-34-107. Rehabilitation of mobile homes

### ARTICLE 2. INSTALLATION STANDARDS AND CODES

Section
R4-34-201. General
R4-34-202. Manufactured Home or Mobile Home Installation Standards and Codes
R4-34-203. Accessory structures
R4-34-204. Repealed
R4-34-205. Installation of Factory-built Buildings

### ARTICLE 3. PLAN APPROVALS

*Former Article 3, consisting of Sections R4-34-301 thru R4-34-304, renumbered to Article 7, Sections R4-34-701 thru R4-34-704, effective July 3, 1991 (Supp. 91-3).*

*New Article 3, consisting of Sections R4-34-301 thru R4-34-306, renumbered from Article 7, Sections R4-34-701 thru R4-34-706, effective July 3, 1991 (Supp. 91-3).*

R4-34-301. General
R4-34-302. Quality assurance manuals
R4-34-303. Drawings and specifications
R4-34-304. Alteration or reconstruction approvals
R4-34-305. Plant certification
R4-34-306. Ground anchoring approvals
R4-34-307. Accessory structures approvals
R4-34-308. Factory-built Building Installation Plan Requirements
R4-34-309. Factory-built building installation application form

### ARTICLE 4. INSPECTION AND TECHNICAL SERVICE

*Former Article 4, consisting of Sections R4-34-401 thru R4-34-403, renumbered to Article 5, Sections R4-34-501 thru R4-34-503, effective July 3, 1991 (Supp. 91-3).*

*New Article 4, consisting of Sections R4-34-401 thru R4-34-404, renumbered from Article 9, Sections R4-34-901 thru R4-34-904, effective July 3, 1991 (Supp. 91-3).*

Section
R4-34-401. Manufacturing locations
R4-34-402. Dealer facilities
R4-34-403. Installation of manufactured homes, mobile homes, accessory structures, and factory-built buildings
R4-34-404. Technical service

### ARTICLE 5. LICENSE SCOPES

*Former Article 5, consisting of Sections R4-34-501 and R4-34-502, renumbered to Article 8, Sections R4-34-801 and R4-34-802, effective July 3, 1991 (Supp. 91-3).*

*New Article 5, consisting of Sections R4-34-501 thru R4-34-503, renumbered from Article 4, Sections R4-34-401 thru R4-34-403, effective July 3, 1991 (Supp. 91-3).*

Section
R4-34-501. Manufacturers
R4-34-502. Dealers
R4-34-503. Installers

### ARTICLE 6. FEES

Section
R4-34-601. License Fee and Bond Amount
R4-34-602. Fees
R4-34-603. Inspection and technical service fees
R4-34-604. Reimbursement of travel cost
R4-34-605. Plan and supplement approval fees
R4-34-606. Installation permits and insignia fees
R4-34-607. HUD monitoring inspection fees
R4-34-608. HUD label administrative fees
R4-34-609. Administrative function fees
R4-34-610. Mobile home rehabilitation permit, insignia of approval, inspection fee, and waiver fee

### ARTICLE 7. LICENSING

*Former Article 7, consisting of Sections R4-34-701 thru R4-34-706, renumbered to Article 3, Sections R4-34-301 thru R4-34-306, effective July 3, 1991 (Supp. 91-3).*

*New Article 7, consisting of Sections R4-34-701 thru R4-34-704, renumbered from Article 3, Sections R4-34-301 thru R4-34-304, effective July 3, 1991 (Supp. 91-3).*

Section
R4-34-701. General
R4-34-702. Manufacturers
R4-34-703. Dealers and brokers
R4-34-704. Installers

### ARTICLE 8. BOND REQUIREMENTS

*Former Article 8, consisting of Sections R4-34-801 thru R4-34-804, repealed effective July 3, 1991 (Supp. 91-3).*

*New Article 8, consisting of Sections R4-34-801 and R4-34-802, renumbered from Article 5, Sections R4-34-501 and R4-34-502, effective July 3, 1991 (Supp. 91-3).*

Section
R4-34-801. Surety bond forms
R4-34-802. Cash deposit provisions

### ARTICLE 9. ADMINISTRATIVE PROCEDURES

*Former Article 9, consisting of Sections R4-34-901 thru r4-34-904, ,renumbered to Article 4, Sections R4-34-401 thru R4-34-404, effective July 3, 1991 (Supp. 91-3).*

*New Article 9, consisting of Section R4-34-901, renumbered from Article 10, Section R4-34-1001, effective July 3, 1991 (Supp. 91-3).*

Section
R4-34-901. Rehearing

### ARTICLE 10. RENUMBERED

*Article 10 consisting of Section R4-34-1001 adopted effective April 4, 1985.*

*Former Article 10, consisting of Section R4-34-1001 ,renumbered to Article 9, Section R4-34-901, effective July 3, 1991 (Supp. 91-3).*

### ARTICLE 11. RENUMBERED

*Article 11, consisting of Section R4-34-1101, renumbered to 4 A.A.C. 36, R4-36-201 (Supp. 95-4).*

*Article 11, consisting of Section R4-34-1101, adopted as a permanent rule effective November 16, 1988.*

*Article 11, consisting of Section R4-34-1101, adopted as an emergency effective March 14, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.*

## ARTICLE 1. MANUFACTURING AND CONSTRUCTION STANDARDS AND CODES

### R4-34-101. General

For purposes of this Chapter, the following definitions apply:

1. "OMH" means Office of Manufactured Housing, a division of the Department of Building and Fire Safety.
2. "OA" means the Office of Administration, a division of the Department of Building and Fire Safety.

**Historical Note**

Former Section R4-34-101 renumbered to R4-34-102, new Section R4-34-101 adopted effective July 3, 1991 (Supp. 91-3).

### R4-34-102. Manufactured homes

Manufactured homes shall be manufactured in accordance with the U.S. Department of Housing and Urban Development, 24 CFR 3280 as amended 1990, Manufactured Home Construction and Safety Standards which are incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these standards are available from the U.S. Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410. Incorporated materials do not include any later amendments or editions of the listed codes.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective May 28, 1980 (Supp. 80-3). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-102 renumbered to R4-34-103, new Section R4-34-102 renumbered from R4-34-101 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3).

### R4-34-103. Recreational Vehicles and Subassemblies

**A.** In addition to applicable federal and state motor vehicle safety standards, recreational vehicles and subassemblies shall be manufactured pursuant to the following:

1. The drawings and specifications required by R4-34-303(C).
2. Recreational vehicles of 3000 pounds or greater gross vehicle weight, and designed to be towed, shall have breakaway switches as specified by A.R.S. § 28-952(A)(3) and (B).
3. The overall length of a recreational vehicle shall not exceed 40 feet.
4. A permanent serial number shall be affixed to each unit during the first stage of manufacturing. Its location and application shall be shown in the drawing package required by R4-34-303(C).
5. Each manufacturer shall affix a state insignia of approval to each completed unit. The insignia shall indicate the unit serial number and plan approval number and be located on the unit as indicated in the drawing package required by R4-34-303(C).
6. Portable camping trailers, motor homes, travel trailers, and truck campers, as defined in A.R.S. Title 41, Chapter 16, Article 1, shall be manufactured in compliance with ANSI A119.2, Recreational Vehicles, 1993 Edition and all appendices therein. These standards are on file with the Office of the Secretary of State. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018. Incorporated materials do not include any later amendments or editions of the listed codes.
7. Park trailers shall be manufactured in compliance with ANSI A119.5, Park Trailers, 1993 Edition and all appendices therein except that the definition of "Gross Trailer Area" in Chapter 1, Section 1-3, is modified to read, "The largest horizontal projection of the park trailer in the set-up mode. In calculating the square footage of a trailer, measurements shall be taken on the exterior of the trailer. The square footage includes all siding, corner trim, and molding, storage space, and areas enclosed by windows, but not roof overhangs." These standards are on file with the Office of the Secretary of State. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018. Incorporated materials do not include any later amendments or editions of the listed codes. "Park Trailer" means a recreational vehicle that is built on a single chassis, mounted on wheels, designated to be connected to utilities necessary for operation of installed fixtures and appliances, has a gross trailer area of not less than 320 square feet and not more than 400 square feet, except that it does not include fifth-wheel trailers.

**B.** A van is deemed to be a recreational vehicle if it meets any of the definitions in A.R.S. § 41-2142(29) and has one or more of the following permanently attached:

1. Gas or electric cooking appliances,
2. Mechanical refrigerator,
3. Toilet facilities,
4. Heating and air conditioning systems other than automotive,
5. 110/125 volt electric system, and
6. LP gas.

**C.** Upon written request, the Assistant Director of the OMH may approve alternate design and construction specifications which meet the pertinent requirements in subsection (A).

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective December 13, 1979 (Supp. 79-6). Amended subsection (A), paragraph (5) effective September 17, 1980 (Supp. 80-5). Amended effective October 20, 1981 (Supp. 81-5). Amended subsection (A), paragraph (2) effective August 29, 1983 (Supp. 83-4). Former Section R4-34-103 renumbered to R4-34-104, new Section R4-34-103 renumbered from R4-34-102 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Amended effective December 14, 1994 (Supp. 94-4).

### R4-34-104. Factory-built Buildings and Subassemblies

**A.** Factory-built buildings and subassemblies shall be manufactured pursuant to the following:

1. The codes and standards incorporated by reference in this Section are on file with the Office of the Secretary of State. Copies of these codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Incorporated materials do not include any later amendments or editions of the listed codes.
   a. Uniform Building Code (ICBO) -- 1991 Edition including the appendices except:
      i. Part I, Chapters 2 and 3;
      ii. Appendix Chapter 1;

iii. Appendix Chapter 7;
iv. Appendix Chapter 12, Division I and III;
v. Appendix Chapter 23, Division II;
vi. Appendix Chapter 31, Division I;
vii. Appendix Chapter 55;
viii. Appendix Chapter 57; and
ix. Appendix Chapter 70.

b. Uniform Mechanical Code (APMO) -- 1991 Edition including the appendices except: Part I, Chapters 2 and 3.
c. Uniform Plumbing Code (IAPMO) -- 1991 Edition and all appendices except:
i. Part I,
ii. Part II, Chapter 10, Section 1004 - Materials. Paragraph (a) is changed to read:
(a) Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel or other approved materials. Asbestos-cement, CPVC, PB, PE, or PVC water pipe manufactured to recognized standards may be used for cold water distribution system outside a building. CPVC and PN water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices, shall be of a like material, except where otherwise approved by the Administrative Authority.
iii. Appendix E, and
iv. Appendix I.
d. National Electrical Code (NFPA-70) -- 1990 Edition.
e. A.R.S. Title 41, Chapter 9, relating to Public Accommodation and Services.

2. A complete set of drawings and specifications pursuant to R4-34-303(B).
3. Each unit shall have a permanent serial number affixed during the first stage of manufacturing. Sections of a multiple section unit shall be separately identified. Location and application of serial number shall be indicated in the drawing package required pursuant to R4-34-303(B).
4. Each manufacturer shall affix a state insignia of approval to each completed section. The insignia shall indicate the unit serial number and plan approval number and be located on the unit as indicated in the drawing package required pursuant to R4-34-303(B).
5. Manufacturers of factory-built buildings who wish to participate in HUD's voluntary Technical Suitability of Products Program for Category III Housing shall have a data plate affixed as prescribed by the HUD Handbook 4950.1 Rev-1 paragraph 2-13, Technical Suitability of Products Program processing procedures, August 1979, which provides as follows: Identification of Factory-Built Housing Units, 2-13.
a. A serial number shall be assigned to each unit to be fabricated under HUD requirements, and shall be entered in the permanent records of the manufacturer before the start of fabrication. Records of serial numbers shall be made available to the HUD inspector upon request. The serial number and the Structural Engineering Bulletin number or Area Letter of Acceptance number shall be displayed conspicuously (by stencil, placard, etc.) on the unit at all stages of construction as notice that the work is to meet the requirements of pertinent HUD documents.
b. Completed housing units shall be identified by a serial numbered, permanent-type marker plate affixed to the structure prior to shipment from the factory. The permanent data plate shall show the manufacturer's name and address, the Structural Engineering Bulletin or Area Letter of Acceptance number, the date of completion in the factory, the design loads for wind and snow and the Seismic Zone, and other data at the manufacturer's option. The data plate shall be installed near the main electrical panel or other readily accessible location.
c. Factory-produced dwelling units which are not identified by serial numbers as described above shall not be considered for mortgage insurance.
d. Components such as panels, joists, and beam-and-column assemblies shall either:
i. Be manufactured in a plant whose total production of products of such nature meets Structural Engineering Bulletin or Area Letter of Acceptance requirements; or
ii. Be identified individually by number of Acceptance Document (SEB, ALA, or MEB).

**B.** Upon written request, the Assistant Director of OMH may approve alternate design and construction specifications which meet the minimum requirements in R4-34-104(A)(1).

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (A) effective February 18, 1981 (Supp. 81-1). Amended subsection (A), paragraph (2) effective August 29, 1983 (Supp. 83-4). Amended subsection (A)(2)(d) effective July 18, 1984 (Supp. 84-4). Former Section R4-34-104 renumbered to R4-34-105, new Section R4-34-104 renumbered from R4-34-103 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3). Amended effective April 12, 1994 (Supp. 94-2).

**R4-34-105. Alterations standards**

**A.** Alterations shall be consistent with the applicable standards and codes set forth in this Chapter for the manufacture of the unit being altered. The alterations shall be described in drawings and specifications as required by R4-34-304.
**B.** Upon written request, the Assistant Director of OMH may approve alteration plans of alternate design and specifications which are equivalent to the standards and codes in subsection (A) above.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Former Section R4-34-105 renumbered to R4-34-106, new Section R4-34-105 renumbered from R4-34-104 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-106. Reconstruction of units**

**A.** The terms "manufacture", "construction", and "constructed" as used in A.R.S. Title 41, Chapter 16, Articles 1, 2 and 4, with reference to manufactured or mobile homes, recreational vehicles or factory-built buildings, includes the reconstruction of such units as defined herein. "Reconstruction" means: construction work performed on a damaged manufactured or mobile home, recreational vehicle, or factory-built building for the purpose of restoring such unit to a usable condition but does not include work limited to remodeling, replacing, or repairing appliances or components which will not significantly alter the systems or the structural integrity of the living

areas. For purposes of this rule, a damaged unit means one that has incurred damage rendering the living area or systems of the unit, or any portion thereof, substantially unfit for the original use for which it was intended.

**B.** The standards and codes applicable to the reconstruction of units are as follows:
1. Manufactured or mobile homes -- R4-34-102.
2. Recreational vehicles -- R4-34-103.
3. Factory-built buildings -- R4-34-104.

**C.** The drawings and specifications required by R4-34-304 shall be approved before reconstruction of a unit is started.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended effective April 23, 1981 (Supp. 81-2). Amended effective October 20, 1981 (Supp. 81-5). Correction, subsection (A) (Supp. 81-6). Amended by adding subsection (C) effective April 30, 1982 (Supp. 82-2). Former Section R4-34-106 renumbered to R4-34-107, new Section R4-34-106 renumbered from R4-34-105 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-107. Rehabilitation of mobile homes**

**A.** The rehabilitation of mobile homes shall be pursuant to the following requirements.
1. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space communicating with each bedroom area and the living area on the living area side, and, when located in a hallway, the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing and the top of the detector shall be located on a wall 4 inches to 12 inches below the ceiling. The detector may be battery powered or may be connected to an electrical outlet box by a permanent wiring method into a general electrical branch circuit, without any switch between the over current protection device protecting the branch circuit and the detector.
2. The walls, ceilings, and doors of each compartment containing a gas-fired furnace or water heater shall be lined with 5/16 inch gypsum board, unless the door opens to the exterior of the mobile home in which case the door may be all metal construction. All exterior compartments shall seal to the interior of the mobile home.
3. Each room designated expressly for sleeping purposes shall have an exterior exit door or at least one outside egress window or other approved exit device with a minimum clear dimension of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor.
4. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles, shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14.
5. The mobile home's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least 6 inch mercury or 3 psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10 pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than 10 inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with UMC Chapter 9.

**B.** A rehabilitation permit shall be obtained from the Assistant Director of OA prior to any modification of the mobile home.

**C.** The mobile home shall be inspected by the OMH to ascertain compliance with subsection (A).

**D.** The OA shall issue a certificate of compliance for each mobile home in compliance with subsection (A), and the OMH shall affix an insignia of approval to the exterior wall nearest the point of entrance of the electrical service.

**E.** Upon a request the OMH may authorize issuance of a waiver for a unit that does not qualify as a mobile home. The category of the unit may be determined by inspection of the unit or presentation of acceptable documents.

**F.** A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period shall be determined by the OMH based on the severity of the hazard or violation and the time reasonably needed to make the correction. A minimum of 30 days shall be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed. In either event an Order to Vacate shall be issued to the person occupying the mobile home.

**G.** A person occupying the mobile home shall be served with an Order to Vacate that mobile home within five days if on inspection the mobile home is found to contain an imminent safety hazard.

**Historical Note**
Adopted as an emergency effective May 20, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Permanent rule adopted effective August 13, 1985 (Supp. 85-4). Section R4-34-107 renumbered from R4-34-106 and amended effective July 3, 1991 (Supp. 91-3).

## ARTICLE 2. INSTALLATION STANDARDS AND CODES

**R4-34-201. General**

**A.** For purposes of this Article the following definitions apply.
1. "Board" means the Board of Manufactured Housing.
2. "Standards" means the state installation standards and codes as they relate to the installation of manufactured homes, mobile homes, factory-built buildings, and accessory structures.

**B.** Requests for interpretation of the standards and codes shall be made in writing to the Assistant Director of OMH. Within 15 working days from receipt of the request, an interpretation shall be rendered by the OMH or the request shall be forwarded to the Board for interpretation.

**C.** An appeal request of an interpretation by the OMH shall be directed in writing to the Chairman of the Board. The Board shall consider the appeal at its next scheduled meeting and render a decision.

**D.** Any interpretation rendered by the OMH or the Board shall be communicated by Departmental bulletin to all licensed install-

ers and local jurisdictions participating in the Installation Inspection Program.

**E.** A petition for an exception to codes and standards referred to in this Article as authorized by A.R.S. § 41-2144(D) shall:
1. Specify the standard or code sections affected;
2. Contain justification for the requested exception and documented evidence of the local conditions which support the requested exception;
3. Specify the boundaries of the area affected by the local conditions;
4. Contain a statement of why the exception is necessary to protect the health and safety of the public; and
5. Contain estimates of the economic impact the requested exception would have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which estimate is based.

**F.** An exception ordered by the Board shall apply only within the jurisdiction which petitioned for the exemption and only when in accordance with any conditions specified in the exception order.

**G.** An exception order will not become effective until its designated date which will be at least 60 days after a Departmental Bulletin has been issued to all licensed installers which describes the exception, the area within which it applies, and any provisions applicable to its use.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective May 9, 1980 (Supp. 80-3). Amended subsection (B) effective January 20, 1981. Amended subsection (B) effective February 18, 1981 (Supp. 81-1). Amended subsection (B) effective April 23, 1981 (Supp. 81-2). Amended effective October 20, 1981 (Supp. 81-5). Correction, subsection (B)(6)(a) 1979 Edition (Supp. 81-6). Former Section R4-34-201 renumbered and amended as Section R4-34-202, new Section R4-34-201 adopted effective September 15, 1982 (Supp. 82-5). Amended subsection (A), paragraph (2) effective August 11, 1986. Amended by adding subsection (F) effective August 25, 1986 (Supp. 86-4). Amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3).

**R4-34-202. Manufactured Home or Mobile Home Installation Standards and Codes**

**A.** Multi-wide manufactured homes manufactured after June 30, 1977, shall be installed according to the manufacturer's instructions as related to the joining together of the sections, utility cross-over connections, requirements of center line and perimeter supports. Perimeter supports for all units shall be in accordance with manufacturer's instructions.

**B.** The standards for the installation of manufactured homes or mobile homes are as follows:
1. Prefabricated load bearing support:
   a. Supports shall be located under the main beams of the chassis at intervals no greater than six feet and no more than two feet from either end of each main beam. When intervals no greater than six feet cannot be complied with due to running gear, supports shall be located as close as practical to the running gear and the remainder of the supports shall conform to the six and two foot requirements.
   b. Supports shall bear no greater load than 8,000 pounds.
   c. The supports shall have a minimum vertical concentrated load failure rating of 14,000 pounds.
   d. The acceptable supports to be used in this installation shall be by any of the methods set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).
2. Prefabricated support heights.
   a. No more than 25 percent of the supports along the main beams of the chassis, including footing, shall have a height in excess of 36 inches or less than 12 inches.
   b. The minimum height of the bottom of the floor joist shall be 18 inches above a soil base unless otherwise specified by the manufacturer.
3. Permanent support heights and design. Construction shall be pursuant to the applicable requirements of R4-34-104(A)(1)(a).
4. Footings.
   a. Prefabricated footings.
      i. Each footing shall be of such design and construction to withstand the transferred load from the load bearing support to the earth.
      ii. Footings shall be placed only on surfaces adequately prepared to distribute equalized transfer of applied loads and to minimize settlings of the footings.
      iii. The minimum size of each footing shall be compatible with the local soil conditions to minimize settling of the unit.
   b. Permanent footings. Design and construction shall be pursuant to the applicable requirements of R4-34-104(A)(1)(a).
   c. The acceptable footings to be used in this installation shall be by any of the methods set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).
   d. General requirements for prefabricated footings.
      i. Mobile and manufactured homes, manufactured prior to January 1, 1984, may be installed on 12 x 12 inch footings only if piers having a maximum of 11 1/2 inch square base are utilized for supports.
      ii. Manufactured homes, manufactured on or after January 1, 1984, shall be installed on footings having 144 square inches of surface placed at 3 foot, six inches on center, or footings having 256 square inches of surface placed in accordance with subparagraph (B)(1)(a) of this Section.
      iii. Footing materials shall be as follows:
         (a) Minimum 3/4-inch thick plywood or 2 layers of 5/8-inch plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact conforming to Uniform Building Code, Section 2501(3)(A) and (B);
         (b) Minimum 2-inch thick and no less than 12- inches-wide wood treated for ground contact conforming to Uniform Building Code, Section 2501(3)(A) and (B);
         (c) Minimum 3-inch thick precast concrete pad with either 256 or 144 square inches of ground surface. The concrete shall have a minimum of 28 days compressive strength of not less than 4000 pounds per square inch; or
         (d) Hard plastic pad with either 256 or 144

square inches of ground surface. The plastic pad shall withstand a minimum vertical concentrated load failure rating of 14,000 pounds when tested on very dense and coarse gravel soils. Failure shall, at a minimum, consist of 4-inch cracks anywhere on the pad, or any curling or bowing of the pad's surface.

iv. Plywood shall be stacked with their face grains perpendicular and fastened with corrosion resistant nails, 7/16-inch wide crown staples or screws.

v. Wood products that are stacked shall be fastened with corrosion-resistant nails, 7/16-inch wide crown staples or screws.

vi. No split penetration from the end of a piece of 2-inch wood, and parallel to the edges of the piece, shall measure greater than 4 inches.

vii. When precast concrete pads are stacked, both surface sides shall be no less than:
(a) 144 square inches when using 144-square-inch footings.
(b) 256 square inches when using 256-square-inch footings.

viii. When concrete masonry unit (CMU) building blocks are utilized for supports, only 256-square-inch ground and top surface footings shall be utilized.

ix. Plastic pads shall only be stacked when the pad is provided with an interlocking system.

5. Wedges.
   a. Wedges may be placed only between the load bearing supports and main beams of the chassis.
   b. Wedges shall be capable of transfer of the applied load.
   c. Wedges shall be limited to two on any one bearing support.
   d. The method for installation of wedges is set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).
6. Utility hookups shall be pursuant to:
   a. The Uniform Plumbing Code (IAPMO), 1991 Edition and all appendices, except Part I, Appendices B, H and I, incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Incorporated materials do not include any later amendments or editions of the listed codes.
      i. That manufactured home or mobile home drain connections need not be provided with flexible connectors.
      ii. With the gas appliance flex connectors capped and the valves in the open position, the system shall be pressurized at 6 inches of mercury (45 ounces of mercury) or 3 psi gauge for 15 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gauge calibrated so as to be read in increments of not greater than one-tenth pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made.
      iii. The gas connection to units which do not conform with Uniform Building Code, Chapter 23 requirements for anchorage to foundations for resistance of the uplift and sliding forces shall be flexible connectors approved for such use by the Uniform Plumbing Code. The connector shall not exceed six feet in length and shall be of a rated size to supply the total demand of the unit.
      iv. The water connection to units which do not conform with the Uniform Building Code, Chapter 23 requirements for anchorage to foundations for resistance of the uplift and sliding forces shall be flexible connectors approved for such use. The connector may be of copper tubing or other material approved by the Uniform Plumbing Code. The connector shall not exceed six feet in length and shall be of a rated size to supply the total demand of the unit.
   b. The applicable requirements of R4-34-104(A)(1)(d) except:
      i. Usage of flexible metal conduit shall be as follows: All manufactured or mobile homes shall be installed with a flexible metal conduit of a length no greater than 36 inches and no less than 18 inches to provide flexibility. Liquidtight, flexible metal conduit shall be used when a manufactured home is set at ground level or in wet locations. Flexible metal conduit shall be connected at the location that only the rigid conduit emerges from the ground at a minimum of six inches above ground level.
      ii. When service equipment is installed on a manufactured home in accordance with Article 230 of the National Electrical Code, the grounding electrode shall be installed in accordance with the manufacturer's instructions or Article 250 of the National Electrical Code.
7. Ground anchoring standards.
   a. When a unit is anchored, the anchoring shall be consistent with R4-34-104(A)(1)(a) or to R4-34-102.
   b. Anchoring shall resist, where applicable, flotation, collapse, or lateral movement due to flood waters, equal to or greater than the 100-year forecast of the local flood control authority for the location of the manufactured home or mobile home.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A) and (C) effective February 18, 1981 (Supp. 81-1). Amended subsections (C) and (D) effective May 20, 1981 (Supp. 81-3). Amended subsections (B) and (D) effective October 20, 1981 (Supp. 81-5). Former Section R4-34-202 renumbered and amended as Section R4-34-203, former Section R4-34-201 renumbered and amended as Section R4-34-202 effective September 15, 1982 (Supp. 82-5). Amended subsections (B)(3), (B)(4)(b), and (B)(5)(a), by updating the Codes from 1979 Edition to 1982 Edition effective July 8, 1983 (Supp. 83-4). Amended by adding subsection (B)(6)(ii) effective February 14, 1984 (Supp. 84-1). Amended subsection (B)(6)(b) effective November 27, 1984 (Supp. 84-6). Amended effective April 4, 1986 (Supp. 86-2). Amended subsection (B) effective August 11, 1986 (Supp. 86-4). Amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3).

Amended effective April 12, 1994 (Supp. 94-2).
Amended effective November 1, 1995 (Supp. 95-4).

**R4-34-203. Accessory structures**

**A.** The installation, assembly, connection or construction of any accessory item shall be pursuant to applicable requirements of R4-34-104(A)(1)(a), (b), (c), and (d).

**B.** For the purpose of A.R.S. § 41-2142(1), the word "attached" means: fastened to the manufactured home or mobile home at the time of its installation and removable without degradation of the structural integrity of the manufactured or mobile home.

**C.** A complete set of drawings and specifications meeting the requirements of R4-34-307 shall be submitted for the construction of the following accessory structures other than prefabricated light metal or plastic type units.
1. One-story habitable room,
2. Storage room over 100 square feet,
3. Patio roofs or awnings,
4. Garages or carports,
5. Screened-in or enclosed porches, or
6. Any accessory structure which changes the structural integrity of the unit to which it is attached.

**D.** Skirtings and retaining walls. Access and ventilation: skirting and retaining walls shall have an 18 inch x 24 inch access crawl hole. Underfloor areas shall be accessible. Ventilation for underfloor areas shall be provided in accordance with R4-34-104(A)(1)(a), Section 2516(c)(6).

**E.** Underground skirting shall be installed on all ground level installations of manufactured and mobile homes except where installation complies with rule R4-34-202(B)(3) and (B)(4)(b). For the purposes of this subsection, underground skirting is defined as weather- and corrosion-resistant material used to enclose the space from the bottom of the home to grade and designed to resist the lateral displacement of soil or other materials.
1. The minimum acceptable underground skirting design to be used in installations shall be as found in the Underground Skirting Specifications (See Exhibits 1, General Notes and Diagrams 1 through 4).
2. A registered engineer may propose equivalent materials and designs which must meet the strength, weather and corrosion resistant criteria applicable under the Uniform Building Code referred to in subsection (A) of this Section subject to review and approval by the OMH.

EXHIBIT 1

GENERAL NOTES:

1. Provide cross ventilation of crawl space with openings that shall have a net area of not less than 1 square foot for each 150 square feet of floor area. Such openings shall be covered with corrosion resistant wire mesh with mesh openings of 1/4 inch in any dimension.
2. Provide a minimum 18 x 24 inch access to the crawl space. Where an access to crawl space is also used as a ventilation opening, such access shall always be open and shall be provided with the corrosion resistant wire mesh required in Note 1.
3. Plywood skirting sections shall be joined together by 3/8 inch treated plywood spliced 10 inches wide by three quarters the height of the skirting section, placed on the interior of the skirting, fastened by a 1/2 inch wide crown galvanized staple or galvanized steel nails, and placed against rebar in center of splice. The corners of the 3/8 inch plywood shall be joined together by AWPB-FDN 2 x 4 backers fastened by galvanized steel nails or staples. The ends of the lumber and 1/2 inch or greater plywood cut after pressure treating, which are to be placed below grade or within 6 inches above backfill, must be field-treated with preservative conforming to American Wood Preservative Association Standard M4-84 or equivalent approved by the Office. Treated wood shall extend to the earth and shall be supported by at least 1/2 inch • rebar with coal tar epoxy conforming to Steel Structure Painting Council's specification SSPC paint #16 or equivalent, as approved by the Office, providing a coating for a minimum of 14 inches along the rebar from the end that protrudes from the soil.
4. Slope at finish grade of surface shall slope away from the home at:
   A. Concrete slab - 1/16 inch vertical drop for each 12 inches horizontal run.
   B. Earth surfaces - 1 inch vertical drop for each 12 inches horizontal run for a minimum of 4 feet from home.
5. Reference Diagrams 1, 2, 3 and 4.

**Historical Note**

Former Section R4-34-202 renumbered and amended as Section R4-34-203 effective September 15, 1982 (Supp. 82-5). Amended subsections (A)(1), (A)(2), and (A)(3) by updating the Codes from 1979 Edition to the 1982 Edition effective July 8, 1983 (Supp. 83-4). Amended subsection (A)(4) effective November 27, 1984 (Supp. 84-6). Amended by adding subsection (D) with Exhibits 1, 2, and 3 effective January 2, 1985 (Supp. 85-1). Amended subsection (D) effective April 4, 1986 (Supp. 86-2). Amended subsection (B) effective August 11, 1986 (Supp. 86-4). Amended effective July 3, 1991 (Supp. 91-3).

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**R4-34-204. Repealed**

**Historical Note**

Adopted effective November 27, 1984 (Supp. 84-6).
Repealed effective September 3, 1992 (Supp. 92-3).

**R4-34-205. Installation of Factory-built Buildings**

**A.** Incorporation of building codes. Except as amended by this rule, the following building codes are incorporated herein by reference and are on file at the Office of the Secretary of State. Copies of the incorporated matter are available from the Office and from the International Conference of Building Officials, whose address is 5360 South Workman Mill Road, Whittier, CA 90601. This rule does not include any later amendments or editions of the incorporated matter. The following building codes shall be referred to in this rule by the following definitions:
1. The Uniform Building Code (ICBO), 1991 Edition, including the Appendices, hereinafter referred to as "Building Code."
2. The Uniform Plumbing Code (IAPMO), 1991 Edition, as amended by R4-34-104(A)(1)(c)(ii), and all its appendices, hereinafter referred to as "Plumbing Code."
3. The Uniform Mechanical Code (IAPMO), 1991 Edition, including the Appendices, hereinafter referred to as "Mechanical Code."
4. The National Electrical Code (NFPA-70), 1990 Edition, hereinafter referred to as "Electrical Code."

**B.** Installation requirements. The installation of all factory-built buildings shall comply with the codes listed in the previous paragraph of this rule, except as amended below:
1. The Building Code, except for the following;
   a. Part I, Chapter 2;
   b. Part I, Chapter 3, §§ 301, 302, 303, 304, 305, and 306; and

c. Appendices, Chapters 1, 7, 12 Division I, 23 Division II, 32, 55, 57, and 70.

2. The Plumbing Code, except for the following:
   a. Part I; and
   b. Appendices E and I.
3. The Mechanical Code, except for Part I, Chapters 2 and 3.
4. The Electrical Code, except for the following:
   a. Section 250-84, entitled Resistance of Made Electrodes, is deleted and the following is inserted in its place: "A single electrode consisting of a rod, pipe, or plate shall have a resistance to ground of 25 ohms or less. Where multiple rod, pipe, or plate electrodes are installed to meet the requirements of this Section, they shall be not less than 6 ft. (1.83m) apart."
   b. The following is added to the Electrical Code:
      i. Service entrance shall be sized by adding the individual loads of each module and installed with KTN-R or equivalent fuses. If the total connected load is single phase and does not exceed 200 ampere 120/240 VAC, it need not comply with R4-34-205(B)(4)(b)(ii).
      ii. Fault current interrupting rating supplied by the utility company shall be used to calculate the amperage at the time of installation in order to comply with Section 110-9 and Section 110.10.
5. Joining and securing of multi-wide units' floor, roof, and walls shall be in accordance with detailed plans available on-site at the time of installation.

**C.** Installation of factory-built room additions. Factory-built room additions installed on mobile/manufactured homes or park trailers are not required to meet the standards of R4-34-205(B) but shall meet the following standards:
1. Supports shall be no less than as specified in R4-34-202(B)(1) and (2) and R4-34-202(B)(4) of this Article.
2. Where electrical, plumbing or mechanical utilities are provided, they shall be connected in accordance with R4-34-202(B)(6).

**D.** Temporary installations of factory-built buildings. Temporary installations of factory-built buildings not used by the public and not to exceed one year are not required to meet the standards of R4-34-205(B) but shall be connected as required in R4-34-202(B)(6) concerning utility hookups.

**E.** Permit fee charged by the office or local agencies. A permit fee shall be charged either by the Office or the local enforcement agencies participating in the Installation Inspection Program. The fee charged by the Office shall be the amount established by the Board pursuant to A.R.S. § 41-2144(A)(5). The fee charged by a local enforcement agency shall not exceed the amount established by the Board pursuant to A.R.S. § 41-2144(A)(5).

**Historical Note**
Adopted effective February 8, 1991 (Supp. 91-1). Amended effective September 3, 1992 (Supp. 92-3). Amended effective December 14, 1994 (Supp. 94-4).

## ARTICLE 3. PLAN APPROVALS

*Former Article 3, consisting of Sections R4-34-301 thru R4-34-304, renumbered to Article 7, Sections R4-34-701 thru R4-34-704, effective July 3, 1991 (Supp. 91-3).*

*New Article 3, consisting of Sections R4-34-301 thru R4-34-306, renumbered from Article 7, Sections R4-34-701 thru R4-34-706, effective July 3, 1991 (Supp. 91-3).*

### R4-34-301. General

**A.** Manufacturers
1. Prior to construction of a unit or subassembly, each manufacturer shall obtain a plan approval.
2. Subassemblies which are open do not need a separate plan approval if manufactured as part of a project for which an overall plan approval is on file with the OMH.
3. "Open subassembly" means: any subassembly where all components thereof can be readily inspected without disassembly, damage to or destruction thereof.
4. The plan approval for the manufacture of a unit or subassembly shall consist of the following:
   a. A quality assurance manual pursuant to R4-34-302.
   b. Drawings and specifications pursuant to R4-34-303.
   c. Plant certification pursuant to R4-34-305.

**B.** Dealers. Prior to performance of any alteration, each dealer shall obtain approval pursuant to R4-34-304 for such alteration.

**C.** Installers. Prior to ground anchoring a manufactured home, mobile home, or single family factory-built building, each installer shall obtain approval pursuant to R4-34-306 for such manufactured home, mobile home or single family factory-built building.

**D.** Reconstruction manufacturers. Prior to performance of any reconstruction, each manufacturer shall obtain plan approval pursuant to R4-34-304 for the reconstruction.

**E.** Installation of factory-built buildings. Prior to the installation of a factory-built building, any person installing such building shall obtain plan approval pursuant to R4-34-308.

**F.** Installing accessory structures. Prior to the installation of an accessory structure, any person installing such structure shall obtain plan approval pursuant to R4-34-307.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A) and (C) effective October 20, 1981 (Supp. 81-5). Amended by adding subsection (D) effective April 20, 1982 (Supp. 82-2). Former Section R4-34-301 renumbered to R4-34-701, new Section R4-34-301 renumbered from R4-34-701 and amended effective July 3, 1991 (Supp. 91-3). Amended effective September 3, 1992 (Supp. 92-3).

### R4-34-302. Quality assurance manuals

**A.** Manufactured homes. The quality assurance manual shall be pursuant to 24 CFR 3282, as amended 1988, federal Manufactured Home Procedural and Enforcement regulations published pursuant to the Act defined in A.R.S. § 41-2142(2). The regulations are incorporated herein by reference and on file with the Office of the Secretary of State. Copies are available from the U.S. Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410. Incorporated materials do not include any later amendments or editions of the listed material.

**B.** Factory-built buildings and subassemblies
1. Submittals will be in duplicate.
2. Format shall be as follows:
   a. The manual shall be a loose-leaf publication with each page no less than 8 1/2 x 11 inches in size.
   b. An index page shall be provided for original approval certification.
   c. The manual shall provide for revision traceability for each revision by numerical or alphabetical identity, the date of revision, and page number revised.
3. Contents shall be, as a minimum, as follows:
   a. An organization chart, by position, of all quality control personnel responsible for compliance of incoming components and in-plant manufacturing activities.

b. A descriptive presentation of the quality assurance program adhered to by the personnel positions as listed on the organization chart.
c. A flow chart depicting the minimum in-plant inspection requirements by work station, production control routing document, stage of manufacture, or type of work control or an equivalent method of in-plant inspection.
d. A descriptive presentation of tests performed and test equipment used.

4. Quality assurance manual alternate. If the manufacturer's schedule warrants a specific inspection schedule for each unit rather than surveillance inspection of the manufacturing pursuant to a quality assurance manual, the required inspections shall be scheduled in an attachment to the drawings and specifications pursuant to R4-34-303.

**C.** Recreational vehicles and subassemblies
1. Quality assurance manuals shall be submitted in duplicate.
2. Quality assurance manuals submitted for approval shall be on substantial paper 8 1/2 x 11 inches.
3. An index page shall be provided.
4. Each sheet shall be uniquely identified by a number and a date of issuance. All revisions shall also be dated as to date of issuance.
5. Where the manufacturer proposes revisions to the quality control manual, two copies of such revisions shall be submitted for approval.
6. Manual contents shall be, at a minimum, as follows:
a. Statement of scope and purpose.
b. A detailed descriptive presentation of the quality assurance program by key personnel positions.
c. A description of the minimum in-plant inspection requirements by department, production control routing document, state of manufacture, or type of work control or any equivalent method if in-plant inspection.
d. Descriptions of required tests, equipment and test locations in the production process.
e. Receiving inspection procedures for basic materials.
f. Material storage and stock rotation procedure.
g. Control of drawings, material specifications, and revisions of such.
h. Record keeping procedures.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended effective March 17, 1981 (Supp. 81-2). Amended subsections (A) and (C) effective October 20, 1981 (Supp. 81-5). Former Section R4-34-302 renumbered to R4-34-702, new Section R4-34-302 renumbered from R4-34-702 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-303. Drawings and specifications**

**A.** Manufactured homes. Drawings and specifications shall satisfy the applicable requirements of R4-34-302(A).

**B.** Factory-built buildings and subassemblies
1. All submittals will be in duplicate.
2. Format shall be as follows:
a. An indentured set of drawings, processes, listing of components, shop drawings or process and such other documents to specify and identify each component, process, assembly operation and manufacturing step.
b. Each sheet shall be a minimum of 8 1/2 x 11 inches.
c. Sheet number one shall be presented to the OMH with a 6 x 6-inch blank space near the title block.
d. Each set shall provide for the traceability for each revision by numerical or alphabetical identity and date of revision for each sheet revised.
3. The minimum contents shall be as follows:
a. A complete set of dimensioned views with designated tolerances for dimensions locating each component utilized in the manufacture of the unit or subassembly.
b. A complete set of dimensioned views designating the location of all processes performed in the manufacture of the unit or subassembly.
c. A complete listing of all components and subassemblies by cross identification to usage of same in the appropriate views.
d. A traceable identification for each component and subassembly listed.
e. A complete listing of all processes by cross identification to usage of same in the appropriate views.
f. Detailed process instructions or procedures for each process listed. Any proprietary process may be so noted in the listing but shall be made available to the OMH at the manufacturing facility for certification of same and certification that such process is followed during the manufacture of units or subassemblies.
g. Specify on-site foundation specification for each unit for a given soil bearing capacity.
h. Specify location and process of permanent serial number.
i. Specify the location of the placement of the Arizona Insignia of Approval.
j. Such other detailed information, for the safety and welfare of the public, as established and published by the Director.
k. Specify which components and processes comply with the requirements of R4-34-104(A)(1).
4. Provisions for acceptable alternates:
a. The Design Bureau of the OMH may approve alternate components or processes if such alternate is at least equivalent to that specified in the approved drawings and specifications.
b. The manufacturer may, without prior approval by the OMH, utilize alternate components or processes if:
i. There is on file with the OMH approved drawings and specifications for the overall project; and,
ii. The alternate component or process is certified by a registered engineer or architect as equivalent to or better than that specified in the approved drawings and specifications; and,
iii. The certified plans shall be forwarded to the OMH within seven days for approval, and amendment to original plans, accompanied by appropriate fees.

**C.** Recreational vehicles and subassemblies
1. All submittals shall be in duplicate.
2. Plans submitted for approval shall be on substantial paper not less than 8 1/2 x 11 inches or multiples thereof but not exceeding 25 x 36 inches.
3. Each floor plan shall provide traceability to systems or typical plans by numerical or alphabetical identifications.

4. Each sheet shall be uniquely identified by a heading or number and a date of issuance. All revisions shall also be dated as to date of issuance.
5. Where the manufacturer proposes revisions to the approvals, three copies of such revisions shall be submitted for approval.
6. Each submittal shall provide:
   a. Floor plan for each modeling including, but not limited to:
      i. Dimension or scaled presentation showing overall size.
      ii. Location of windows, exterior exits, and alternate egress means.
      iii. Location of partition and interior walls.
      iv. Location of appliances; fixtures; fire extinguishers; heating and return air registers; connections for drain, water, gas and electrical; permanent vehicle identification number; and insignia of approval.
   b. Drawings or schematics and specifications depicting plumbing systems including, but not limited to:
      i. Description and, if applicable, listing agency of materials, fixtures, fittings, pipe, tubing, shower doors and appliances.
      ii. Diameter and type of pipe and tubing, length of three eighths inch O.D. tubing and all trap arms.
      iii. Size and type of fittings.
      iv. Grade of drainage piping.
      v. Methods of securing drain, waste and vent piping.
      vi. Diagrams of potable water supply system, and waste, vent and drain system.
      vii. Location of all cleanouts.
   c. Drawings or schematics and specifications depicting mechanical system including, but not limited to:
      i. Description and, if applicable, listing agency of materials, fittings, pipe, tubing, appliances, heating duct and registers.
      ii. Diameter, length, and type of gas pipe and tubing.
      iii. Size and type of gas or oil fittings, valves and connectors.
      iv. Diagram of fuel piping system.
      v. Locations of fuel piping supports and methods of securing.
      vi. BTUH input rating of all fuel-burning appliances.
      vii. Location of LP gas containers, method of securing including supporting calculations or test reports, and method of protection from vehicle exhaust system heat.
      viii. Clearances between range burners and combustible materials and method of protection where required.
      ix. Gauge, size and type of warm air ducts and return air ducts.
   d. Drawings or schematics and specifications depicting electrical system including, but not limited to:
      i. Description and listing agency of 115/230 volt wiring materials.
      ii. Description, rating, and if applicable, listing agency of devices and appliances.
      iii. Type and rating of power supply assembly.
      iv. Number of branch circuits and rating of each circuit.
      v. Electrical load calculations when applicable.
      vi. Location and number of outlets, fixtures, and appliances fixed in place on each circuit.
      vii. Conductor size, type and material, and over-current protection device for each circuit.
      viii. Installation of compartment installed batteries.
      ix. Methods of grounding all exposed non-current carrying metal parts.
      x. Location of generator and method of electrical installation.
      xi. When applicable, a diagram of low voltage electrical system including conductor size and material, over-current protection, fixture and motor loads, and power supply.
7. Drawings or schematics and specifications depicting compliance with fire and life safety provisions including, but not limited to:
   a. Description and flame spread ratings of interior finished materials.
   b. Description and combustibility compliance of textile or film materials, when applicable.
   c. Size and type of alternate egress.
   d. Location of gasoline filler spouts and engine exhausts.
   e. Sealing of gasoline filler spouts and generator compartment to interior of unit.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1).
Amended effective March 17, 1981 (Supp. 81-2).
Amended effective October 20, 1981 (Supp. 81-5).
Former Section R4-34-303 renumbered to R4-34-703,
new Section R4-34-303 renumbered from R4-34-703 and
amended effective July 3, 1991 (Supp. 91-3).

**R4-34-304. Alteration or reconstruction approvals**

Plan approvals for alterations.

1. All submittals shall be in duplicate.
2. Notice of alterations made shall be sent to the manufacturer of the unit.
3. Manufactured homes
   a. The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.
   b. The contents of the plan approval shall be restricted so as to prevent any nonconformance to the Manufactured Home Construction and Safety Standards published pursuant to the Act.
4. Factory-built buildings and subassemblies
   a. The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.
   b. The format of the plan approval shall be consistent with R4-34-303(B)(2).
5. Recreational vehicles
   a. The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.
   b. The contents of the plan approval shall be consistent with R4-34-303(C).

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1).
Amended effective October 20, 1981 (Supp. 81-5).
Amended effective April 30, 1982 (Supp. 82-2). Former

Section R4-34-304 renumbered to R4-34-704, new Section R4-34-304 renumbered from R4-34-704 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-305. Plant certification**

**A.** Manufactured homes. The plant certification shall be pursuant to the applicable requirements of R4-34-302(A).

**B.** Factory-built buildings, mobile homes, subassemblies, and recreational vehicles. Each manufacturing facility shall be certified by the OMH or an authorized representative as to capability to manufacture units or subassemblies as shown on the OMH-approved drawings, specifications and quality assurance manual.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-305 renumbered to R4-34-705, new Section R4-34-305 renumbered from R4-34-705 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-306. Ground anchoring approvals**

**A.** Ground anchoring plans shall be certified by a registered engineer or approved by the OMH.

**B.** The plans shall be in compliance with the standards set forth in R4-34-202(B)(7), and of sufficient detail and description that all materials, dimensions, and processes can be readily identified.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective November 19, 1980 (Supp. 80-6). Amended effective October 20, 1981 (Supp. 81-5). Amended effective October 8, 1982 (Supp. 82-5). Former Section R4-34-306 renumbered to R4-34-706, new Section R4-34-306 renumbered from R4-34-706 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-307. Accessory structures approvals**

**A.** Drawings and specifications shall be:
1. Submitted in duplicate;
2. Submitted on dual-purpose, 20 lb. paper not less than 8 1/2 x 11 inches or exceeding 25 x 36 inches;
3. In compliance with the codes required under R4-34-104(A)(1)(a), (b), (c), and (d); and
4. The contents shall be consistent with R4-34-303(B)(3).

**B.** Any design which is not in compliance with the above code requirements but is equivalent shall be engineered and sealed by an Arizona Registered Engineer.

**C.** Upon written request, the Assistant Director of OMH may approve alternate design and specifications which are equivalent to the standards and codes in subsection (A) above.

**Historical Note**

Adopted effective July 3, 1991 (Supp. 91-3).

**R4-34-308. Factory-built Building Installation Plan Requirements**

**A.** Approval of plans required prior to installation. Prior to the installation of a factory-built building, excluding units described in R4-34-205(C) and (D), an application shall be submitted to and approved by the Office as required by this rule.

**B.** Contents of the application. The applicant shall submit an application to the Office, which application appears in R4-34-309. The documents described in the following paragraph shall be attached to the application for the work which is to be accomplished.

**C.** Attachments to the application. Two copies of each of the following shall be attached to the factory-built building installation application form:
1. The installation plans, as further described in this rule. Such plans shall be on paper whose minimum size shall be 8 1/2 x 11 inches.
2. Any calculations and test results required to show compliance with the standards required in R4-34-205, as further described in this rule.

**D.** Contents of installation plans. The following shall be included with the installation plans:
1. Each sheet of the plan shall be dated and shall be numbered sequentially. The plans submitted shall include all revisions to the plans. All revisions shall be dated and shall be either numerically or alphabetically identified.
2. The site plan of the place where the installation will occur. The site plan shall include the following:
   a. The building location where the factory-built building is to be installed, the setbacks from the property lines and the separation between buildings in feet and inches, location of all utility lines in existence prior to the installation;
   b. The legal description where the installation is to occur;
   c. The street address where the installation is to occur; and
   d. The approval of the appropriate zoning department, if required, by the appropriate county, municipality or other political subdivision where the installation is to occur.
3. The maximum design utility fault current, where required, shall be shown as part of the installation plans near one of the lines indicated on the electrical service plan.
4. The foundation plan, which shall include the following:
   a. A description of the soil class showing the allowable soil bearing pressure in lbs./sp. ft. where the installation is to occur.
   b. The depth the footings will be placed.
   c. If footings are to be placed on compacted fill or at a level other than 12” minimum below natural grade, a soil investigation report made by a soil engineer, or equivalent test documentation. All footings shall be designed to meet the allowable bearing pressure at the depth required.
   d. A complete set of drawings indicating dimensions and details of the foundation footings, and anchoring with a complete list of materials by cross- identification to usage of the materials, which shall be shown in the appropriate views.
   e. Calculations prepared by an engineer for all load conditions, including wind loads for both horizontal loads and uplift loads, overturning, and horizontal and torsional earthquake effects on foundations.
5. Electrical drawings
   a. Electrical drawings shall include one-line diagrams indicating the following:
      i. The type, location, ampere capacity and maximum fault current rating of all service equipment, except that service entrances not exceeding 200 ampere 120/240 VAC may be installed with KTN-R or equivalent fuses and sized by adding the individual loads of each module need not have a calculated fault current;

ii. The size, length and location of all service and feeder raceways not provided by the public utility;
iii. The dimensions of all gutters and wireways;
iv. The number, size and type of all line voltage, grounding and bonding conductors to be installed in wiring enclosures;
v. Designate aluminum or copper conductors;
vi. Type of insulation;
vii. Size, type of fuse and/or circuit breakers, and AIC ratings;
viii. Details of panelboard, switchboard and distribution centers showing type and arrangement of switches, overcurrent devices, general control equipment and AIC ratings;
ix. Panelboard and switchboard schedules or line diagram showing wattage and/or amperage of active branch or feeder circuits for modulars; and
x. Grounding connection to the service disconnecting means and water bond.

b. Electrical load calculations.

6. Plumbing. Plumbing drawings shall indicate the following:
a. Location of sewer tap;
b. Location of water and gas meter;
c. Size and length of sewer, water and gas lines, provide fixture units, BTUH requirements and water pressure;
d. Type of material used for sewer, water and gas lines;
e. Grade of sewer line;
f. Tap elevation;
g. Depth of water line;
h. Location of all cleanouts and extend same to grade; and
i. Rim elevation of upstream manhole or cleanout and floor elevation.

**E.** Filing of application. The application shall be filed with the Assistant Director of the Office of Manufactured Housing.

**Historical Note**
Adopted effective February 8, 1991 (Supp. 91-1).
Amended effective September 3, 1992 (Supp. 92-3).
Amended effective December 14, 1994 (Supp. 94-4).

**R4-34-309. Factory-built building installation application form**

The Factory-Built Building Installation Application Form is as follows:

STATE OF ARIZONA

OFFICE OF MANUFACTURED HOUSING

DEPARTMENT OF BUILDING AND FIRE SAFETY

1540 West Van Buren

Phoenix, Arizona 85007

(602) 255-4072

APPLICATION FOR

APPROVAL OF PLAN FOR

INSTALLATION OF A FACTORY-BUILT BUILDING

A.A.C. R4-34-308 and R4-34-309

FOR OFFICIAL USE ONLY

FEES (ARS § 41-2144(A)(5))RECEIPTS:
Administrative Fees$20.00
Plan Review Fee_____
Total Fees _____
Less Fee Received_____No. _____
Amount Due _____ Inv. # _____
Amount Refunded_____
Date Approved_____Plan Log No._____

Submit two (2) copies of this Application and all drawings and specifications required by A.A.C. R4-34-308 to the above address along with the following fees:

1.Administration Fee (submit with application)$20.00

2.Plan Review Fee (one hour minimum charge)$40.00 per hour

Complete the following: If there is insufficient space, continue on additional paper.

(Please Print)

1) APPLICANT:
NAME:
ADDRESS:
StreetCity/Town
CountyStateZip Code
PHONE NO.FAX NO.

2)FACTORY-BUILT BUILDING:
NAME OF UNIT MANUFACTURER:
UNIT PLAN APPROVAL NUMBER:

3)LOCATION OF INSTALLATION:
LEGAL DESCRIPTION:

STREET ADDRESS:City/Town:
County:ArizonaZip Code:

4)STATE, COUNTY OR CITY ISSUING INSTALLATION PERMIT:
NAME:
NAME AND PHONE NO. OF CONTACT PERSON:

5)DATE OF APPLICATION:SIGNATURE OF APPLICANT:

FOR OFFICIAL USE ONLY
PLAN APPROVAL NUMBER:
DATE OF APPROVAL:

B&FS OMH 369

**Historical Note**
Adopted effective February 8, 1991 (Supp. 91-1).

**ARTICLE 4. INSPECTION AND TECHNICAL SERVICE**

*Former Article 4, consisting of Sections R4-34-401 thru R4-34-403, renumbered to Article 5, Sections R4-34-501 thru R4-34-503, effective July 3, 1991 (Supp. 91-3).*

*New Article 4, consisting of Sections R4-34-401 thru R4-34-404, renumbered from Article 9, Sections R4-34-901 thru R4-34-904, effective July 3, 1991 (Supp. 91-3).*

**R4-34-401. Manufacturing locations**

**A.** Manufactured homes
1. The inspection program shall be consistent with the applicable requirements of R4-34-302(A).

2. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.

**B.** Factory-built buildings, subassemblies, recreational vehicles, and alterations and reconstruction. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (A) effective October 20, 1981 (Supp. 81-5). Amended subsection (B) effective April 30, 1982 (Supp. 82-2). Former Section R4-34-401 renumbered to R4-34-501, new Section R4-34-401 renumbered from R4-34-901 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-402. Dealer facilities**
Fees and travel expenses for verification of nonconformance corrections shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Former Section R4-34-402 renumbered to R4-34-502, new Section R4-34-402 renumbered from R4-34-902 effective July 3, 1991 (Supp. 91-3).

**R4-34-403. Installation of manufactured homes, mobile homes, accessory structures, and factory-built buildings**

**A.** Inspection by local enforcement agencies.
1. An official of any local enforcement agency may make application to the Assistant Director to participate in the OMH program of permit issuance for, and inspection of, installations of manufactured homes, mobile homes, accessory structures, and factory-built buildings.
2. The Assistant Director may authorize the requested participation pursuant to agreement signed by the Assistant Director and an official of the local enforcement agency.
3. The agreement shall include:
   a. Provision for inspection to ensure compliance pursuant to R4-34-201, R4-34-202, R4-34-203, and R4-34-204 as applicable to the participation requested.
   b. Provision that permit and inspection fees shall be consistent with the fee schedule of R4-34-602(A) and (B).
   c. Maintain records of issuance of permits.

**B.** Inspection by the OMH.
1. The OMH shall establish and publish an inspection program to ensure compliance pursuant to R4-34-201, R4-34-202, R4-34-203, and R4-34-204.
2. The inspection program shall include:
   a. Provision for monitoring the performance of local enforcement agencies participating under agreement with the Assistant Director of OMH.
   b. Provision for documentation to the participating local enforcement agency of the performance findings by the monitoring activities.
   c. Comprehensive inspection of installations where such inspections are not provided by local enforcement agency and Assistant Director of OMH agreements.
   d. Provision for documentation to the licensee of all nonconformances noted.
   e. Provision for verification of correction of documented nonconformances.
   f. Provision for removal of Insignia of Approval and notification to the manufactured home, mobile home, or single family factory-built building owner or occupant of the reason for such removal.
3. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-403 renumbered to R4-34-503, new Section R4-34-403 renumbered from R4-34-903 and amended effective July 3, 1991 (Supp. 91-3).

**R4-34-404. Technical service**

**A.** Definition. For the purpose of these rules, "Technical service" means:
1. Engineering assistance, guidance or interpretation; or,
2. Assistance, interpretative application or clarification of compliance and enforcement of A.R.S. Title 41, Chapter 16, Articles 1, 2, and 4 and these rules.

**B.** Engineer assistance.
1. Service provided on the premises of a licensee shall be at the hourly rate pursuant to R4-34-602(A) and (B).
2. Service provided in the OMH shall be by appointment and without a fee unless such service is within the scope of fees specified in R4-34-605.
3. Written replies to written or oral inquiries will be without fee.
4. Phone response will be unofficial.

**C.** Compliance and enforcement
1. Phone response will be unofficial.
2. All bulletins of general applicability will be distributed to all licensees.

**Historical Note**
R4-34-904 adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A) and (B) effective October 20, 1981 (Supp. 81-5). Editor's correction, subsection (B)(2) (Supp. 85-2). Former Section R4-34-904 renumbered to R4-34-404 and amended effective July 3, 1991 (Supp. 91-3).

## ARTICLE 5. LICENSE SCOPES

*Former Article 5, consisting of Sections R4-34-501 and R4-34-502, renumbered to Article 8, Sections R4-34-801 and R4-34-802, effective July 3, 1991 (Supp. 91-3).*

*New Article 5, consisting of Sections R4-34-501 thru R4-34-503, renumbered from Article 4, Sections R4-34-401 thru R4-34-403, effective July 3, 1991 (Supp. 91-3).*

**R4-34-501. Manufacturers**

| Class | Scope |
|---|---|
| M-9A | Manufacturer of factory-built buildings: Manufacture factory-built buildings; install sub- assemblies; and reconstruct factory-built buildings. |
| M-9B | Manufacturer of subassemblies: Manufacture and reconstruct subassemblies. |
| M-9C | Manufacturer of manufactured homes: Manufacture and reconstruct manufactured homes. |
| M-9D | Manufacturer of recreational vehicles: Manufacture and reconstruct recreational vehicles; convert vehicles to recreational vehicles by installing plumbing, electrical, or gas systems. |
| M-9E | Master manufacturer: Accomplish work as described in license scopes M-9A, B, C, D, and F. |

M-9F Reconstruction manufacturer:
Reconstruct factory-built buildings, manufactured or mobile homes, and recreational vehicles.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended M-9B, M-9C, and M-9E effective October 20, 1981 (Supp. 81-5). Amended by adding M-9F effective April 30, 1982 (Supp. 82-2). Former Section R4-34-501 renumbered to R4-34-801, new Section R4-34-501 renumbered from R4-34-401 and amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4).

**R4-34-502. Dealers**

| Class | Scope |
|---|---|
| D-8 | Master dealer of manufactured or mobile homes: Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes, and accessory structures and materials therefor. Negotiate or act as an agent for the sale or exchange of new or used manufactured or mobile homes, accessory structures or materials thereof. Make alterations to manufactured or mobile homes prior to a sale to a purchaser. Contract with licensed installers for installation of a manufactured or mobile home. Contract with licensed accessory structure installer or appropriate licensed contractors for installation of accessory structures to manufactured or mobile homes. |
| D-8A | Dealer of manufactured or mobile homes: Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes. Negotiate or act as an agent for the sale or exchange of a new or used manufactured or mobile home. Contract with licensed installers or appropriately licensed contractors for installation of a manufactured or mobile home. |
| D-8B | Broker of manufactured or mobile homes: On behalf of another for compensation, buys, sells, exchanges, offers, or attempts to negotiate or acts as an agent for the sale or exchange of a used manufactured or mobile home. Contract with licensed installers or appropriately licensed contractors for the installation of the manufactured or mobile home or accessory structure. |
| D-9 | Dealer of park trailer or portable truck camper with systems: Buy, sell, exchange, negotiate, or act as an agent for the sale or exchange of a new or used park trailer or portable truck camper with systems. Make alterations prior to a sale. |
| D-10 | Dealer of factory-built buildings: Buy, sell or exchange new or used factory-built buildings to a purchaser; negotiate or act as an agent for the sale or exchange of a new or used factory-built building. Make alterations to factory-built buildings prior to a sale to a purchaser. Contract with appropriate licensed installer or contractor for the installation of a factory-built building. |
| D-11 | Dealer of subassemblies: Buy, sell or exchange new or used subassemblies to a purchaser; negotiate or act as an agent for the sale or exchange of a new or used subassembly. Make alterations to subassemblies prior to a sale to a purchaser. Contract with appropriate licensed contractors for the installation of a subassembly. |
| D-12 | Combination dealer: Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes, park trailers or portable truck campers with systems, factory-built buildings, subassemblies or accessory structures or materials thereof. Negotiate or act as an agent for the sale or exchange of any new or used unit listed above. Make alterations to any of the units listed above prior to a sale to a purchaser. Contract with appropriately licensed installers or contractors for installation of a manufactured home, mobile home, or single family factory-built building. Contract with appropriately licensed installers or contractors for installation of accessory structures to manufactured homes and mobile homes, or single family factory-built building. |

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended D-8, D-8A, D-9, D-12 and added D-8B effective October 20, 1981 (Supp. 81-5). Amended D-8 effective January 31, 1983 (Supp. 83-1). Former Section R4-34-502 renumbered to R4-34-802, new Section R4-34-502 renumbered from R4-34-402 and amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4).

**R4-34-503. Installers**

| Class | Scope |
|---|---|
| I-10A | Installer of manufactured or mobile homes: Setup of manufactured or mobile homes on piers and footings. |
| I-10B | Installer of ground anchors: Install ground anchors and tie down manufactured or mobile homes. |
| I-10C | General installer of manufactured homes, mobile homes, or single family factory-built buildings: Set up manufactured homes, mobile homes, or single family factory-built buildings on foundation systems. Install ground anchors and tie down manufactured or mobile homes. Connect water, sanitary waste, gas, and electrical systems of all amperages to the proper on-site utility terminals provided by others. Replace, repair, or perform alternations to utility connections. Install, repair, and service evaporative coolers on existing cooler systems installed in manufactured or mobile homes. Install roof jack to existing cooler systems and connect electricity and water to existing systems. Accomplish work as indicated under manufacturer's warranty for the unit. |
| I-10D | Installer of awnings, skirting, retaining walls, patios, screened-in porches, carports, garages, and storage rooms: Install prefabricated units or construct units, including the repair and alteration of accessory structures, attached to manufactured homes, or mobile homes, or single family factory-built buildings such as: awnings, skirting, retaining walls, patios, screened-in porches, carports, and garages including welding, job-site fabrications, placing of concrete footings or slabs, and all rough or finished general carpentry work, and other related hardware and accessories. Contract with appropriately licensed contractor for the installation, repair, and alteration of plumbing, electrical, and mechanical equipment, and subcontract all or any part of the work within this scope. |
| I-10E | Installer of evaporative coolers and cooler systems: Install, repair, and service evaporative coolers and cooler systems on manufactured homes, and mobile homes or single family factory-built buildings. Install roof jack to cooler ducts. Install duct work of acceptable materials. Provide electrical service to cooler from nearest supply |

source. Provide water to the cooler from the nearest fresh water source. Install electrical controls as required.

I-10FInstaller of refrigeration:

a. Installation, alteration, and repair of comfort air conditioning systems for manufactured homes, and mobile homes or single family factory-built building units, including: evaporative cooling units; package refrigeration air conditioning units; reverse cycle heat pumps, both split and self-contained systems.

b. Install "A-coil" in furnace, if listed or certified by manufacturer for manufactured homes and mobile homes or single family factory-built buildings use and adaptable to the furnace in use. Install, alter, and repair ventilation systems for manufactured homes and mobile homes or single-family factory-built buildings. These systems include the following areas of work and related equipment: duct work of any acceptable material; air filtering devices; water treatment devices; electric controls and control piping; thermal and acoustical insulation; vibration isolation materials and devices; liquid fuel piping and tanks; and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.

I-10GMaster installer of manufactured homes, mobile homes, or single-family factory-built buildings:

Accomplish work as described in license scopes I-10C, D, E, F, and H. Within this scope, subcontract all or any part of the items listed on the original sales or installation contract.

I-10HWarranty Repair Installer:

Accomplish work as indicated under manufacturer's warranty for the unit.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended I-10D effective August 21, 1981 (Supp. 81-4). Amended effective October 20, 1981 (Supp. 81-5). Correction, I-10G (Supp. 81-6). Former Section R4-34-503 renumbered to R4-34-803, new Section R4-34-503 renumbered from R4-34-403 and amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4).

## ARTICLE 6. FEES

**R4-34-601. Licensee fee and bond amount**

**A.** The fee schedule for licenses shall be established and approved by the Board prior to May 15 for each forthcoming fiscal year.

**B.** The Assistant Director of OA shall notify all licensees of the established fee schedule prior to June 1 of each year.

**C.** The license bond amounts required per license classification shall be as follows:

| License Classification | Bond Amount |
|---|---|
| M-9A | $10,000.00 |
| M-9B | 5,000.00 |
| M-9C | 65,000.00 |
| M-9D | 5,000.00 |
| M-9E | 100,000.00 |
| M-9F | 5,000.00 |
| D-8 | 15,000.00 |
| D-8A | 15,000.00 |
| D-8B | 15,000.00 |
| D-9 | 15,000.00 |
| D-10 | 15,000.00 |
| D-11 | 2,500.00 |
| D-12 | 15,000.00 |
| I-10A | 1,000.00 |
| I-10B | 1,000.00 |
| I-10C | 2,500.00 |
| I-10D | 1,000.00 |
| I-10E | 1,500.00 |
| I-10F | 1,500.00 |
| I-10G | 5,000.00 |

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (C) effective October 20, 1981 (Supp. 81-5). Amended by adding M-9F effective April 30, 1982 (Supp. 82-2). Amended subsection (C) effective June 18, 1982 (Supp. 82-3). Amended effective July 3, 1991 (Supp. 91-3). Amended effective December 14, 1994 (Supp. 94-4).

**R4-34-602. Fees**

**A.** Fees shall be established and approved by the Board, in an announced meeting, prior to May 15 of the forthcoming fiscal year.

**B.** The Assistant Director of OA shall notify all licensees, by mail, of the established fee schedule prior to June 1st of each year.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-603. Inspection and technical service fees**

The fee schedule for inspections and technical service shall be established and licensees shall be notified as outlined in R4-34-602(A) and (B).

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-604. Reimbursement of travel cost**

**A.** In-state travel cost shall be paid at the per diem subsistence allowance provided by A.R.S. § 38-624. The automobile travel shall be based upon the distance traveled between the state enforcement office and the location of inspection at the rate established pursuant to A.R.S. § 38-623.

**B.** Out-of-state travel shall be paid based on published air fares, or equivalent rates, between state enforcement office, Phoenix, Arizona, and the point of inspection, plus necessary supplemental surface transportation and the prevailing per diem subsistence rate as provided by A.R.S. § 38-624. If more than one inspection location is involved, the transportation and per diem cost shall be prorated.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended effective June 13, 1980 (Supp. 80-3). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-605. Plan and supplement approval fees**

**A.** Definitions for the purpose of this Article are as follows:
1. "Plan" means those documents set out in R4-34-301(A)(4).
2. "Supplement" means a submittal of not more than two sheets which may indicate floor plan dimensional sizes, minor changes which do not change more than 25 percent of a system or configuration, and which shall be incorporated as part of the originally approved plan.

**B.** The administrative fee for submittal of plans and supplements for review and approval shall be in accordance with R4-34-602(A) and (B).

**C.** The administrative fee shall be paid at the time of submitting plans and supplements for approval.

**D.** The Engineering Section shall document all time utilized for review of each submittal and shall charge a fee in accordance with R4-34-602(A) and (B), and no charge shall be less than one hour per submittal.

**E.** The licensee shall be billed for time utilized for the review and the licensee shall pay such bill within 30 days after review and prior to approval.

**F.** If a plan or supplement submitted is not acceptable and the licensee fails to supply a complete and correct submittal within 60 days after notification by letter, the submittal fee originally paid by the licensee upon filing shall be forfeited and the submittal returned. Resubmissions shall be accompanied by a new submittal fee.

**G.** Each plan approval shall be continuously updated to remain current with changes to standards and codes adopted by the Board. This may be accomplished by a supplementary submittal. Plans affected by more than 50 supplement charges shall be resubmitted.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended effective April 21, 1982 (Supp. 82-2). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-606. Installation permits and insignia fees**

The fee schedule for permits and insignias for the installation of manufactured and mobile homes and accessory structures shall be as follows:
1. The fees charged by the OA shall be in accordance with R4-34-602(A) and (B).
2. The permit fee charged by local enforcement agencies participating in the Installation Inspection Program shall not exceed the amount established by the Board for the same service.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended effective August 13, 1980 (Supp. 80-4). Amended effective October 20, 1981 (Supp. 81-5). Amended effective January 31, 1986 (Supp. 86-1). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-607. HUD monitoring inspection fees**

Each manufactured home manufacturer shall pay a fee as established by the U.S. Department of Housing and Urban Development for each unit manufactured in this state. This fee shall be made payable to the Secretary for purchase of HUD labels. This fee is in addition to the inspection fee required by R4-34-603.

**Historical Note**
Adopted effective June 23, 1980 (Supp. 80-3). Amended effective October 20, 1981 (Supp. 81-5). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-608. HUD label administrative fees**

In addition to the fees required under R4-34-607, each manufactured home manufacturer shall pay to the OA a fee of $5.00 for each label issued in this state.

**Historical Note**
Adopted effective January 20, 1981 (Supp. 81-1). Amended effective October 20, 1981 (Supp. 81-5). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-609. Administrative function fees**

An administrative function fee in accordance with R4-34-602(A) and (B) shall be charged for each of the following:
1. Changing name of license.
2. Changing name of license location.
3. Adding branch location.
4. Deleting branch location.
5. Reinstatement of bond.
6. Changing licensee's telephone number.
7. Processing returned checks.
8. Inactive status.

**Historical Note**
Adopted effective July 3, 1984 (Supp. 84-4). Amended effective July 3, 1991 (Supp. 91-3).

**R4-34-610. Mobile home rehabilitation permit, insignia of approval, inspection fee, and waiver fee**

**A.** The following fees, established in accordance with R4-34-602(A) and (B), shall be paid for mobile home rehabilitation for purposes of R4-34-107.
1. Permit fee.
2. Insignia fee.
3. Waiver fee.
4. Inspection fee.

**B.** The permit fee includes the cost of the first two inspections. The fee for each subsequent inspection shall be as established in accordance with R4-34-602(A) and (B) plus mileage at the rates established for state employee travel.

**C.** The waiver fee is applicable if the category of the unit can be determined to qualify for exemption. If an inspection of the unit is necessary to determine its category, the inspection fee shall be as established in accordance with R4-34-602(A) and (B) plus mileage at the rates established for state employee travel.

**Historical Note**
Adopted effective July 3, 1984 (Supp. 84-4). Amended effective July 3, 1991 (Supp. 91-3).

## ARTICLE 7. LICENSING

*Former Article 7, consisting of Sections R4-34-701 thru R4-34-706, renumbered to Article 3, Sections R4-34-301 thru R4-34-306, effective July 3, 1991 (Supp. 91-3).*

*New Article 7, consisting of Sections R4-34-701 thru R4-34-704, renumbered from Article 3, Sections R4-34-301 thru R4-34-304, effective July 3, 1991 (Supp. 91-3).*

**R4-34-701. General**

**A.** Corporation. Corporate applicants shall submit a copy of the Articles of Incorporation, with all amendments as filed with the Arizona Corporation Commission, or, if a foreign corporation, its Application for Authority to Transact Business.

**B.** Change of address. Licensees shall report changes of business address to the Assistant Director of OA within five days.

**C.** Conditional license. An applicant may request on a form provided by OA a conditional license pending completion of a criminal background analysis.

1. The OA shall not issue a license, except under a conditional basis, until the applicant for the license has been investigated and the OA has received and reviewed the criminal background analysis.
2. Upon receipt and satisfactory review of the applicant's criminal background analysis by the Assistant Director of OA, and upon notification to the applicant, the previously issued conditional license shall automatically be effective as a permanent license to transact business within the scope of the license.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective December 13, 1979 (Supp. 79-6). Amended by adding subsection (K) effective July 8, 1981 (Supp. 81-4). Amended subsections (A), (G), and (K), and added subsection (L) effective October 20, 1981 (Supp. 81-5). Correction, subsection (G)(3) (Supp. 81-6). Amended subsection (C) effective January 31, 1983 (Supp. 83-1). Amended subsection (B) effective May 23, 1983 (Supp. 83-3). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-701 renumbered to R4-34-301, new Section R4-34-701 renumbered from R4-34-301 and amended effective July 3, 1991 (Supp. 91-1).

**R4-34-702. Manufacturers**

**A.** Quality assurance manual compliance. Each manufacturer will follow the procedures described in the approved quality control manual during the manufacturing of each unit or subassembly.

**B.** Complaint service.

1. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off form from the complainant that the verified complaint has been satisfied.
2. Each manufactured home manufacturer shall also comply with Subpart I of the U. S. Department of Housing and Urban Development Manufactured Home Procedural and Enforcement regulations.

**C.** Certification of compliance of units and subassemblies

1. Manufactured home certification shall be pursuant to the Act.
2. Each manufacturer of factory-built buildings, sub- assemblies, recreational vehicles, and reconstruction manufacturers shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly prior to delivery to a dealer. Such insignia shall be affixed on the exterior visible surface as shown in the plan approval drawings.
3. Units that have been reconstructed as defined in R4-34-106, shall have an Arizona Insignia of Approval affixed by the manufacturer. Such insignia shall be affixed on the exterior surface as shown in the plan approval drawings.

**D.** Reporting of certification of compliance

1. Each manufactured home manufacturer will report affixment of HUD labels, complete any other required reports and establish and maintain records pursuant to the Act.
2. Each manufacturer of factory-built buildings, sub- assemblies, and recreational vehicles will report affixment of Arizona Insignias of Approval and shipment of units and subassemblies, pursuant to administrative publications to all licensees.
3. Each manufacturer, who reconstructs any unit, will report affixment of Arizona Insignias of Approval and shipment of units, pursuant to administrative publications.

**E.** Each out of state manufacturer of manufactured homes shall submit to the OA a list of the names and addresses of all Arizona distributors and dealers authorized to receive its product line. Such list shall be kept current by notifying the OA of any additions prior to shipment and any deletion within 15 days.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective May 9, 1980 (Supp. 80-3). Amended subsections (B), (C), (D) effective October 20, 1981 (Supp. 81-5). Amended by adding subsection (E) effective January 20, 1982 (Supp. 82-1). Amended by adding subsection (C), paragraph (3) and subsection (D), paragraph (3) effective April 30, 1982 (Supp. 82-2). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-702 renumbered to R4-34-302, new Section R4-34-702 renumbered from R4-34-302 and amended effective July 3, 1991 (Supp. 91-1).

**R4-34-703. Dealers and brokers**

**A.** Alterations by dealers. Prior to the start of any alteration, the licensee shall obtain plan approval for such alteration, pursuant to R4-34-304.

**B.** Certification of compliance of units and subassemblies

1. Each dealer shall ensure that each new unit or subassembly bears the appropriate HUD label, or Arizona Insignia of Approval, prior to offering the unit for sale.
2. For the purpose of these rules, "new" means: a unit or subassembly NOT previously sold to a "purchaser".

**C.** Nonconformances

1. "Nonconformance" means: any nonconformance listed under "description of violation" in an inspection report signed by a representative of the OMH and delivered to a licensee or employee thereof, whether or not such dealer concurs with the report.
2. Prior to a sale each dealer shall:
   a. Correct, or ensure that the manufacturer corrects, all known or alleged nonconformances; or,
   b. Make written request to the OMH for a review of any alleged nonconformance.
3. A notice of nonconformance shall be removed only by OMH personnel or upon written authorization from the Assistant Director of OMH.

**D.** Complaint service.

1. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off from the complainant that the verified complaint has been satisfied.

2. Each manufactured home dealer shall also comply with Subpart I of the U. S. Department of Housing and Urban Development Mobile Home Procedural and Enforcement regulations.

**E.** Each dealer who displays for sale, offers for sale, or sells a new recreational vehicle which has been manufactured in two or more stages shall inform the buyer that the recreational vehicle has been so manufactured and shall provide the purchaser with a form, approved by the OA, which sets forth the date of chassis and engine manufacture and the date and model year of the other stages of the vehicle as furnished to the dealer at the time he receives the manufacturer's statement of origin. The licensee shall retain for one year after date of sale a copy of the form, which shall be signed by the purchaser prior to entering into any sales contract, indicating that the purchaser has received a copy of the form.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective December 13, 1979 (Supp. 79-6). Amended effective May 9, 1980. Amended effective June 23, 1980 (Supp. 80-3). Amended subsection (G) effective July 29, 1980 (Supp. 80-4). Amended effective October 20, 1981 (Supp. 81-5). Amended subsection (B)(1) effective July 20, 1984 (Supp. 84-4). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-703 renumbered to R4-34-303, new Section R4-34-703 renumbered from R4-34-303 and amended effective July 3, 1991 (Supp. 91-1).

**R4-34-704. Installers**

**A.** Plan approval. The installer shall obtain ground anchoring approval pursuant to R4-34-306 prior to anchoring any manufactured home, mobile home, or single family factory-built building.

**B.** Reports. Each installer shall make a monthly report regarding affixment of Insignias of Approval pursuant to administrative procedure established and published by the Assistant Director of OA.

**C.** Insignia of approval. An Insignia of Approval shall be affixed to each manufactured home, mobile home, or single family factory-built building on the exterior wall nearest the point of entrance of the electrical service.

**D.** Complaint service. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off from the complainant that the verified complaint has been satisfied.

**E.** Utility service facilities.

1. If the manufactured home, mobile home, or single family factory-built building is to be installed in a mobile home park, the installer shall ascertain the compatibility between the existing utility service facilities and the utility connections of the manufactured or mobile home before entering into the installation agreement.
2. Unless properly licensed to perform the necessary work, an installer shall not enter into an agreement to connect a manufactured home, mobile home, or single-family factory-built building to utility service facilities which are not compatible with the manufactured home, mobile home, or single-family factory-built building.

**F.** The licensee who contracts to install a unit subject to this Article shall, prior to beginning the installation of such home, verify that a valid installation permit has been obtained from the OA for all phases of the installation.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended subsection (F) effective August 28, 1980 (Supp. 80-4). Amended effective October 20, 1981 (Supp. 81-5). Amended effective April 5, 1985 (Supp. 85-2). Former Section R4-34-704 renumbered to R4-34-304, new Section R4-34-704 renumbered from R4-34-304 and amended effective July 3, 1991 (Supp. 91-1).

## ARTICLE 8. BOND REQUIREMENTS

*Former Article 8, consisting of Sections R4-34-801 thru R4-34-804, repealed effective July 3, 1991 (Supp. 91-3).*

*New Article 8, consisting of Sections R4-34-801 and R4-34-802, renumbered from Article 5, Sections R4-34-501 and R4-34-502, effective July 3, 1991 (Supp. 91-3).*

**R4-34-801. Surety bond forms**

Manufacturers, dealers, and brokers, except dealers and brokers of manufactured homes, mobile homes, or single family factory-built buildings, and installers shall submit a surety bond on a form provided by the OA.

**Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). Amended effective October 20, 1981 (Supp. 81-5). Former Section R4-34-801 repealed, new Section R4-34-801 renumbered from R4-34-501 and amended effective July 3, 1991 (Supp. 91-1).

**R4-34-802. Cash deposit provisions**

**A.** Any applicant, except those exempt under R4-34-801, for a license or any applicant for the renewal of an existing license who desires to post cash in lieu of a commercial surety bond in order to meet the requirements for a license shall deposit with the Assistant Director of the OA any one of the following:

1. Cash;
2. Certified check payable to the State Treasurer;
3. Cashier's check payable to the State Treasurer;
4. Bank money order payable to the State Treasurer;
5. Postal money order payable to the State Treasurer.

**B.** A personal check is not acceptable.

**C.** Upon receipt of the deposit, the Assistant Director of OA shall cause to be issued a receipt to the applicant as evidence of cash deposit.

**D.** The Assistant Director of OA shall then cause to be prepared in quadruplicate the cash deposit form which shall be forwarded to the State Treasurer with the deposit. After the cash deposit forms are approved and dated by the State Treasurer, the distribution of the forms is as follows:

1. Copy A - the State Treasurer for his files.
2. Copies B and C - the Assistant Director of the OA.
3. Copy D - the Accounts and Controls Section, Division of Finance, Department of Administration.

**E.** Upon receipt by the Assistant Director of OA, he shall attach copy B to the depositor's application for license to become an official part thereof and shall mail copy C to the licensee at the address shown in the files.

**F.** Upon the receipt by the Assistant Director of OA of an order from any court for the payment of funds under deposit, the Assistant Director shall authorize the State Treasurer to make payment as provided by said court order. Upon receipt of notice of payment, the Assistant Director shall notify the licensee at the latest address on file with the OA of such payment, and, if applicable, notice that such license was suspended by operation of law at the time of such payment and shall remain so suspended until such time as the licensee files additional cash returning the cash deposit to the required balance or, as an alternative, a commercial surety bond for the full

amount as provided by law. Upon deposit by the licensee of the necessary cash or commercial surety bond, the suspended license shall be reinstated.

**G.** The cash deposit receipt form on file as hereinabove provided is not transferable and shall remain a permanent part of the license to which it is attached.

**H.** A cash deposit as hereby and above provided shall be made in the name of the applicant as it appears on the license application.

**I.** Withdrawal of cash deposit may be made under the following circumstances:
1. When for any reason after application is made the license is not issued.
2. When license has been terminated for two years or more either by expiration, revocation or voluntary cancellation, if there are no outstanding or pending claims filed with the Office of the Attorney General against the deposit.
3. When a commercial surety bond is posted as a replacement for the cash deposit, the liability against the cash deposit will be terminated two years after the filing of a commercial surety bond if there are no outstanding claims.

**J.** Request for withdrawal shall be made on forms provided by the Assistant Director of OA. The cash deposit withdrawal request forms shall be prepared in quadruplicate and presented to the Assistant Director. Upon approval, the Assistant Director shall forward the cash deposit withdrawal request to the State Treasurer. Distribution of the copies is as follows:
1. Copy A - the State Treasurer.
2. Copies B and C - the Assistant Director of OA to become part of the license file.
3. Copy D - the Accounts and Controls Section, Division of Finance, Department of Administration. The State Treasurer may prepare a warrant in the amount due and send it to the Assistant Director of OA who shall forward such warrant by certified mail to the licensee together with copy C of the withdrawal form.

**K.** A cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, or in the case of a corporation any person with written evidence of authority to withdraw the cash deposit, and in all other cases by any person who can establish legal right to said deposit.

**L.** A licensee who furnished a cash deposit in lieu of a surety bond upon applying for a license name change shall also execute the change on the cash deposit on a form provided by the OA.

**Historical Note**
Adopted effective January 31, 1979 (Supp. 79-1). Amended subsections (A), (D), (F),and (L) effective October 20, 1981 (Supp. 81-5).Former Section R4-34-802 repealed, new Section R4-34-802 renumbered from R4-34-502 and amended effective July 3, 1991 (Supp. 91-1).

## ARTICLE 9. ADMINISTRATIVE PROCEDURES

*Former Article 9, consisting of Sections R4-34-901 thru R4-34-904, ,renumbered to Article 4, Sections R4-34-401 thru R4-34-404, effective July 3, 1991 (Supp. 91-3).*

*New Article 9, consisting of Section R4-34-901, renumbered from Article 10, Section R4-34-1001, effective July 3, 1991 (Supp. 91-3).*

### R4-34-901. Rehearing

**A.** A petition for rehearing filed pursuant to A.R.S. § 41-2184 may be amended at any time before it is ruled upon by the Director. A response may be filed within ten days after service of such petition or amended petition by any other party or the Attorney General. The Director may require the filing of written briefs upon the issues raised in the petition and may provide for oral argument.

**B.** The Director may affirm the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in A.R.S. § 41-2184(D). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**C.** When a petition for rehearing is based upon affidavits, they shall be served with the petition. An opposing party or the Attorney General may within ten days after such service serve opposing affidavits.

**Historical Note**
Adopted effective April 4, 1985 (Supp. 85-2). Former Section R4-34-901 renumbered to R4-34-401, new Section R4-34-901 renumbered from R4-34-1001 and amended effective July 3, 1991 (Supp. 91-3).

## ARTICLE 10. RENUMBERED

*Article 10 consisting of Section R4-34-1001 adopted effective April 4, 1985.*

*Former Article 10, consisting of Section R4-34-1001 ,renumbered to Article 9, Section R4-34-901, effective July 3, 1991 (Supp. 91-3).*

## ARTICLE 11. RENUMBERED

### R4-34-1101. Renumbered

**Historical Note**
Adopted as an emergency effective March 24, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-2). Former Section R8-2-41 adopted as an emergency now adopted as a permanent rule effective June 24, 1982 (Supp. 82-3). Adopted as an emergency effective October 12, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Former Section R8-2-41 repealed, new Section R8-2-41 adopted effective April 2, 1985 (Supp. 85-2). Former Section R8-2-41 repealed, new Section R4-34-1101 adopted as an emergency effective March 14, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Former Section R8-2-41 repealed, new Section R4-34-1101 adopted as a permanent rule with editorial corrections effective November 16, 1988 (Supp. 88-4). Section R4-34-1101 repealed, new Section adopted effective July 20, 1990 (Supp. 90-3). Section R4-34-1101 renumbered to R4-36-201 (Supp. 95-4).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

# CHAPTER 35. THE ARIZONA HEALTH FACILITIES AUTHORITY

(Authority: A.R.S. § 36-481 et seq.)

## ARTICLE 1. GENERAL PROVISIONS

Section

R4-35-101. Statutory authorization

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## ARTICLE 1. GENERAL PROVISIONS

### R4-35-101. Statutory authorization

These rules and regulations are adopted under and pursuant to the authority therefor contained in Chapter 4.2, Title 36, Arizona Revised Statutes.

**Historical Note**

Adopted effective April 27, 1981 (Supp. 81-2).

## ARTICLE 2. BOARD OF DIRECTORS

### R4-35-201. Regular meetings

The regular annual meeting of the Board of Directors shall be held on the first Monday of February in each year, provided that the Chairman may, with the concurrence of two other members of the Board of Directors, defer such meeting for a period not to exceed 45 days.

**Historical Note**

Adopted effective April 27, 1981 (Supp. 81-2).

### R4-35-202. Special meetings

Special meetings of the Board of Directors may, and upon request of two members of the Board shall, be held at such time, date and place as may be determined by the Chairman of the Board of Directors.

**Historical Note**

Adopted effective April 27, 1981 (Supp. 81-2).

### R4-35-203. Notices

No notice need be given of the regular annual meeting of the Board of Directors unless such meeting is deferred as herein provided. Except as otherwise provided herein, written notice of the time and place (but not necessarily the purpose or all of the purposes) of any deferred regular annual or special meeting will be given to each director in person or via mail or telegram addressed to him or her at his or her latest address appearing on the Authority's records. Notice to any director of any such meeting will be sufficient when deposited in the United States mail, with postage prepaid, at least five days before the meeting date, or personally handed to the director or delivered to the telegraph office at least 48 hours prior to the convening of the meeting. Any director may waive notice of any meeting at any time before, during or after the meeting. Attendance of a director at any meeting will automatically evidence his or her waiver of notice of such meeting unless he or she is attending the meeting for the express purpose of objecting to the transaction of business because the meeting has not been properly noticed or convened. No notice of a meeting of directors will be necessary if each of them waives notice in writing or by attendance as aforesaid. Any meeting, once properly noticed (or as to which notice has been waived) and at which a quorum is formed, may be adjourned to another time and place by a majority of those in attendance.

**Historical Note**

Adopted effective April 27, 1981 (Supp. 81-2).

### R4-35-204. Quorum

Four directors shall constitute a quorum for the transaction of business at any meeting or adjourned meeting of the directors.

**Historical Note**

Adopted effective April 27, 1981 (Supp. 81-2).

### R4-35-205. Voting

Voting on all matters at meetings of the Board shall be by voice vote. Affirmative, negative and abstaining votes shall be entered in the minutes of the meeting, except that the individual votes of the directors with respect to the election of officers need not be recorded. Any matter submitted to a vote at any meeting of the Board will be resolved by the vote of a majority of those directors present and voting thereon.

**Historical Note**

Adopted effective April 27, 1981 (Supp. 81-2).

### R4-35-206. Executive committee

The Board of Directors may, by resolution adopted by a majority of the whole Board, name three or more of its members as an Executive Committee. Such Executive Committee will have and may exercise such powers of the Board of Directors in the management

of the operations of the Authority while the Board is not in session as may be provided in the Board's resolution, provided that any such Executive Committee shall not be empowered to take any action which by statute must be taken by the Board of Directors nor to take any action in any manner which would constitute or give rise to a violation of applicable laws of the state of Arizona. A majority of those named to the Executive Committee will constitute a quorum of the Committee, and the Executive Committee may at any time act, subject to the limitations set forth above, by the written consent of a quorum thereof, although not formally convened.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-207. Other committees**
Other standing or temporary committees may from time to time be appointed from its own membership by the Board of Directors and be vested with such duties as the Board may by resolution provide, subject to the limitations set forth in rule R4-35-206 hereof.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-208. Minutes**
Minutes shall be kept and maintained reflecting the proceedings and transactions at each regular or special meeting of the Board of Directors. The minutes shall be prepared by, or at the direction of, and signed by, the person acting as secretary at the meeting and shall be attested by the person acting as chairman. All committees will keep regular minutes or other records of their transactions and make such minutes and records available to the Board of Directors.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-209. Presumption of assent**
A director who is present at a meeting of the Board of Directors, or of any committee, at which action is taken on any manner will be presumed to have assented to the action taken unless his or her dissent or abstention is entered in the minutes of the meeting or unless he or she files written notice of dissent or abstention by registered or certified mail to the Secretary of the Authority immediately after the adjournment of the meeting. A right to dissent will not be available to a director who voted in favor of any action.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-210. Resolutions and effective dates**
All resolutions of the Authority shall be in writing and shall be set forth in the minute books of the Authority. A resolution shall become effective immediately upon adoption unless otherwise provided in the resolution.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

## ARTICLE 3. OFFICERS

**R4-35-301. Officers**
The officers of the Authority shall consist of a Chairman, a Secretary, a Treasurer, who shall be elected from among the members of the Board of Directors, and such assistants and other executive or administrative officers as the Board of Directors may from time to time determine. Each assistant officer (in the order, if any, designated by the Board) will be vested with all of the powers and charged with all of the duties (including those specifically set forth herein) of his or her superior officer in the event of such superior officer's absence, disability or inability to act for any reason.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-302. Elections**
Officers will be elected at the regular annual meeting of the Board of Directors but officers may be elected at any other meeting of the Board when necessary to fill a vacancy in any existing or newly-created office. Officers will continue in office until the election of a successor subject to earlier action pursuant to rule R4-35-304 or rule R4-35-401 below.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-303. Bonds and other requirements**
The Board of Directors may require any officer or employee to provide a surety bond in a reasonable amount, and conditioned upon the faithful performance of his or her duties, and to comply with such other conditions as may from time to time be established by the Board and by the laws of the state of Arizona.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-304. Removal or delegations**
Provided that a majority of the whole membership thereof concurs, the Board of Directors may at any time, with or without cause, remove any officer of the Authority and declare his or her office or offices vacant. In the case of the absence or disability of any officer or for any other reason considered sufficient, the Board of Directors may temporarily delegate his or her powers and duties to any other officer or to any director.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-305. Salaries**
The salaries, if any, of the officers and employees of the Authority shall be fixed by the Board of Directors, except that no member of the Board may receive compensation for his or her services except as provided in A.R.S. § 36-483.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-306. Chairman**
The Chairman shall preside at all meetings of the Board of Directors and shall have general supervision over the business and affairs of the Authority. Except as otherwise provided herein, or by resolution of the Board of Directors, the Chairman shall sign all orders, contracts and other instruments to be executed on behalf of the Authority.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-307. Vice-chairman**
A Vice-chairman may be elected from among the members of the Board of Directors of the Authority and, except as prohibited by law or these rules and regulations, shall serve as the acting Chairman of the Board of Directors and perform the duties of the Chairman in the event of the absence, disability or inability to act of the Chairman.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-308. Secretary**
The Secretary shall keep the minutes of the meetings of the Board of Directors and, if directed by the Board, perform the same duties for the committees of the Board of Directors; shall give or cause to be given all notices as required by law or these rules and regulations; shall be custodian of the records and the seal, if any, of the Authority; shall, when necessary or appropriate, attest to the signature of the Chairman or Vice-chairman; and shall, in general, per-

form all customary duties incident to the office of Secretary and such other duties as may be determined by the Board of Directors from time to time.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-309. Treasurer**
The Treasurer shall have custody of the funds and securities of the Authority; shall keep full and accurate accounts of receipts and disbursements relating to the operations of the Authority in books and ledgers belonging to the Authority; shall deposit all moneys and other valuable effects in the name or to the credit of the Authority in such depositories as shall be designated by the Board; shall disburse the funds of the Authority in such manner and at such times as may be ordered by the Board, taking proper receipts or vouchers for such disbursements; shall render to the Board, whenever requested by the Board, an accounting of all of the financial transactions and the financial condition of the Authority; and shall, in the event of his or her resignation, retirement, removal or death, deliver or provide for the delivery to the Authority of all books, papers, vouchers, records, ledgers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Authority.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

## ARTICLE 4. RESIGNATIONS AND VACANCIES

**R4-35-401. Resignations**
Any director, committee member or officer may resign at any time by written notice delivered or addressed to the Authority at its principal office, and, in the case of the resignation of any director, to the Governor of the state of Arizona. Any such resignation will be effective upon acceptance by the Authority, in the case of any committee member or officer, or by the Governor, in the case of any director, unless, in either case, some later date is specified therein, in which event the resignation will be effective upon the date so specified.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-402. Vacancies**
In the event the office of any committee member or officer becomes vacant for any reason, the Board of Directors may, subject to the limitations contained in these rules and regulations, choose a qualified successor to hold such office for the unexpired term.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

## ARTICLE 5. OTHER MATTERS

**R4-35-501. Indemnification**
The Authority may and, to the extent required by law, shall indemnify any and all of its present or former directors, officers, employees and agents to the fullest extent and in the manner provided by the laws of the state of Arizona as in effect from time to time hereafter, provided that such indemnification shall not be exclusive of any rights to which any present or former director, officer, employee or agent may be entitled by agreement or otherwise. The Authority may purchase and maintain insurance on behalf of any present or former director, officer, employee or agent of the Authority against any liability incurred by him or her in any such capacity arising out of his or her status as such, whether or not the Authority would have the power to indemnify such person under the provisions of this rule.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-502. Seal**
The Authority may adopt an official seal which shall be inscribed with the words: "The Arizona Health Facilities Authority, Seal, 1974, Arizona". Such seal may be affixed by impressing the same or by causing any facsimile or reproduction thereof to be impressed, affixed or reproduced on any document or instrument.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-503. Fiscal year**
The fiscal year of the Authority shall end on June 30 of each year.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-504. Audit of accounts and annual reports**
The accounts of the Authority shall be reviewed at least once for each fiscal year and, if directed by the Board, shall be reported upon by an independent certified public accountant or accounting firm selected by the Board of Directors. The Board of Directors may prepare and distribute an annual report containing such information pertaining to the activities and financial condition of the Authority as the Board of Directors may determine.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-505. Administrative offices**
The Board may establish such office or offices for the administration of the Authority at such location or locations in the state of Arizona as may be determined by the Board.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-506. Conflicts of interest**
In the event any matter being considered at any time by the Board of Directors shall involve any hospital, association, enterprise or other entity, transaction, or other matter in or with which any director is or has been involved, or associated, in a professional capacity or otherwise, such relationship shall be fully disclosed to the Board, and counsel for the Authority shall be requested to advise the Board concerning the permissible manner and extent of such director's further participation in connection with the matter being considered by the Board.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-507. Amendments**
Subject to compliance with the provisions of Chapter 6, Title 41, Arizona Revised Statutes, any and all of the provisions hereof may be amended, modified, altered or repealed by a majority vote of those directors present and voting at any regular annual or special meeting of the Board, the notice or waiver of notice for which contains or is accompanied by a general description or the exact test of the portion to be amended, modified, altered or repealed. Any such amendments, modifications, alterations or repeals shall become effective upon the filing of certified copies of these rules and regulations reflecting such changes with the Secretary of State of the state of Arizona in compliance with A.R.S. § 41-1004.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

## ARTICLE 6. APPLICATIONS FOR, AND ISSUANCE OF, BONDS

**R4-35-601. Eligibility**
Any participating facility, as that term is defined in A.R.S. § 36-481, shall be eligible to apply for, and receive through the Authority, financing for the acquisition, erection, construction, reconstruc-

tion, improvement, remodeling, repair, replacement, alteration, extension, development, furnishing or equipping of a health care facility, as that term is defined in A.R.S. § 36-481, or the refunding at or in advance of maturity of any such participating facility's outstanding bonds or other indebtedness.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-602. Procedures**
The Authority may adopt and revise from time to time general guidelines for the information of prospective financing applicants pertaining to preliminary and final application procedures and other matters concerning the documentation, costs and expenses, and timing involved in the Authority's issuance of bonds on behalf of any participating facility.

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

**R4-35-603. Mailing address**
All communications, applications or other materials may be directed to the Authority at the following address:

The Arizona Health Facilities Authority
c/o Snell & Wilmer
3100 Valley Bank Center
Phoenix, Arizona 85073

**Historical Note**
Adopted effective April 27, 1981 (Supp. 81-2).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 36. DEPARTMENT OF BUILDING AND FIRE SAFETY

(Authority: A.R.S. § 41-2141 *et seq.*)

### ARTICLE 1. RESERVED

### ARTICLE 2. STATE FIRE SAFETY COMMITTEE

*4 A.A.C. 34, Article 11, consisting of Section R4-34-1101, renumbered to A.A.C. R4-36-201 (Supp. 95-4). Introduction and Section number below corrected (Supp. 97-4).*

*Article 11 consisting of Section R4-34-1101 adopted as a permanent rule effective November 16, 1988.*

*Article 11 consisting of Section R4-34-1101 adopted as an emergency effective March 14, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.*

Section
R4-36-201. Arizona State Fire Code

### ARTICLE 3. REPEALED

*Article 3, consisting of Sections R4-26-301 through R4-36-308, repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Interim effective date corrected Supp. 98-2. Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).*

*Article 3, consisting of Sections R4-36-301 through R4-36-308, adopted effective November 1, 1995 (Supp. 95-4). Introduction corrected (Supp. 97-4).*

### ARTICLE 1. RESERVED

### ARTICLE 2. STATE FIRE SAFETY COMMITTEE

**R4-36-201. Arizona State Fire Code**

**A.** All persons residing, doing business or who are physically present within the state of Arizona shall comply with the provisions and regulations of the Uniform Fire Code (1988 Ed.) determined by the International Conference of Building Officials and the Western Fire Chiefs Association, which is declared to be a part of this regulation as if set forth in full herein, subject to the deletions, modifications and amendments contained in subsection (B). Copies of the Uniform Fire Code (1988 Ed.) and copies of the Uniform Fire Code Standards (1988 Ed.), the Uniform Building Code (1988 Ed.), the Uniform Mechanical Code (1988 Ed.), and the Uniform Plumbing Code (1988 Ed.), referenced in the Uniform Fire Code (1988 Ed.), are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies of these uniform codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

**B.** The Uniform Fire Code (1988 Ed.) is modified as follows:

1. Pages xxvi, xxvii, xxviii and xxix are deleted.
2. Where the term "Corporation Counsel" is used in the Uniform Fire Code, it shall mean the legal counsel of the jurisdiction or its fire department, or of the State Fire Marshal, as the context requires.
3. Wherever the terms "Chief," "Chief of the Fire Department" or "Building Official" are used in the Uniform Building Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the State Fire Marshal or designated representative, unless the context otherwise requires.
4. Wherever the terms "fire department," "department," "fire prevention engineer," or "bureau of fire prevention" are used in the Uniform Fire Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the Office of State Fire Marshal, unless the context otherwise requires.
5. Sec. 1.102(b) is modified to include "The National Fire Code Standard and its appendices, published by the National Fire Protection Association (NFPA) as listed below, are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies are available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."
   - "i. NFPA #10 Portable Fire Extinguishers (1988 Ed.),
   - "ii. NFPA #12A Halon 1301 Fire Extinguishing Systems (1987 Ed.),
   - "iii. NFPA #12B Halon 1211 Fire Extinguishing Systems (1985 Ed.),
   - "iv. NFPA #13 Installation of Sprinkler Systems (1989 Ed.),
   - "v. NFPA #13A Inspection, Testing and Maintenance of Sprinkler Systems (1987 Ed.),
   - "vi. NFPA #13R Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height (1989 Ed.),
   - "vii. NFPA #14 Standpipe & Hose Systems (1986 Ed.),
   - "viii. NFPA #15 Water Spray Fixed Systems (1985 Ed.),
   - "ix. NFPA #16 Foam Water Spray Systems (1986 Ed.),
   - "x. NFPA #17 Dry Chemical Extinguishing Systems (1985 Ed.),
   - "xi. NFPA #17A Wet Chemical Extinguishing Systems (1986 Ed.),
   - "xii. NFPA #20 Centrifugal Fire Pumps (1987 Ed.),
   - "xiii. NFPA #22 Water Tanks for Private Fire Protection (1987 Ed.),
   - "xiv. NFPA #24 Private Fire Service Mains (1987 Ed.),
   - "xv. NFPA #26 Valves Controlling Water Supplies for Fire Protection (1988 Ed.),
   - "xvi. NFPA #51B Cutting & Welding Processes (1984 Ed.),
   - "xvii. NFPA #58 Liquefied Petroleum Gases (1989 Ed.),
   - "xviii. NFPA #70 National Electrical Code (1987 Ed.),
   - "xix. NFPA #71 Installation, Maintenance and Use of Central Station Signaling Systems (1987 Ed.),
   - "xx. NFPA #72A Local Protective Signaling Systems (1987 Ed.),
   - "xxi. NFPA #72B Auxiliary Protective Signaling Systems (1986 Ed.),
   - "xxii. NFPA #72C Remote Station Protective Signaling Systems (1986 Ed.),
   - "xxiii. NFPA #72D Proprietary Protective Signaling Systems (1986 Ed.),

"xxiv. NFPA #72E Automatic Fire Detectors (1987 Ed.),
"xxv. NFPA #72H Testing Procedures for Local, Auxiliary, Remote Station and Proprietary Protective Signaling Systems (1988 Ed.),
"xxvi. NFPA #80 Fire Doors and Windows (1986 Ed.),
"xxvii. NFPA #86 Ovens and Furnaces, Design, Location, and Equipment (1985 Ed.),
"xxviii. NFPA #90A Air Conditioning and Ventilating Systems (1985 Ed.),
"xxix. NFPA #91 Blower and Exhaust Systems (1983 Ed.),
"xxx. NFPA #96 Removal of Smoke and Grease-laden Vapors from Commercial Cooking Equipment (1987 Ed.),
"xxxi. NFPA #231 Indoor General Storage (1987 Ed.),
"xxxii. NFPA #231C Rack Storage of Materials (1986 Ed.),
"xxxiii. NFPA #303 Fire Protection Standard for Marinas and Boatyards (1986 Ed.),
"xxxiv. NFPA #407 Aircraft Fuel Servicing (1985 Ed.),
"xxxv. NFPA #409 Aircraft Hangars (1985 Ed.),
"xxxvi. NFPA #490 Ammonium Nitrate, Storage of (1986 Ed.),
"xxxvii. NFPA #498 Explosives Motor Vehicle Terminals (1986 Ed.),
"xxxviii. NFPA #651 Aluminum and Magnesium Powder (1987 Ed.),
"xxxix. NFPA #704 Identification of the Fire Hazards of Materials (1985 Ed.),
"xxxx. NFPA #1231 Water Supplies for Rural & Suburban Fire Fighting (1984 Ed.)."

6. Sec. 1.102(c) is modified to read "Wherever in the code reference is made to the appendix, only the following appendices shall be part of this code:
"Appendix I-A with the exception of Section 1(b),
"Appendix II-A,
"Appendix II-B,
"Appendix II-C with the exception of Section 2,
"Appendix II-E,
"Appendix IV-A,
"Appendix V-A,
"Appendix VI-A,
"Appendix VI-D,
"Appendix VI-E".
7. Sec. 2.304(a) is modified by adding the following: "To the extent that the Uniform Fire Code Standards (1988 Ed.) incorporate NFPA Standards which are consistent with NFPA Standards incorporated by reference in Sec. 1.102(b), the version incorporated in Sec. 1.102(b) shall control."
8. Sec. 4.101 is modified to read: "The authority having jurisdiction may require permits as provided for in Sec. 4.108 of this code."
9. Sec. 11.204 is modified to include "educational occupancies."
10. Add Sec. 11.210 to read: "Bed mattresses used in institutional occupancies where the personal liberties of inmates are restrained shall be permanently flame resistant and low-smoke producing. Urethane foam materials shall be aged before the following tests are conducted. The method of aging shall be by American Society for Testing and Materials (ASTM) D3574-86 Test $J_1$" (1986 Ed.) which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. All materials shall meet the following criteria:

| "TEST | ACCEPTABLE VALUES | TEST METHOD |
|---|---|---|
| Oxygen Index $\%O_2$ | 50 min. | ASTM D-2863-87 |
| Smoke Density | | |
| Flaming Ds @ 90 Sec. & nonflaming DS @ 4 minutes | 1 in-75 max.<br>1 in-175 max. | ASTM E-662-83 |
| Radiant Panel | Flame Spread 5 or less-No melt, no drip | ASTM E-162-87" |

11. Sec. 12.110 is added to Article 12 to read: "Fire exit drills shall be conducted in accordance with Chapter 31 of the NFPA #101, Life Safety Code" (1988 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."
12. Sec. 14.102. Modify the definition of alarm system to read: "Alarm system is a combination of a control unit and approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signal in the event of fire or system activation."
13. Sec. 14.103(b) is modified to read: "Fire alarm systems installed in educational, institutional, state or county-owned occupancies shall be designed and installed in such a manner that the failure, removal, or destruction of any single alarm actuating or alarm indicating device or a break in the writing circuit will not interfere with the normal operation of any other such devices."
14. Section 14.103(c) is modified to read: "Equipment. Systems and components shall be listed and approved for the purpose for which installed."
15. Sec. 14.103(d) is modified to read: "Acceptance Test. Upon completion of the installation or alteration, a satisfactory test of the entire fire alarm system shall be made

in the presence of the Chief. All functions of the fire alarm system or alteration shall be tested."

16. Sec. 14.103(e) is modified to read: "The permittee shall provide written certification to the Chief that the system has been installed in accordance with the approved plans, component specifications and the manufacturer's minimum requirements."
17. Sec. 14.104(b)(1) is modified to include paragraph D: "Group B, Division 2 occupancies owned by the state or county at the discretion of the Fire Marshal."
18. Sec. 14.104(b)(3) is modified to include paragraph D: "An automatic system shall be required when construction includes internal corridors which serve as egress pathways. Approved smoke detectors shall be installed in internal corridors in accordance with R4-34-1101(B)(5)(xxiv)."
19. Sec. 14.104(c), first paragraph, is modified to read: "Group R, Division 1 Occupancies. A manual and automatic fire alarm system shall be installed in apartment houses three or more stories in height or containing more than 16 dwelling units and in hotels three or more stories in height or containing 20 or more guest rooms." Remaining paragraphs are unchanged.
20. Sec. 14.104(c), fourth paragraph, is modified to read: "An approved and listed system-type heat detector shall be installed within common areas such as recreational rooms, laundry rooms and furnace rooms of buildings containing Group R, Division 1 Occupancies."
21. Sec. 14.104(e) is modified to read: "Smoke detectors in dwelling units and guest rooms. Smoke detectors shall be installed as required by the Building Code Section 1210(a) in dwelling units and hotel or lodging house guest rooms. When such detectors are connected to a fire alarm system, they shall not sound a general alarm."
22. Sec. 14.105(d) is added to read: "Return wires of above-ground fire alarm system wiring shall be physically separated from outgoing wires by a distance of not less than six feet or by a minimum of one-hour fire-resistive construction. The six-foot separation shall not apply to underground installation. EXCEPTION: When making connections to the panel."
23. Sec. 14.106(a) is modified to read: "Maintenance and Testing. All fire alarm systems shall be maintained and tested as set forth in this Article and in accordance with nationally recognized standards. All fire alarm and detection systems shall be tested as set forth in R4-34-1101(B)(5)(xxv)."
24. Sec. 14.108 is modified to read: "Accidental Alarms. In the event of temporary failure of the alarm system or an excessive number of accidental alarm activations, the Chief may require the building owner or occupant to provide standby personnel as defined by Sec. 25.117 until the system is restored."
25. "Sec. 14.109 is added to read: "Fire alarm systems installed in buildings used for public accommodation as defined in A.R.S. § 34-402(20) shall meet the requirements of A.R.S. § 34-431."
26. Add a new Division V of Article 25 to Read: "Division V. Grounds of Carnivals and Fairs."
27. Sec. 25.501 is added to read: "Scope. The grounds of carnivals and fairs, including concession booths, shall conform to the requirements of this division and all other applicable requirements of this code."
28. Sec. 25.502 is added to read: "Permits. For a permit to operate a carnival or fair, see Sec. 4.108."
29. Sec. 25.503 is added to read: "General Requirements. Grounds shall comply with the following:
    "1. Fire apparatus access roads shall be provided in accordance with Sec. 32.105.
    "2. Fire-fighting appliances shall be provided for the entire midway, as required by the chief.
    "3. Maximum travel distance to a portable fire extinguisher shall not exceed 75 feet.
    "4. All electrical equipment and installations shall comply with the National Electrical Code."
30. Sec. 25.504 is added to read: "Concession stand requirements. Concession stands shall comply with the following:
    "1. Concession stands utilized for cooking shall have a minimum of 10 feet of clearance on two sides and shall not be located within 10 feet of amusement rides or devices.
    "2. A 40-B:C-rated dry chemical fire extinguisher shall be provided where deep-fat fryers are in use."
31. Sec. 25.505 is added to read: "Internal combustion power sources, including motor vehicles, generators and similar equipment shall comply with the following:
    "1. Fuel tanks shall be of adequate capacity to permit uninterrupted operation during normal operating hours. Refueling shall be conducted only when the ride is not in use.
    "2. Internal combustion power sources shall be isolated from contact with the public by either physical guards, fencing or enclosures.
    "3. At least one fire extinguisher with a rating of not less than 2-A:10B:C shall be provided."
32. Add a new Division VI of Article 25 to read: "Division VI. Liquid-or Gas-Fueled Vehicles or Equipment Used for Display or Competition Within Assembly Buildings."
33. Sec. 25.602 is added to read: "Scope. Liquid- or gas-fueled vehicles or equipment used for display competition or demonstration within an assembly building shall comply with the requirements of this division and all other applicable requirements of this code."
34. Sec. 25.602 is added to read: "Permits. For permits to use liquid- or gas-fueled vehicles or equipment for competition or display inside an assembly building, see Sec. 4.108."
35. Sec. 25.603 is added to read: "Display. Display of liquid- or gas-fueled vehicles or equipment inside an assembly building shall comply with the following:
    "1. Batteries shall be disconnected in an approved manner.
    "2. Vehicles or equipment shall not be fueled or defueled within the building.
    "3. Fuel in the fuel tank shall not exceed one-quarter of the tank capacity or five gallons, whichever is less.
    "4. Fuel systems shall be inspected for leaks.
    "5. Fuel-tank openings shall be locked and sealed to prevent the escape of vapors.
    "6. The location of such vehicles or equipment shall not obstruct or block exits."
36. Sec. 25.604 is added to read: "Competition or Demonstrations. Liquid- or gas-fueled vehicles or equipment used for competition or demonstration within an assembly building shall comply with the following:
    "1. Fuel for the vehicles or equipment shall be stored in approved containers in an approved location outside of the building.
    "2. Refueling shall be performed outside of the building at an approved site.

"3. All fuel spills shall be cleaned up immediately."

37. Sec. 80.101. Add a paragraph to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid hazardous materials in Group B, Division 2 retail sales occupancies, see Sec. 80.109."
38. Sec. 80.109 is added to read: "Retail display. When in accordance with this section, the aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials permitted within a single control area of a Group B, Division 2 retail sales occupancy may exceed the exempt amounts specified in Division III, Tables Nos. 80.306-A, 80.309-A, 80.310-A, 80.312-A, 80.314-A and 80.315-A. The maximum allowable quantity in pounds or gallons permitted within a single control area of a retail sales occupancy shall be the amount derived from the formula:

"$E_R = E \times p \times A$

"WHERE:

"$E_R$ = exempt amount permitted in a single control area of a retail sales occupancy.

"E = exempt amount specified in Division III exempt amount tables.

"p = density factor from Table No. 80.109.

"A = square footage area of the hazardous material retail display or storage.

The maximum aggregate floor area for hazardous material retail display or storage over which the density factor may be applied shall not exceed 1500 square feet per control area."

"The area of storage or display shall also comply with the following requirements:

"1. Display of solids shall not exceed 200 pounds per square foot of floor area actually occupied by the solid merchandise.
"2. Display of liquids shall not exceed 20 gallons per square foot of floor area actually occupied by the liquid merchandise.
"3. Display height shall not exceed six feet.
"4. Individual containers less than five gallons or less than 25 pounds shall be stored on pallets, racks or shelves.
"5. Storage racks and shelves shall be in accordance with the provisions of Sec. 80.301(i).
"6. Containers shall be approved for the use intended.
"7. Individual containers shall not exceed 100 pounds or five-gallon capacity.
"8. Incompatible materials shall be separated in accordance with the provisions of Sec. 80.301(n).
"9. Floors shall be in accordance with the provisions of Sec. 80.301(z).
"10. Aisles four feet in width shall be maintained on three sides of the display area.
"11. Hazard identification signs shall be provided in accordance with the provisions of Sec. 80.104(e)."

39. Add Table No. 80.109 to read:

"TABLE 80.109

DENSITY FACTORS FOR EXEMPT AMOUNTS IN RETAIL SALES

| HAZARD CATEGORIES 1 | CLASS | DENSITY FACTOR p |
|---|---|---|
| PHYSICAL HAZARDS:<br>Oxidizers; unstable (reactive) materials;<br>water-reactive materials | <br><br>Class 4<br>Class 3<br>Class 2<br>Class 1 | <br><br>N.P.<br>0.075<br>0.006<br>0.003 |
| HEALTH HAZARDS: Toxic or highly toxic solids and liquids; corrosives; other health hazard solids, liquids and gases. | All | 0.0013 |

NP = Not permitted

1-Hazard categories are as specified in Division II. Density factors shall not apply to categories other than those listed."

40. Sec. 80.306(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid Class 1, Class 2 and Class 3 oxidizers, see Sec. 80.109."
41. Table No. 80.306-A. Revise the footnotes to read:
    "1) No exempt amounts of Class 4 oxidizers are permitted in Group R Occupancies, offices or retail sales portions of Group B Occupancies.
    "2) No exempt amounts of Class 4 oxidizers are permitted in Group A, E, I or M Occupancies, or in classrooms of Group B Occupancies unless storage is within a hazardous material storage cabinet containing no other storage.
    "3) A maximum quantity of 200 pounds of solid or 20 gallons of liquid Class 3 oxidizers may be permitted in Groups I, M and R occupancies when such materials are necessary for maintenance purposes or operation of equipment. The oxidizers shall be stored in approved containers and in a manner approved by the chief."
42. Sec. 80.309(a). Revise the exceptions to read:
    "1. Detonatable, unstable (reactive) materials shall be stored in accordance with Article 77.
    "2. For retail display of nonflammable solid and nonflammable or noncombustible liquid unstable (reactive) materials, see Sec. 80.109."
43. Sec. 80.310(a). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid water-reactive materials, see Sec. 80.109."
44. Sec. 80.312(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or non-

combustible liquid toxic or highly toxic materials, see Sec. 80.109."

45. Sec. 80.314(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid corrosive materials, see Sec. 80.109."
46. Sec. 80.315(a)(1). Add an exception to read: "For retail display of nonflammable solid and noncombustible or nonflammable liquid other than health hazard materials, see Sec. 80.109."
47. Sec. 80.401(b)(3F)(v). Add an exception to read: "Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
    "1. Operated at pressures less than 15 psig.
    "2. Constantly attended.
    "3. Provided with readily accessible emergency shutoff valves."
48. Sec. 80.402(c)(8C). Add an exception to read: "Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
    "1. Operated at pressures less than 15 psig.
    "2. Constantly attended.
    "3. Provided with readily accessible emergency shutoff valves."
49. Appendix VI-D is modified to include the following after Table 42-B: "Carpeting on walls or ceilings. When used as interior wall or ceiling finish, carpeting and similar materials having napped, tufted, looped or similar surface shall meet the criteria set forth in Enclosed Corner Burn Test, Underwriters Laboratory Subject Outline 1715 (1989 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from Underwriters Laboratory, Inc., Publication Department, 1655 Scott Boulevard, Santa Clara, CA 95050."

**Historical Note**

Adopted as an emergency effective March 24, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-2). Former Section R8-2-41 adopted as an emergency now adopted as a permanent rule effective June 24, 1982 (Supp. 82-3). Adopted as an emergency effective October 12, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. former Section R8-2-41 repealed, new Section R8-2-41 adopted effective April 2, 1985 (Supp. 85-2). Former Section R8-2-41 repealed, new Section R4-34-1101 adopted as an emergency effective March 14, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Former Section R8-2-41 repealed, new Section R4-34-1101 adopted as a permanent rule with editorial corrections effective November 16, 1988 (Supp. 88-4). Section R4-34-1101 repealed, new Section adopted effective July 20, 1990 (Supp. 90-3). Section R4-36-201 renumbered from R4-34-1101 (Supp. 95-4).

***Editor's Note: Article 3, consisting of Sections R4-26-301 through R4-36-308, repealed by summary action with an interim effective date of December 26, 1997. Historical notes in this Article were corrected for clarification in Supp. 98-2. Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).***

## ARTICLE 3. REPEALED

**R4-36-301. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-301 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-302. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-302 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-303. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-303 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-304. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-304 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-305. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-305 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-306. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-306 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-307. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-307 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4).

Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

**R4-36-308. Repealed**

**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). R4-36-308 repealed by summary action with an interim effective date of December 26, 1997; filed in the Office of the Secretary of State December 5, 1997 (Supp. 97-4). Adopted summary rules filed June 5, 1998; interim effective date of December 26, 1997, now the permanent effective date (Supp. 98-2).

Recodified

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 37. RECODIFIED

*Title 4, Chapter 37, the rules of the Arizona State Lottery Commission, has been recodified to Title 19, Chapter 3 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

# TITLE 4. PROFESSIONS AND OCCUPATIONS

# CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

(Authority: A.R.S. § 32-2904 et seq.)

## ARTICLE 1. GENERAL

Section

R4-38-101. Standards for Applicants Not Holding Degrees from a College or University Approved by the Board
R4-38-102. Standards for approval of post graduate courses and homeopathic educational institutions
R4-38-103. Standards for approval of internships and preceptorships
R4-38-104. Fees
R4-38-105. Procedure for conducting licensing examinations and setting the passing grade
R4-38-106. Procedure for conduct of personal interview
R4-38-107. Waiver of Examination
R4-38-108. Notification of address
R4-38-109. Experimental forms of diagnosis and treatment
R4-38-110. Generally accepted experimental criteria
R4-38-111. Peer review
R4-38-112. Procedure for registering compliance of use of experimental forms of diagnosis and treatment
R4-38-113. Protocol for Chelation Therapy
R4-38-114. Rehearing or review of decision
R4-38-115. Use of Title and Abbreviation

## ARTICLE 2. LABELING, RECORDKEEPING, STORAGE, AND PACKAGING OF DRUGS DISPENSED BY HOMEOPATHIC PHYSICIANS

Section

R4-38-201. Definitions
R4-38-202. General Provisions
R4-38-203. Labeling
R4-38-204. Recordkeeping
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R4-38-206. Packaging

## ARTICLE 3. EDUCATION, SUPERVISION, AND DELEGATION STANDARDS FOR REGISTRATION OF MEDICAL ASSISTANTS BY HOMEOPATHIC PHYSICIANS

Section

R4-38-301. Definitions
R4-38-302. Approved Formal Educational Programs
R4-38-303. Supervision of Formally Educated Assistants
R4-38-304. Approved Practical Educational Programs
R4-38-305. Supervision of Practically Trained Assistants
R4-38-306. Restrictions on Delegated Procedures
R4-38-307. Unprofessional Conduct
R4-38-308. Registration of Medical Assistants and Practical Educational Programs
R4-38-309. Multiple Supervisors
R4-38-310. Previously Licensed Practitioners
R4-38-311. Deadlines for Compliance with Rules

## ARTICLE 4. APPLICATION AND RENEWAL PROCESS; TIME-FRAMES

*Article 4, consisting of Sections R4-38-401 thru R4-38-403, adopted effective September 24, 1998 (Supp. 98-3).*

Section

R4-38-401. Definitions
R4-38-402. Application; Initial License, Permit or Registration
R4-38-403. Application; Renewal of License, Permit or Registration

## ARTICLE 1. GENERAL

### R4-38-101. Standards for Applicants Not Holding Degrees from a College or University Approved by the Board

**A.** "Approved school of medicine" means any school or college operating a course of study which upon successful completion results in a Degree of Doctor of Medicine or a Doctor of Osteopathy and whose course of study has been approved or accredited by the American Institute of Homeopathy, the Association of American Medical Colleges, the Association of Canadian Medical Colleges, the American Medical Association, or the American Osteopathic Association.

**B.** An applicant who has graduated from an unapproved school of medicine shall meet the following requirements:

1. Be the holder of a standard certificate issued by the Educational Council for Foreign Medical Graduates, or
2. Successfully complete an approved Fifth Pathway Program of twelve months supervised clinical training under the direction of an approved school of medicine in the United States in addition to documentation granted by a foreign school of medicine signifying completion of all of the formal requirements for graduation from such foreign medical school except internship or social service training or both.

**Historical Note**

Adopted effective June 3, 1988 (Supp. 88-2). Heading amended effective February 7, 1995 (Supp. 95-1).

### R4-38-102. Standards for approval of post graduate courses and homeopathic educational institutions

**A.** Applicants for licensure who submit a diploma of Doctor in Medicine in Homeopathy issued by a homeopathic college or other educational institution shall submit a certified statement of their course work and content if their institution has not been previously approved by the Board or accredited for this course of study by an educational or professional association recognized by the Board including the Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Institute of Homeopathy.

**B.** An applicant shall submit certificates of attendance and completion of post graduate courses and a summary of such work, as required by this Section, on the application form supplied by the Board.

**C.** Attendance at a course of homeopathic post graduate medical education consisting of 90 hours or more of formal training in homeopathy offered by an institution approved by the Board or the American Institute of Homeopathy will satisfy the post graduate course requirements for applicants.

**D.** Course work not previously approved by the Board will be evaluated upon submission by applicant according to the course content, which includes case-taking, repertory use, materia medica, homeopathic philosophy and history, acute remedies, constitutional prescribing, posology, homeopathy prescription policies, remedy handling policies, and homeopathic laws.

**E.** An applicant whose previous homeopathic practice as defined in A.R.S. § 32-2901(A)(4) has been devoted 50% or more to complementary modalities other than the classical homeopathy of micro-dose substances prescribed by the law of similars,

shall submit evidence of a combined total of three hundred hours of post graduate training in one or more of these modalities including a minimum of 40 hours of formal training in an approved course in classical homeopathy. These modalities as defined in A.R.S. § 32-2901 include acupuncture, neuromuscular integration, orthomolecular therapy, nutrition or chelation therapy.

**F.** Applicants who have submitted a preceptorship in Homeopathic Medicine may submit documentation of such preceptorship for consideration by the Board according to the criteria in subsection (B) above as an approved course of post graduate training. A preceptorship is an extended period of individual study with one or more experienced homeopathic physicians or institutions.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-103. Standards for approval in internships and preceptorships**

**A.** An "approved internship" means that the applicant has completed training in a hospital which was approved for internship, fellowship or residency training by the Council on Medical Education in Hospitals of the American Medical Association, the Association of American Medical Colleges, the Royal College of physicians and Surgeons of Canada, the American Osteopathic Association or any similar body in the United States or Canada whose function is that of approving hospitals for internship, fellowship or residency training.

**B.** Completion of a preceptorship may not substitute for completion of an approved internship, residency or fellowship program.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-104. Fees**

**A.** The fee for annual renewal of a license is $525.00.
**B.** The fee for issuance of a duplicate license is $25.00.
**C.** The fee for a dispensing permit is $200.00 and the annual renewal for such a permit is $150.00.
**D.** The fee for a copy of minutes to all board meetings during the calendar year is $75.00.
**E.** The fee for the sale of lists of physicians licensed by the Board is 5¢ per name for private use and 25¢ per name for commercial use.
**F.** The fee for copying records, documents, letters, minutes, applications, and files is .25¢ per page.
**G.** The fee for copying audio tapes is $35.00 per tape.
**H.** The fee for the sale of computerized tapes or diskettes not requiring programming is $100.00.

**Historical Note**
Adopted effective February 22, 1988 (Supp. 88-1). Amended effective January 27, 1995. Amended effective February 7, 1995 (Supp. 95-1). Amended effective November 12, 1996 (Supp. 96-4).

**R4-38-105. Procedures for conducting licensing examinations and setting the passing grade**

**A.** The examination for licensure shall be a written exam with a specified time limit. The Board shall administer a standardized examination or examinations covering items expected to be included in an approved formal post graduate course in homeopathic medicine as defined in R4-38-102(D).
**B.** The passing grade of the exam is 70%.
**C.** Applicants shall bring a copy of Kent's Repertory for use as a reference during the examination. Applicants may use other repertories with clinically updated rubrics. In no case may other written material, notes or materia medica references be brought in or used during the examination.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-106. Procedure for conduct of personal interview**

**A.** The personal interview conducted by the Board shall be conducted so as to acquaint the Board with the applicant's personal history, philosophy and approach to homeopathic medical practice. To this end the Board may require the applicant to review a clinical case history drawn from a file established by the Board for this purpose and present to the Board a summary of how the applicant would proceed with the clinical management of the sample case.
**B.** The Board shall ask any questions which will clarify to the satisfaction of the Board any issues regarding the applicant's practice record which may reflect on his or her competence to safely engage in the practice of medicine, clarify any questions of unprofessional conduct in the applicant's professional record, and clarify whether the scope of the applicant's homeopathic practice falls within the definition of A.R.S. § 32-2901(A)(4).

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-107. Waiver of Examination**

**A.** No waiver may be issued without completion of a personal interview.
**B.** For applicants requesting waiver under A.R.S. § 32-2912(C)(1)(a), Verification of competency, the Board will consider the nature of the applicant's previous three years of homeopathic practice and the nature of the treatment methodology (homeopathic modalities) used in that practice. If the Board so determines, based on information obtained in the personal interview, that this practice constitutes a primarily homeopathic practice experience under the definition of such practice in Arizona law, then waiver may be granted.
**C.** In cases where applicant requests waiver under A.R.S. § 32-2912(C)(1)(b), Recognition of homeopathic licensure, the Board will consider the nature of the examination and testing procedures used in the licensing jurisdiction as well as the information obtained in the personal interview in determining whether the applicant qualifies for a waiver.

**Historical Note**
Adopted effective June 13, 1988 (Supp. 88-2). Amended effective February 7, 1995 (Supp. 95-1).

**R4-38-108. Notification of address**

Any licensee establishing a new office or changing his office address in the state of Arizona shall notify the Board in writing within 45 days of the opening of such new office and notify the Board within 45 days of any change in office or residence address, and office or residence telephone number.

**Historical Note**
Adopted effective June 13, 1988 (Supp. 88-2).

**R4-38-109. Experimental forms of diagnosis and treatment**

**A.** The Board neither approves nor advocates specific innovative therapies but recognizes the following standards for determining if licensees are in compliance with A.R.S. § 32-2933(27). Nothing in this rule shall be interpreted to authorize activity in violation of applicable Arizona or federal statutes regarding drugs and devices.
**B.** For the purposes of this Chapter, an experimental form of diagnosis or treatment, subject to the restrictions and public protections of A.R.S. § 32-2933(27), includes:

1. Administration of a pharmaceutical agent untested for safety in humans.
2. The use of physical agents or electromagnetic currents or fields in a manner not supported by established clinical usage.
3. Innovative therapy modalities and diagnostic methods that are not included in the definition of homeopathic practice in A.R.S. § 38-2901(A) and do not meet the criteria of subsection (C) below.

**C.** For the purposes of this Chapter, the following are not considered to be experimental forms of diagnosis or treatment:
1. Substances or therapy modalities administered on homeopathic indications that have been in beneficial clinical usage by professionally trained, legally qualified physicians for at least ten years.
2. Homeopathic drugs listed in the Homeopathic Pharmacopia of the United States.
3. Homeopathic drug preparations which have been characterized by toxicity studies or by the "proving" method of administration to healthy volunteers to determine their spectrum of action.
4. Administration of pharmaceutical agents for therapeutic indications supported by clinical usage where such agents have already received approval to be marketed publicly for other therapeutic indications by the appropriate regulatory agency.

**D.** For the purposes of this Chapter, beneficial clinical usage by physicians of therapy modalities means that such beneficial usage is documented by national or international clinical reports of therapeutic results, or by professionally recognized publications of clinical indications and contraindications, or by organized national or international instructional courses offered in the use of the modality or treatment, or by presentation of physicians' experience with the therapy at national or international professional meetings.

**Historical Note**
Adopted effective June 13, 1988 (Supp. 88-2).

**R4-38-110. Generally accepted experimental criteria**
For the purposes of this Chapter, generally accepted experimental criteria in homeopathy mean:
1. A protocol in which the treating modality is administered in the smallest amount necessary to stimulate a healing response with a minimum of clinical aggravation or "side effects."
2. Records for documentation of clinical efficacy which reflect measurement of symptom improvement, laboratory testing, and improvement in parameters of physiologic functioning.
3. Innovative diagnostic procedures and devices are to be analyzed and evaluated according to their ability to assist the physician in assessing the degree of disturbance in the totality of the patient's presenting signs, symptoms and physiologic responses. The procedures and devices are also evaluated according to their ability to predict or monitor the totality of responses to a given therapeutic intervention or program.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-111. Peer review**
**A.** Licensees who use experimental forms of diagnosis and treatment without affiliation with a recognized research institution or peer review agency may request or the Board may require review of the procedure in question by a Board appointed peer review committee.

**B.** The committee review shall include a review of protocols, record keeping, analysis of results and informed consent procedures. Based on the peer review report, the Board shall determine the licensee's compliance with generally accepted homeopathic experimental criteria.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-112. Procedure for registering compliance of use of experimental forms of diagnosis and treatment**
At the time of initial licensing and at subsequent annual renewal periods, physicians shall document the modalities of treatment used in their practice as well as any experimental forms of diagnosis and treatment which have been defined as experimental by legislative action or Board action.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-113. Protocol for Chelation Therapy**
**A.** Physicians engaging in chelation therapy as part of their homeopathic practice shall document post graduate education requirements equivalent to those established for eligibility for certification by the American Board of Chelation Therapy.

**B.** Physicians engaging in chelation therapy shall keep detailed records for patients undergoing chelation therapy, which shall include the following:
1. Documentation of form and nature of pre-therapy counselling.
2. Diagnostic and pathologic categorization of patient's problem.
3. Documentation of pre-therapy testing including history and physical, subjective symptomatology, laboratory evaluations and consultation reports appropriate to the patient's pathologic diagnosis.
4. Evidence of periodic monitoring of therapy at an interval appropriate for the acuteness of patient's condition at a minimum of every nine treatments or every two months. Such monitoring includes physiologic measurements, complications of treatment, progress in symptoms and additional comments.
5. Post therapy testing including subjective evaluation, physiologic testing and laboratory results appropriate for the patient's complaint to be done at three, six and twelve months following treatment or during the course of treatment.

**C.** Periodic analysis of chelation therapy results shall occur at six-month intervals with at least the following analysis of results:
1. Minimal improvement.
2. Marked improvement.
3. Worse.
4. Lost to follow-up.
5. Refused follow-up.

**D.** Peer review for compliance with the above protocol shall occur at a minimum of annual intervals through an appropriate institutional review committee or a peer review committee designated by the Board.

**Historical Note**
Adopted effective June 3, 1988 (Supp. 88-2). Amended effective February 7, 1995 (Supp. 95-1).

**R4-38-114. Rehearing or review of decision**
**A.** Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board not later than ten days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds there-

fore. A decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights.

1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**E.** Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefore.

**F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any applicant for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**H.** For purposes of this Section, the terms "contested case" and "party" are defined in A.R.S. § 41-1001.

**Historical Note**

Adopted effective June 3, 1988 (Supp. 88-2).

**R4-38-115. Use of Title and Abbreviation.**

**A.** The use of abbreviations "H.P." and "M.D.(H.)" are recognized as equivalent to the full written designation, "Homeopathic Physician" and "Doctor of Medicine (Homeopathic)".

**B.** Physicians practicing in Arizona under the auspices of the Homeopathic Board who are not also licensed by the Board of Medical Examiners or the Board of Osteopathic Examiners in Medicine and Surgery in this state may only use the designation, "M.D."or "D.O." to indicate their educational training if such use of initials is uniformly accompanied by the full, written designation, "Homeopathic Physician".

**C.** Physicians practicing under dual licensure between either the Allopathic or the Osteopathic Board and the Homeopathic Board shall use either the designation "Homeopathic Physician", "Doctor of Medicine (Homeopathic)", or one of the two approved abbreviation terms in all professional capacities, along with the appropriate "M.D." or "D.O." designation.

**D.** All physicians practicing in Arizona under a license by the Arizona Board of Homeopathic Medical Examiners shall post in a visible location in the reception area of each office facility, a sign which states, "Dr._____is licensed by the Arizona Board of Homeopathic Medical Examiners." Such sign shall be a minimum of four inches by six inches in size, and it may also state any additional licensures or certifications under which the Homeopathic Physician is practicing.

**E**. Deadline for compliance shall be six months after the effective date of this rule.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1).

## ARTICLE 2. LABELING, RECORDKEEPING, STORAGE, AND PACKAGING OF DRUGS DISPENSED BY HOMEOPATHIC PHYSICIANS

**R4-38-201. Definitions**

**A.** "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, homeopathic medication, natural substance, or non-prescription drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a homeopathic physician, the homeopathic physician's nurse or assistant, or by the patient or research subject at the homeopathic physician's direction.

**B.** "Controlled Substance" means a drug, substance or immediate precursor identified, defined, or listed in A.R.S. Title 36, Chapter 27, Article 2.

**C.** "Drug" means:

1. Medications or substances recognized, or for which standards or specifications are prescribed, in the official compendium;
2. Medications or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings; and
3. Medications or substances other than food intended to affect the structure or any function of the body of human beings.

**D.** "Homeopathic medication" means any substance of animal, vegetable or mineral origin which is prepared in homeopathic microdosage.

**E.** "Label" means a display of written, printed or graphic matter on the immediate container of any article and, unless easily legible through the outside wrapper or container, such written, printed or graphic matter shall also appear on the outside wrapper or container of the retail package of such article.

**F.** "Labeling" means all labels and other written, printed or graphic matter either:

1. On any article or any of its containers or wrappers; and
2. Accompanying such article.

**G.** "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages, or labels any drug in a place devoted to manufacturing such drug, but does not include a pharmacy or physician.

**H.** "Natural substances" means herbal phytotherapeutic agents, vitamins, minerals, and food factors isolated from animal, vegetable or mineral sources for nutritional augmentation.

**I.** "Official compendium" means the latest revisions of the Pharmacopoeia of the United States and the Homeopathic Pharmacopoeia of the United States, the latest revision of the National Formulary or any current supplement to any of them.

**J.** "Packaging" means the act or process of a person placing a drug item in a container for the purpose or intent of dispensing or distributing the item to another person.

**K.** "Prescription medication" means any medication or substance, including label and container according to context, which is dispensed pursuant to a prescription order.

**L.** "Prescription-only drug" does not include a controlled substance but does include:

1. Any drug which because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;
2. Any drug that is limited by an approved new drug application under the applicable federal law or A.R.S. § 32-1962, for use under the supervision of a medical practitioner;
3. Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; and
4. Any drug, other than a controlled substance, required under applicable federal law to bear on its label the legend:

"Caution: federal law prohibits dispensing without prescription".

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).

**R4-38-202. General Provisions**

**A.** The homeopathic physician shall document in writing procedures for direct supervision of the nurse's or attendant's role in the dispensing process.

**B.** The person dispensing any drug not previously dispensed shall read to the patient the name of the medication, directions for its use, any storage requirements, and precautions for use.

**C.** A homeopathic physician who intends to dispense pursuant to this Section shall complete a form for registration as a dispensing physician, as prescribed by the Board, available at the Board's office, and shall be renewed annually at the same time the license is renewed. This registration form shall include the following:

1. The classes of drugs the homeopathic physician will dispense, including controlled substances, pharmaceutical drugs, homeopathic medications, prescription-only drugs, natural substances and non-prescription drugs;
2. The location where the homeopathic physician will dispense; and
3. A copy of the homeopathic physician's current Drug Enforcement Administration Registration.

**D.** A homeopathic physician who determines that a shortage exists in controlled substances maintained for dispensing shall immediately notify by telephone the Board, the local law enforcement agency, and the Department of Public Safety. The homeopathic physician shall also provide written notification to the Board within seven days of the date of the discovery of the shortage.

**E.** Schedule II controlled substances may not be dispensed as a refill. Schedule III, IV and V controlled substances may only be refilled five times or within six months, whichever occurs first. These refills shall be properly documented in the patient's medical records and dispensing log as required by this Section with a large printed or stamped letter "R".

**F.** A homeopathic physician who dispenses controlled substances shall be subject to enforcement by the Federal Drug Enforcement Administration.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).

**R4-38-203. Labeling**

**A.** The following information shall be included on labels of controlled substances and prescription-only pharmaceutical drugs, and on labels or accompanying instruction sheets of homeopathic medications, including prescription-only homeopathic medications, natural substances and non-prescription drugs, dispensed by a homeopathic physician:

1. The dispensing physician's name, address, and telephone number;
2. The date the drug, homeopathic medication, natural substance, or non-prescription drug is dispensed;
3. The patient's name;
4. The name and strength or potency of the drug, homeopathic medication, natural substance, or non-prescription drug, the quantity dispensed, directions for its use, and any cautionary statements necessary for the safe and effective use of the drug; and
5. The number of authorized refills.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).

**R4-38-204. Recordkeeping**

**A.** The dispensing homeopathic physician shall enter into the patient's medical record the name and strength or potency of the drug, homeopathic medication, natural substance, or non-prescription drug dispensed, the date it was dispensed, the dosing schedule, the number of refills, and the therapeutic reason.

**B.** The dispensing homeopathic physician shall maintain an ongoing inventory log of all controlled substances dispensed, as well as the prescription-only drugs Nubain and Stadol or their generic counterparts, Nalbuphine Hydrochloride and Butorphanol Tartrate. The log shall include a separate inventory sheet for each drug. The heading of the inventory sheets shall include the following information:

1. The name of the drug, its strength, its manufacturer, the date it was received, its expiration date, its lot or serial number, and any cautionary statements necessary for the safe storage and handling of the drug;
2. The patient's name;
3. The number of pills or the volume of liquid dispensed;
4. The number of authorized refills;
5. The date the drug is dispensed;
6. The name of the person who receives the drug, if other than the patient, and that person's relationship to the patient;
7. The printed name and signature of the actual person who prepares, counts or measures the drug, labels the con-

tainer, or distributes a prepackaged drug to the patient or the patient's representative; and

8. A running total of drug or prepackaged units dispensed and a running total of drug or prepackaged units remaining.

**C.** The inventory log of controlled substances dispensed may be maintained by computer. If a computerized log is used, the name, signature, and date of the person preparing and distributing the drug shall be put on the original prescription form.

**D.** Prior to dispensing a controlled substance or prescription-only pharmaceutical drug, the patient shall be given a written prescription on which appears the following statement in bold type: "This prescription may be filled by this prescribing physician or by a pharmacy of your choice"

1. This prescription order shall contain the following information:
   a. Date of issuance;
   b. Name and address of patient for which prescription order has been issued;
   c. Name, strength, and quantity of the drug prescribed and dispensed;
   d. Name and address of the physician dispensing the drug;
   e. Two signature lines for the prescriber. The right side of the prescription form shall contain, under the signature line, the phrase "substitution permissible". The left side shall contain, under the signature line, the phrase "dispense as written";
   f. The dispensing homeopathic physician's Drug Enforcement Agency number for controlled substances; and
   g. The printed name, signature, and date of the actual person who prepares, counts, or measures the drug, labels the container, and distributes a prepackaged drug to the patient or the patient's representative.
2. All original prescription orders for controlled substances and prescription-only pharmaceutical drugs dispensed by a homeopathic physician shall be dated and filed in the order in which they were originally dispensed. Original prescription orders for schedule II drugs shall be maintained separately from other prescription orders.

**E.** A homeopathic physician shall maintain controlled substance and prescription-only pharmaceutical drug purchase orders, invoices of receipts, dispensing logs, destruction records, and original prescription orders for four years.

**F.** Destruction records for controlled substances shall reflect procedures approved by the federal Drug Enforcement Administration.

**G.** Prior to dispensing a homeopathic medication, including prescription-only homeopathic medications, a natural substance or a non-prescription drug, the patient shall be given a written statement on which appears the following statement in bold type:

"Prescriptions may be filled by this prescribing physician or by a pharmacy or natural substance supplier of your choice."

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).

**R4-38-205. Storage**

**A.** The dispensing homeopathic physician shall keep all controlled substances and prescription-only pharmaceutical drugs in a locked cabinet or room and shall control access to the cabinet or room by a written procedure. This written procedure shall be made available to the Board or its authorized agents or employees on demand for inspection or copying.

**B.** The dispensing homeopathic physician shall keep all homeopathic medications, including prescription-only homeopathic medications, natural substances, and non-prescription drugs, as well as samples of prescription drugs provided by a manufacturer, in a cabinet or room with supervised limited access.

**C.** Medications and substances not requiring refrigeration shall be maintained in an area where the temperature does not exceed 85° Fahrenheit.

**D.** All medications and substances shall be in current or unexpired dating.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).

**R4-38-206. Packaging**

**A.** All controlled substances and prescription-only pharmaceutical drugs shall be dispensed in prepackaged formulas or packaged in a light-resistant container with a consumer safety cap, unless the patient or patient's representative and the physician agree otherwise.

**B.** All packages of dispensed drugs shall be labeled following the labeling rules of this Section.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).

## ARTICLE 3. EDUCATION, SUPERVISION, AND DELEGATION STANDARDS FOR REGISTRATION OF MEDICAL ASSISTANTS BY HOMEOPATHIC PHYSICIANS

**R4-38-301. Definitions**

**A.** "Assists" means performing delegated procedures within the homeopathic physician's practice according to a written job description for which the Board has approved the assistant's educational program and the supervising physician's practice experience.

**B.** "Commensurate with the assistant's education and training" means that the assistant's education and training in either a formal or practical educational program meets Board standards for the specific technical functions in the job description for which the supervising physician makes application.

**C.** "Delegated procedures" refers to technical functions which are specifically outlined in the assistant's written job description and which may include any of the following:

1. Assisting in information-gathering functions, including history taking, measuring patients' vital signs, measuring patients' neuromuscular and electro-physiologic responses, specimen collection, and phlebotomy;
2. Assisting in information-processing functions including scoring of questionnaires, plotting of laboratory, physical, and chemical measurements, and symptom repertorization using standard homeopathic references or software programs;
3. Assisting in or administering patient treatments by physical; hygienic, including colonic irrigation; and electrical therapy modalities as ordered by the physician;
4. Assisting in delivery of drugs, devices, and natural substances to patients;
5. Assisting in patient health care education and counseling including nutritional and stress-management counseling;
6. Assisting in explaining and reinforcing home follow-up advice for physician-prescribed homeopathic therapy programs; and
7. Administration of skin tests and injections ordered by the physician.

**D.** "Educational program approved by the Board" means a formal educational program or a practical educational program which is recognized by the Board as sufficient to qualify a Medical

Assistant to perform specific delegated procedures under the supervision of a physician.

**E.** "Formal educational program" means an organized course of study or training program in a technical field which includes didactic and supervised clinical experience and whose curriculums are approved by the Board.

**F.** "Physical medicine modalities" means hydrotherapy, including colonic irrigation; application of heat and cold; diathermy; electro-galvanic stimulation; ultrasound; traction; massage therapies; neuromuscular re-education procedures; application of transcutaneous nerve stimulator units; and the use of electronic micro-current devices for stimulation of nerve and muscle tissue.

**G.** "Practical educational program" means a course of study organized and directed by the supervising physician who conducts or verifies the didactic portion of the training and personally oversees or verifies the clinical experience portion of the training while the assistant is on the job.

**H.** "Under the supervision of " means that:

1. The supervising physician is physically on-site at the practice location during the day the delegated procedures are performed;
2. The supervising physician provides specific written orders for the medical Assistant for any treatment functions delegated to the medical assistant;
3. The medical assistant documents the performance of the delegated function in the office medical record by legible and identifiable notes;
4. An office, laboratory, or therapy note is prepared which is signed by the assistant and countersigned by the supervising physician within one week of the date of service for each visit in which a medical assistant performs delegated procedures;
5. The supervising physician has met Board-approved clinical experience standards as set forth in R4-38-303(B) or R4-38-305(B), for the procedure approved for delegation to the medical assistant;
6. All the delegated procedures and treatments could be legally performed by the supervising physician; and
7. The supervising physician ensures that there is regular discussion with each medical assistant with regard to individual patient's, responses to treatments or treatment programs delegated to that medical assistant.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-302. Approved Formal Educational Programs**

**A.** Physicians requesting that their assistants be approved for one or more of the following specified delegated procedures on the basis of a formal educational program shall submit evidence that the assistant has successfully completed the specified educational program:

1. General medical office procedures require completion of a course of instruction and training in a public or private school, college, or technical institute designed to place graduates in positions as General Office Medical Assistants. Such course of instruction shall consist of a minimum of the following:
   a. 240 classroom hours in medical secretarial skills;
   b. 240 classroom hours in back office assisting; and
   c. 320 hours of supervised clinical experience.
2. Neuromuscular Integration therapy procedures:
   a. Completion of a course of instruction and training in a public or private school, college, or technical institute designed to place graduates in positions as qualified Physical Therapy Assistants in a United States jurisdiction. Such course of instruction shall consist of a minimum of the following:
      i. 1200 classroom hours in hands-on 22 techniques, sciences, theories and principles;
      ii. 720 hours of supervised clinical experience; and
      iii. 580 classroom hours in general studies; or
   b. Completion of a professional program in massage therapy consisting of 1000 hours of didactic and clinical training or examination and certification sponsored by the American Massage Therapy Association; or
   c. Completion of a professional training or certification program in Feldenkrais, Rolfing, Hellerwork, Trager, Orthobionomy, Shiatsu, Reiki, Polarity, Jin Shin Jyutsu, or similarly organized training program of at least 1000 hours of technical training and clinical supervision;
3. Acupuncture therapy procedures: completion of a didactic and clinical training program in acupuncture and examination and certification by the National Commission for the Certification of Acupuncturists (NCCA);
4. Homeopathic repertorization procedures: completion of at least 180 hours of a formal educational program as set forth in R4-38-301(E) or preceptorship in a homeotherapeutics program approved by the Board including those certified by the Council for Homeopathic Certification; or
5. Nutritional counseling procedures require completion of one of the following:
   a. Board-approved formal educational program in clinical nutrition consisting of 500 hours or more of training; or
   b. Certification by the International University for Nutrition Education.

**B.** Physicians proposing job descriptions for assistants in general medical or homeopathic practices and procedures not herein specified shall submit evidence that is satisfactory to the Board that the assistant has completed a degree of educational training and clinical supervision that is substantially equivalent to the formal educational requirements in the above areas.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-303. Supervision of Formally Trained Assistants**

**A.** In order for a homeopathic physician to delegate specified homeopathic diagnostic and therapeutic procedures, as described in this rule, his or her qualifications shall be approved by the Board.

**B.** Approval may be granted by the Board after its review of the physicians' educational and practice experience in the specified delegated procedure. Such experience may include the completion of 25 hours of homeopathic post-graduate education in the specified delegated procedure. Certificates of attendance and completion of such courses shall be submitted with the application form supplied by the Board.

**C.** Physicians may submit documentation of practice experience substantially equivalent to post-graduate training in the specified Homeopathic modalities for individual approval by the Board.

**D.** Supervision of the medical assistants performing general medical office procedures recognized as common within the allopathic and osteopathic community does not require any additional experience and training beyond that contained in the requirements for licensure as a homeopathic physician.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-304. Approved Practical Educational Programs**

**A.** Unlicensed persons who have not completed a Board-approved formal educational program in delegated office procedures may receive on-the-job training and clinical supervision in a practical educational program conducted by the supervising homeopathic physician.

**B.** A homeopathic physician shall apply for and obtain approval from the Board in order to conduct a practical educational program. Separate written Board approval shall be obtained for each medical assistant that participates in the practical educational program.

**C.** Request for approval for a practical training program shall be submitted on a form supplied by the Board and shall contain:
1. A written training protocol for the procedure or procedures in question;
2. A detailed description of the physician's background and expertise in the procedure or procedures being taught;
3. A proposed job description which specifies how the assistant will eventually perform those procedures delegated by the supervising physician and within the supervising physician's practice; and
4. Documentation of any previous on-the-job or formal training of the assistant.

**D.** Training protocols submitted for approval shall meet the following standards for the specified job descriptions:
1. General medical job descriptions: completion of 400 hours of didactic instruction and clinical supervision;
2. Job descriptions delegating acupuncture treatments for medical and pain management applications: completion of the academic portion of a course of study offered by a member institution of the National Association of Colleges of Acupuncture and Oriental Medicine, a World Health Organization-designated training facility for acupuncture, or an equivalent approved by the Board, plus a minimum of 500 hours of clinical supervision by a qualified supervising physician;
3. Job descriptions delegating acupuncture treatments for drug detoxification purposes: completion of a course of training in acupuncture drug detoxification consisting of a minimum of 70 hours in both diagnostic and supervised apprenticeship conducted by the National Acupuncture Detoxification Association (NADA) and approved by the Board, plus clinical supervision of a least 160 hours by a qualified supervising physician;
4. Job descriptions delegating information gathering using electro-diagnostic procedures and devices: completion of a didactic course of study of at least 35 hours in electro-diagnostic methodology, plus at least 160 hours of clinical supervision by a qualified supervising physician;
5. Job descriptions delegating physical medicine treatment modalities require completion of one of the following:
   a. Technical massage course of at least 50 hours of study and certification by any Arizona jurisdiction; or
   b. On-the-job training of at least 50 hours in a specified physical medicine modality including didactic instruction and clinical supervision; or
6. Job descriptions delegating homeopathic repertorization procedures: completion of at least 180 hours in homeotherapeutics including at least 40 hours of didactic instruction and at least 40 hours of clinical supervision.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-305. Supervision of Practical Educational Programs**

**A.** The Board shall review and approve the qualifications of a physician seeking to conduct a practical educational program.

**B.** A physician shall document on the request for approval his or her background in formal training and his or her experience in the particular procedure in which the medical assistant will be trained. The following levels of training are required for a physician to conduct a training program in the specified delegated procedures:
1. General medical assistant training program: two years of active practice following completion of M.D. or D.O. post-graduate education;
2. General Acupuncture therapeutics practical educational program: 220 hours of post-graduate training in medical acupuncture and two years of clinical experience in acupuncture therapeutics;
3. Practical educational program in Acupuncture Detoxification procedures:
   a. A fellowship or certification in addiction medicine plus 25 hours of post-graduate education, approved by the Board, in acupuncture therapy for drug detoxification; or
   b. Two years of documented, Board-approved experience in conducting clinical addiction treatments or therapy plus 25 hours of post-graduate education, approved by the Board, in acupuncture therapy for drug detoxification;
4. Practical educational program for an assistant performing electro-diagnostic procedures: completion of at least 80 hours of formal training in electro-diagnosis and two years of clinical experience in electro-diagnostic methodology.
5. Practical educational program in specified aspects of neuromuscular integration therapies or physical medicine modalities:
   a. Completion of a residency or fellowship in physical medicine;
   b. At least 220 hours of post-graduate training in neuromuscular integration therapies; or
   c. Two years of clinical experience in medical orthopedics, physical medicine modalities, osteopathic manipulative medicine, chiropractic manual therapy, or an equivalent neuromuscular integration therapy, such as those listed in R4-38-302,(A)(2)(c); or
6. Practical educational program in homeopathic repertorization:
   a. Five years of clinical practice and 200 hours of continuing medical education in classical homeotherapeutics; or
   b. Diplomate status granted by the American Board of Homeotherapeutics or by the British Institute of Homeopathy.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-306. Restrictions on Delegated Procedures**

A physician may not delegate the following procedures to an unlicensed person:
1. Psycho-therapeutic procedures, including individual and group psychotherapy, clinical hypnosis, or other behavioral health interventions subject to independent regulation in Arizona;
2. The dispensing of drugs, homeopathic agents, herbal products, natural products, and therapy devices when the supervising physician has not registered with the Board to

include dispensing privileges as part of the supervising physician's practice.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-307. Unprofessional Conduct**
The following conduct in regard to the delegating of procedures to medical assistants is conduct or practice which does or might constitute a danger to the health, welfare, or safety of the patient or the public:

1. Failure of the physician to perform and document in the medical record the following for each patient on whom delegated procedures are performed:
   a. Initial evaluation;
   b. Treatment-planning;
   c. Periodic re-evaluation of the patient's health status; and
   d. Termination or modification of the patient's treatment program at the conclusion of the prescribed course of therapy;
2. Obtaining board approval for training and/or supervision of Medical Assistants under false pretenses;
3. Failure to adhere to the supervision criteria outlined in R4-38-301(H)(1-7), and R4-38-309;
4. Failure to register or re-register medical assistants as required by these rules;
5. Allowing assistants to perform procedures not specified in their Board-approved job description; or
6. Failure to obtain approval by the Board to conduct a practical educational program to supervise an unlicensed person who has not yet completed a Board-approved medical assistant medical educational program.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-308. Registration Procedures for Medical Assistants and Practical Educational Programs**

**A.** The supervising physician shall register each medical assistant with the Board within two weeks of employment by submitting an application on a form supplied by the Board which documents the following:
   1. The medical assistant's proposed job description;
   2. The medical assistant's educational qualifications for the proposed delegated procedures;
   3. A complete curriculum vitae of the medical assistant; and;
   4. The supervising physician's qualifications to supervise the proposed delegated procedures.

**B.** The application shall be accompanied by certificates of participation in training; proficiency certifications by relevant Boards, associations, or societies; individual letters of documentation of preceptorships; or letters confirming on-the-job training by the parties who supervised such training.

**C.** Job descriptions or functions other than generally recognized homeopathic office procedures specified in these rules will be subject to individual review and approval by the full Board.

**D.** Upon approval of the application by the Board, the medical assistant shall perform his or her duties while wearing a clearly labeled name tag stating the designation, "medical assistant", and the specific modality or class of expertise.

**E.** A medical assistant's registration shall be valid until the end of the calendar year in which the application was approved. This registration shall be deemed valid by the Board for an additional two years as long as the supervising physician remits annual payment of the renewal fee concurrent with his or her own annual physician's license renewal. A registration shall expire either:
   1. Upon termination of the medical assistant's employment by the supervising physician;
   2. Upon nonpayment by the supervising physician of the renewal extension fees by their due dates; or
   3. On December 31st of the second year subsequent to the year that the registration was initially approved.

**F.** Once a medical assistant's registration has expired, the employing supervising physician shall submit a complete and updated registration application and initial registration fee for re-approval by the Board.

**G.** Each physician proposing to conduct an on-the-job or practical educational program for medical assistants shall apply for such approval within two weeks of employment of the medical assistant by submitting an application on a form supplied by the Board. This form is in addition to the medical assistant registration form.

**H.** Each physician who continues to actively train medical assistants shall renew the practical education training program registration annually by submitting an updated application for each of his or her current training protocols.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-309. Multiple Supervisors**

**A.** A medical assistant employed by more than one homeopathic physician shall have his or her job description registered with the Board for each place of employment.

**B.** Registration and job description approval are not transferable upon change in employment, and a new application shall be made by the new employer upon hiring a new medical assistant.

**C.** An employing physician may, at the time of initial registration, or as an addendum to a current registration, add to the medical assistant's job description the name and qualifications of one or more alternative supervising physicians within the employing physician's medical group, or who provides on-site coverage for the supervising physician during periods of absence who will insure proper supervision and documentation of the performance of the delegated procedures by the medical assistant.

**Historical Note**
Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-310. Previously Licensed Practitioners**

**A.** Medical assistant status with supervision by an Arizona-licensed homeopathic physician is not intended to allow a health care practitioner who would otherwise be subject to regulation by licensure in Arizona to practice his or her profession outside of that profession's formal regulatory authority.

**B.** Homeopathic physicians proposing to employ as a medical assistant a person previously licensed or subject to professional regulation as a health care professional in a U.S. jurisdiction shall document and submit for approval to the Board on forms supplied by the Board the following information:
   1. A complete Curriculum Vitae of the applicant in question; and
   2. An affidavit from the applicant, stating the reasons for which the applicant seeks employment as a homeopathic medical assistant rather than as a licensed Arizona health care provider in accordance with his or her professional training.

**C.** The Board shall conduct a background check of the applicant's previous health professional practice in all jurisdictions previously licensed, sufficient to determine if the applicant has or

had engaged in unprofessional conduct, or is or was deemed incompetent, or was physically or mentally unable to safely engage in the rendering of health care services.

**D.** The Board shall conduct a personal interview with the supervising physician and the proposed assistant to determine the accuracy of the proposed job description, that the relationship will not constitute a violation of A.R.S. § 32-2933(11), and an understanding by the physician of his or her supervisory responsibilities and by the proposed assistant of his or her limitations under these rules and applicable statutes.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1).

**R4-38-311. Deadlines for Compliance with Rules**

**A.** Physicians employing medical assistants as of the effective date of this rule shall complete the initial registration within six months, or as of the annual renewal date for the supervising physician's license, whichever comes first.

**B.** Any person employed as a medical assistant as of the effective date of this rule shall complete all training required by his or her job description category within 12 months of the effective date of this rule. His or her supervising physician shall document the medical assistant's completion of this training.

**C.** Within three months of the effective date of this rule, all physicians conducting on-the-job training as part of a practical educational program shall submit the necessary documentation in order to receive Board approval to conduct practical educational training in the various procedures included in their assistant's job descriptions.

**D.** Following initial registration, renewals will be due concurrent with the next and each subsequent renewal of the homeopathic physician's license.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1).

## ARTICLE 4. APPLICATION AND RENEWAL PROCESS; TIME-FRAMES

**R4-38-401. Definitions**

In this Article, the following terms apply:

1. "Application period" means 365 days, starting from the date an initial application and fee are received in the Board office under A.R.S. § 32-2912(F)(3) and (4).
2. "Deficiency notice" means a written, comprehensive list of missing information or documents.
3. "Prescribed fee" means a fee permitted by A.R.S. § 32-2914 or prescribed by R4-38-104.
4. "Serve" means sending the document by U.S. mail to the last address provided by the applicant.
5. "Staff" means any person employed or designated by the Board to perform administrative tasks.

**Historical Note**

Adopted effective September 24, 1998 (Supp. 98-3).

**R4-38-402. Application; Initial License, Permit or Registration**

**A.** An applicant shall submit to the Board office a signed, notarized application form, the contents of which are described by A.R.S. Title 32, Chapter 29 and 4 A.A.C. 38; any supporting information required; and the prescribed fee. Within 90 days after receipt of an initial application package, staff shall finish an administrative completeness review.

1. If the application package is complete, staff shall serve the applicant with a written notice of administrative completeness informing the applicant of the date, time, and place of the Board's consideration of the application.
2. If the application package is deficient, staff shall serve the applicant with a written deficiency notice. The 90-day time-frame for staff to finish the administrative completeness review is suspended from the date the deficiency notice is served until all missing information is received.

**B.** Except as otherwise provided by law, the applicant shall provide all missing information within 180 days after the date on the deficiency notice, including information from other agencies, institutions, and persons. If the applicant has not already done so, the applicant shall take the written examination prescribed in R4-38-105 within the 180 days.

**C.** Within 90 days after receipt of a complete initial application package, the Board shall render a decision on the initial license, permit, or registration. The applicant shall undergo the oral examination and interview prescribed in R4-38-106 within the 90 days.

1. If the Board finds the applicant meets the licensing requirements, the Board shall grant a license effective on the date that the Board receives the license issuance fee. If no license fee is required, the Board shall grant the permit or registration, which is effective on the date granted.
2. If the Board finds the applicant does not meet the licensing requirements, the Board shall issue a written notice of denial of license.
3. If the Board determines that there are substantive deficiencies in the application, the Board shall serve a single comprehensive written request for additional information.
4. The 90-day substantive review time-frame is suspended from the date on the request for additional information until the date that all requested information is received. Except as otherwise provided by law, the applicant shall provide the requested information within 60 days from the date on the notice.

**D.** If an applicant fails to provide the information required in subsections (B) and (C), the Board shall determine whether to deny the application or to consider it withdrawn under A.R.S. § 32-2912(F).

**Historical Note**

Adopted effective September 24, 1998 (Supp. 98-3).

**R4-38-403. Application; Renewal of License, Permit, or Registration**

**A.** On or before the deadlines prescribed in A.R.S. § 32-2915(D), an applicant for renewal of a license, permit or registration shall submit to the Board a renewal application form, the contents of which are prescribed by A.R.S. Title 32, Chapter 29 and 4 A.A.C. 38, and the appropriate fees.

**B.** Within 30 days after receipt of a renewal application package, staff shall notify the applicant that the package is either complete or deficient.

1. If the application package is complete, staff may serve the applicant with a written notice of administrative completeness. If the notice of administrative completeness is not served within 30 days after receipt of a renewal application package, the package is deemed complete.
2. If the renewal application package is deficient, staff shall serve the applicant with a written deficiency notice. The 30-day time-frame for staff to finish the administrative completeness review is suspended from the date the deficiency notice is served until all missing information is received.

**C.** Except as otherwise provided by law, an applicant for renewal shall provide all missing information within 10 days after the date on the deficiency notice or by the applicable deadline prescribed in A.R.S. § 32-2915, whichever is later.

**D.** Within 90 days of receipt of a complete renewal application package, the Board shall either issue a license renewed notice, showing the effective year of renewal, or conduct a substantive review of those renewal applications which, when considered alone or in conjunction with additional information, raise a concern that the applicant's conduct may be in violation of A.R.S. Title 32, Chapter 29. The Board shall investigate and resolve such a concern under A.R.S. § 32-2934.

**E.** If an applicant for renewal fails to provide the missing information required by subsection (C), the license, permit, or registration expires effective January 1 of the renewal year for which the application was made and the Board shall not refund any renewal fees paid for that year.

**Historical Note**

Adopted effective September 24, 1998 (Supp. 98-3).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

# CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

(Authority: A.R.S. § 32-3001 *et seq.*)

*Former Article 1 consisting of Sections R4-39-101 through R4-39-111, former Article 2 consisting of Section R4-39-201, former Article 3 consisting of Sections R4-39-301 through R4-39-310, former Article 4 consisting of Sections R4-39-401 through R4-39-403, and former Article 5 consisting of Sections R4-39-501 and R4-39-502 adopted as an emergency effective January 2, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.*

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## ARTICLE 1. DEFINITIONS, LICENSURE AND REPORTING

### R4-39-101. Definitions

In this Chapter, unless the context otherwise requires:

1. A "conditional license" means a license issued for one year only to:
   a. A new non-accredited vocational institution or program.
   b. A new non-accredited degree granting institution pursuant to the provisions of R4-39-106.
2. A "new" institution means one that has not previously operated in Arizona. However, if an applicant for an original license to grant degrees has not granted degrees and has only operated as a licensed vocational institution in Arizona, it shall be regarded as a new institution for purposes of obtaining a license to grant degrees.
3. A "provisional" license to grant degrees may be issued to a non-accredited degree granting institution upon expiration of the conditional license to grant degrees and upon compliance with the provisions of R4-39-107.
4. "Regular" license means:
   a. The license which may be granted to a non-accredited vocational institution or program upon expiration of the conditional license to operate a vocational institution or program.
   b. The license which may be granted to an accredited vocational or degree granting institution.

**Historical Note**

Adopted effective June 27, 1985 (Supp. 85-3).

### R4-39-102. Licensure and Licensure Procedures

**A.** The Board may issue a conditional, regular, or supplemental license to a private institution to operate vocational programs.

**B.** The Board may issue a conditional, provisional, regular, or supplemental license to a private institution to operate degree programs or grant degrees.

**C.** Licenses are effective for a 12-month period from the date of issuance.

**D.** The Board shall issue the following licenses to private, vocational institutions:

1. An original license of an accredited, private, vocational institution is a regular license to operate vocational programs.
2. A license renewal of an accredited, private, vocational institution is a regular license to continue to operate vocational programs.
3. An original license of a new, non-accredited, private, vocational institution is a 1-year conditional license to operate vocational programs.
4. A license renewal of a non-accredited, private, vocational institution is a regular license to continue to operate vocational programs.

**E.** The Board shall issue the following licenses to private, degree-granting institutions:

1. An original license of an accredited, private, degree-granting institution is a regular license to operate degree programs or grant degrees.
2. A license renewal of an accredited, private, degree-granting institution is a regular license to continue to operate degree programs or grant degrees.
3. An original license of a new, non-accredited, private, degree-granting institution that complies with the provisions of R4-39-106 is a conditional license to operate degree programs or grant degrees.
4. A license renewal of a non-accredited, private, degree-granting institution that complies with the provisions of R4-39-107 is a provisional license to continue to operate degree programs or grant degrees.

**F.** For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time-frames:
1. For an original conditional or original regular license application to operate vocational programs or an original regular license application to operate degree programs or grant degrees:
   a. Administrative completeness review time-frame: 90 days;
   b. Substantive review time-frame: 90 days;
   c. Overall time-frame: 180 days.
2. For a conditional or provisional license application to operate degree programs or grant degrees:
   a. Administrative completeness review time-frame: 90 days;
   b. Substantive review time-frame: 150 days;
   c. Overall time-frame: 240 days.
3. For a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application:
   a. Administrative completeness review time-frame: 45 days;
   b. Substantive review time-frame: 90 days;
   c. Overall time-frame: 135 days.

**G.** Within 90 days of receiving an original conditional or original regular license application to operate vocational programs or an original regular, original conditional, or provisional license application to operate degree programs or grant degrees, or within 45 days of receiving a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application, the Board shall finish an administrative completeness review.
1. If the application is complete, the Board shall notify the applicant that the application is complete and that the administrative completeness review is finished. The substantive review will begin on the date the notice is served.
2. If the application is incomplete, the Board shall notify the applicant that the application is incomplete and specify what information is missing and what deficiencies are found in the application. The administrative completeness review time-frame is suspended from the date the notice is served until the applicant provides the Board with a revised application containing all missing information and correcting all deficiencies.
   a. An applicant with an incomplete application shall submit a revised application within 60 days of receipt of notice.
   b. If the applicant cannot submit a revised application within 60 days of receipt of notice, the applicant may request an extension of no more than 30 days by submitting a written request, documenting the reasons the applicant is unable to meet the 60-day deadline, to the Board postmarked or delivered with 60 days of receipt of notice.
   c. The Board shall grant the request for an extension of the 60-day deadline if the Board determines that the extension of the 60-day deadline will enable the applicant to submit a revised application containing all missing information and correcting all deficiencies.
   d. Upon receipt and review of the revised application, and within the administrative completeness review time-frame, the Board shall notify the applicant that the administrative completeness review is finished. The substantive review will begin on the date the notice is served.
   e. If the revised application containing all missing information and correcting all deficiencies is not submitted within the 60-day deadline or the time permitted by an extension, the Board shall close the application. An applicant whose application is closed and who later wishes to seek licensure, shall apply anew.

**H.** Within 90 days from the date on which the administrative completeness review of an original conditional or original regular license application to operate vocational programs, an original regular license application to operate degree programs or grant degrees, a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application is finished or within 150 days from the date on which the administrative completeness review of an original conditional or provisional license application to operate degree programs or grant degrees is finished, the Board shall complete a substantive review of the application, which may include an on-site verification, and render a decision.
1. If the Board finds that the applicant meets all requirements defined in statute and rule, the Board shall grant the license.
2. If the Board finds that the applicant fails to meet all requirements defined in statute and rule, the Board shall deny the license.
3. If the Board finds deficiencies during the substantive review of the application, the Board shall issue a written request, specifying the additional documentation to be submitted and deadline for submission. The time-frame for substantive review of an application is suspended from the date the written request for additional documentation is served until the date that all documentation is received.
4. When the applicant and the Board mutually agree in writing, the Board shall grant extensions of the substantive review time-frame totalling no more than 30 days.
5. If the requested documentation is not submitted by the deadline date, the Board shall close the application. An applicant whose application has been closed and who later wishes to seek licensure, shall apply anew.

**Historical Note**
Adopted effective June 27, 1985 (Supp. 85-3). Amended effective November 14, 1997 (Supp. 97-4).

**R4-39-103. Requirements for Regular Licensure to Operate a Private, Accredited, Vocational or Degree-Granting Institution in Arizona**

**A.** A private, vocational, or degree-granting institution that is institutionally accredited or has each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher

Education Accreditation shall apply to the Board for a regular license before operating in Arizona.

**B.** To be regularly licensed to operate, a private, accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and a private, accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B), and both shall submit the following to the Board for verification, review, and administrative action:
1. A completed, verified license application;
2. A letter from each recognized accrediting agency by whom the institution or its programs are accredited that confirms the current accredited status of the institution or its programs and is certified as true and correct by an authorized administrative official of the institution;
3. A copy of the institution's current catalog, required by the institution's accrediting agency, certified as true and correct by an authorized administrative official of the institution;
4. A copy of the institution's student enrollment agreement or equivalent documentation, required by the institution's accrediting agency; and
5. Documents specified in R4-39-104(B)(5) through (B)(15).

**C.** To continue to be regularly licensed, a private, accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and a private, accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B), and both shall annually submit to the Board for verification, review and administrative action documents specified in subsections (B)(1) through (B)(3) and in R4-39-104(B)(5), (B)(6), (B)(9), (B)(11), and (B)(15).

**D.** In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall discipline an accredited, vocational, or degree-granting institution that is regularly licensed if the institution:
1. Fails to comply with applicable accreditation standards or applicable federal standards as determined by the Board;
2. Loses its institutional or program accreditation;
3. Fails to notify the Board in writing within 20 days of any change in any certificate of accreditation; or
4. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

**R4-39-104. Requirements for Conditional Licensure to Operate a New, Private, Non-Accredited, Vocational Institution in Arizona**

**A.** A new, private, vocational institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a conditional license before operating vocational programs in Arizona.

**B.** To be conditionally licensed to operate vocational programs a new, private, non-accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
1. A completed, verified license application;
2. A surety bond in the amount of $15,000 on a form approved by the Board. A cash deposit in the amount of $15,000 may be submitted instead of a surety bond. A receipt for the cash deposit from the state treasurer shall suffice as evidence of the deposit;
3. A copy of the institution's current catalog, required by R4-39-301, certified as true and correct by an authorized administrative official of the institution;
4. A copy of the institution's student enrollment agreement specified in R4-39-310(A)(1);
5. Proof of insurance, sufficient to protect the assets of the institution in the event of damage or a finding of liability;
6. Current annual financial statements, compiled or reviewed in accordance with standards established by the American Institute of Certified Public Accountants or audited in accordance with generally accepted auditing standards and prepared in accordance with generally accepted accounting principles. The financial statements shall include a balance sheet, statement of operations, statement of changes in financial position and appropriate footnotes with an accountant's report, prepared and signed by an independent certified or public accountant currently licensed by the Arizona State Board of Accountancy or, if applicable, the accountancy Board located in the state of the institution's corporate or home office. Additional financial information may be required by the Board;
7. Course of study information on each program offered by the institution, including information on graduate employment opportunities and practitioner requirements;
8. A copy of each certificate or diploma awarded by the institution;
9. A copy of the institution's published student grievance procedure that provides details regarding the institutional complaint process and references the student's right to file a complaint with the Board;
10. A sample copy of every document and media presentation that is or is intended to be advertised or presented to potential students;
11. A resume for each faculty member, director, and owner;
12. Line drawings or photographs that describe in detail the facilities, and a list of equipment and materials of the institution;
13. A copy of the most recent fire department inspection report;
14. An agent license application for each person soliciting students, if applicable; and
15. Other information deemed necessary by the Board.

**C.** Before issuing a conditional license to operate vocational programs to a new, private, non-accredited, vocational institution, Board staff or a Board-appointed, on-site verification team shall visit the institution and confer with the administrative officers, faculty, students, if applicable, and other individuals, and make examinations that are necessary to obtain an accurate reflection of the institution's financial responsibility, management capabilities, programs, facilities, and equipment. After the visit, Board staff or the on-site verification team shall prepare and submit to the Board a written report of its findings. The Board shall review and use the written report in determining whether to grant a conditional license to the institution.

**D.** During its 1-year of conditional licensure, a new, private, non-accredited, vocational institution shall not use terms such as "licensed", "approved" or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure during this time period, it shall use the term "conditional license."

**E.** In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action

against a new, private, non-accredited, vocational institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

**R4-39-105. Requirements for Regular Licensure to Continue to Operate an Existing, Private, Non-Accredited, Vocational Institution in Arizona**

**A.** Upon expiration of a conditional license obtained in compliance with R4-39-104, an existing, private, vocational institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a regular license to continue to operate non-accredited vocational programs in Arizona.

**B.** To be regularly licensed, an existing, private, non-accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
1. A completed, verified license application;
2. A valid surety bond or cash deposit, if required by A.R.S. § 32-3023(I); and
3. Documents specified in R4-39-104(B)(3), (B)(5), (B)(6), (B)(9), (B)(11), and (B)(15).

**C.** Before issuing a regular license to an existing, private, non-accredited, vocational institution, the Board shall conduct an on-site verification as described in R4-39-104(C).

**D.** To continue to be regularly licensed, an existing, private, non-accredited, vocational institution shall demonstrate continued compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review, and administrative action documents specified in subsections (B)(1) through (B)(3).

**E.** In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against an existing, private, non-accredited, vocational institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

**Historical Note**
Adopted effective June 27, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

**R4-39-106. Requirements for Conditional Licensure to Operate a New, Private, Non-Accredited, Degree-Granting Institution in Arizona**

**A.** A new, private, degree-granting institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a conditional license before operating degree programs or granting degrees in Arizona.

**B.** To be conditionally licensed to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall demonstrate its intent and ability to make reasonable and timely progress toward obtaining accreditation from an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation. "Reasonable and timely" means the continuous, diligent, and successful pursuit of the various stages of accreditation within the time periods established, by the accrediting agency and as determined by the Board.

**C.** To be conditionally licensed to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
1. A completed, verified license application;
2. Evidence that the institution is in compliance with subsection (B). Evidence of compliance includes:
   a. A copy of the written commitment to apply for accreditation that the institution has submitted to each recognized accrediting agency to which the institution plans to apply for accreditation, certified as true and correct by an authorized administrative official of the institution; and
   b. An explanation to the accreditation process and the timeline required to make reasonable and timely progress toward obtaining accreditation, for each recognized accrediting agency to which the institution plans to apply for accreditation; and
3. Documents specified in R4-39-104(B)(2) through (B)(15).

**D.** Before issuing a conditional license to operate degree programs or grant degrees to a new, private, non-accredited, degree-granting institution, the Board shall conduct an on-site verification as described in R4-39-104(C).

**E.** During its 1-year of conditional licensure to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall not use terms such as "licensed", "approved", or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure during this time, it shall use the term "conditional license".

**F.** In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against a new, private, non-accredited, degree-granting institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

**Historical Note**
Adopted effective June 27, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

**R4-39-107. Requirements for Provisional Licensure to Operate an Existing, Private, Non-Accredited, Degree-Granting Institution in Arizona**

**A.** Upon expiration of a conditional license obtained in compliance with R4-39-106, an existing, private, degree-granting institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a provisional license to continue to operate degree programs or grant degrees in Arizona.

**B.** To be provisionally licensed to operate degree programs or grant degrees, an existing, private, non-accredited, degree-granting institution shall demonstrate reasonable and timely progress toward obtaining accreditation with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation. "Reasonable and timely" means the continuous, diligent, and successful pursuit of the various stages of accreditation within the time periods established by the accrediting agency and as determined by the Board.

**C.** To be provisionally licensed, an existing, private, non-accredited, degree-granting institution shall demonstrate compliance

with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
1. A completed, verified license application;
2. Evidence that the institution is in compliance with subsection (B). Evidence of compliance includes:
   a. Proof that the institution has applied for accreditation with 1 or more recognized accrediting agencies;
   b. A report on the current status of the institution's progress toward accreditation, certified as true and correct by an authorized administrative official of the institution; and
   c. A letter from each recognized accrediting agency to which the institution has applied confirming the current status of the institution's progress toward accreditation;
3. A valid surety bond or cash deposit, if required by A.R.S. § 32-3023(I); and
4. Documents specified in R4-39-104(B)(3) through (B)(6), (B)(9) through (B)(11), and (B)(15).

**D.** To continue to be provisionally licensed, an existing, private, non-accredited, degree-granting institution shall demonstrate continued compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review, and administrative action documents specified in subsection (C)(1), (C)(2)(b), (C)(2)(c), (C)(3), and (C)(4). The Board shall deny provisional licensure to an existing private, non-accredited, degree-granting institution that is not proceeding through the accreditation process in a reasonable and timely manner as determined by the Board.

**E.** Before issuing a provisional license to an existing, private, non-accredited, degree-granting institution, the Board shall conduct an on-site verification as described in R4-39-104(C).

**F.** During the period of provisional licensure, an existing, private, non-accredited, degree-granting institution shall not use terms such as "licensed", "approved", or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure, it shall use the term "provisional license".

**G.** In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against an existing private, non-accredited, degree-granting institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

**Historical Note**
Adopted effective June 27, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Amended effective October 10, 1997 (Supp. 97-4).

**R4-39-108. License Renewals**

**A.** A private vocational or degree-granting institution shall submit a complete, verified license renewal application to the Board no later than 45 days prior to the expiration of the license. The license renewal application shall include the following:
1. An accredited private vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-103(C), or
2. An accredited private degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-103(C), or
3. A non-accredited private vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-105(D), or
4. An existing non-accredited private degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review and administrative action, documents specified in R4-39-107(D).

**B.** Failure to submit the annual license renewal application and required documents may result in disciplinary action. If Board staff determines there is cause to bring the question of license renewal to the Board, Board staff shall set the matter on the Board agenda for a public meeting. The Board may require, as a condition of license renewal, submission of additional reports or other relevant information and the personal appearance of representatives of the institution before the Board.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective November 6, 1998 (Supp. 98-4).

**R4-39-109. Supplemental License Applications**

**A.** A private vocational or degree-granting institution shall submit to the Board an application for a supplemental license for approval of any additional vocational program, degree program, change of location or change of name of the institution at least 45 days before:
1. Operating an unlicensed, new, or additional vocational or degree-granting program; or
2. Operating from an unlicensed, new or additional location; or
3. Changing the name of the licensed institution.

**B.** The Board shall grant a supplemental license to a private vocational or degree-granting institution if the institution demonstrates that a supplemental license application submitted under subsection (A) is in compliance with A.R.S. §§ 32-3021 through 32-3051.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Section R4-39-109 repealed; new Section R4-39-109 renumbered from R4-39-110 and amended effective November 6, 1998 (Supp. 98-4).

**R4-39-110. Change of Ownership**

**A.** No later than 60 days after a change of ownership, a private vocational or degree-granting institution shall submit an application for a supplemental license.

**B.** For an accredited private vocational or an accredited private degree-granting institution, an application for a supplemental license for a change of ownership shall include the following:
1. A complete, verified application for a supplemental license; and
2. Documents specified in R4-39-103(B)(2), (3), and (4) and R4-39-104(B)(5), (6), (9), (11), and (15).

**C.** For a non-accredited private vocational institution, an application for a supplemental license for a change of ownership shall include the following:
1. A complete, verified application for a supplemental license; and
2. Documents specified in R4-39-105(B)(2) and (3).

**D.** For a non-accredited private degree-granting institution, an application for a supplemental license for a change of ownership shall include:
1. A complete, verified application for a supplemental license; and
2. Documents specified in R4-39-107(C)(2) through (C)(4).

**E.** The Board shall grant a supplemental license for a change of ownership to a private vocational institution or a private

degree-granting institution if the private vocational institution or the private degree-granting institution demonstrates that the application for a supplemental license for a change of ownership submitted under subsection (B), (C), or (D) is in compliance with A.R.S.§§ 32-3021 through 32-3051.

**F.** Ownership of an institution shall be considered changed if
1. In the case of ownership by a sole proprietor, more than a 20% interest or a beneficial interest in an institution is sold or transferred;
2. In the case of ownership by a partnership or a corporation, more than 20% of the stock, interest, or beneficial interest is sold or transferred; or
3. If the Board of Directors, officers, shareholders or controlling influence changes to such an extent as to significantly alter the management and control of the institution.

**G.** A private vocational or degree-granting institution shall file a written notice of a change of ownership with the Board no later than 7 days after the change in ownership.

**H.** Notwithstanding subsection (F), a private vocational institution or a private degree-granting institution shall notify the Board of any transfer of an ownership or beneficial interest of more than 10% but less than 20% in a private vocational or degree-granting institution within 7 days. The notice shall include a resume of each new owner or beneficial interest holder.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). R4-39-110 renumbered to R4-39-109; new Section R4-39-110 renumbered from R4-39-111 and amended (Supp. 98-4).

**R4-39-111. Honorary Degrees**

**A.** Only currently licensed, accredited private degree-granting institutions may apply to award honorary degrees. A currently licensed, accredited private degree-granting institution shall submit an application for a supplemental license for an honorary degree to the Board for verification, review, and administrative action before offering to grant or granting an honorary degree.

**B.** The Board shall approve the application for a supplemental license application for an honorary degree if the honorary degree is consistent with the institution's currently licensed degree-granting programs.

**C.** An honorary degree shall identify in its title or name that it is an honorary degree and shall bear on its face the denotation that it is an honorary degree.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). R4-39-111 renumbered to R4-39-110; new Section R4-39-111 renumbered from R4-39-112 and amended effective November 6, 1998 (Supp. 98-4).

**R4-39-112. Repealed**

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Repealed effective November 6, 1998 (Supp. 98-4).

## ARTICLE 2. FEES

**R4-39-201. Fees**

**A.** The filing fee for an original license to operate private vocational or degree-granting programs is $800.

**B.** The annual filing fee for a license renewal to continue to operate private vocational or degree-granting programs is the following amount based upon annual gross tuition revenues:
1. Less than $50,000 annual gross tuition revenue, $600.
2. $50,000/$249,999 annual gross tuition revenue, $750.
3. $250,000/499,999 annual gross tuition revenue, $1,000.
4. $500,000/$999,999 annual gross tuition revenue, $1,300.
5. $1,000,000/$2,499,999 annual gross tuition revenue, $1,650.
6. $2,500,000/$6,999,999 annual gross tuition revenue, $2,000.
7. $7,000,000 or more annual gross tuition revenue, $2,300.

**C.** The filing fee for each application for a supplemental license to operate new or additional private vocational or degree granting programs is $500.

**D.** The filing fee for each application for a supplemental license to operate private vocational or degree-granting programs from a new location or an additional location is $500.

**E.** The filing fee for an application for a supplemental license to continue to operate private vocational or degree-granting programs upon a change of ownership is $500.

**F.** The fee for an on-site verification, inspection, or investigation is the actual cost incurred or $500, whichever is less.

**Historical Note**
Adopted effective June 27, 1985 (Supp. 85-3). Section R4-39-201 repealed, new Section R4-39-201 adopted effective May 19, 1988 (Supp. 88-2). Emergency amendments adopted effective January 12, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-1). Emergency amendments adopted again effective April 12, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-2). Emergency amendments adopted again effective July 12, 1993 (Supp. 93-3). Amendments permanently adopted with changes effective October 12, 1993 (Supp. 93-4). Amended effective November 6, 1998 (Supp. 98-4).

## ARTICLE 3. OPERATION OF NON-ACCREDITED INSTITUTIONS

**R4-39-301. Catalog**

**A.** Catalogs shall include the following information:
1. Name and address of the institution and publication date of the catalog.
2. Names and titles of the administrative officials of the institution who are duly authorized to act for it in all matters relating to state approval and licensing.
3. For institutions with full-time students, a calendar for the institution showing vacation periods, holidays, and beginning and ending dates for each semester, quarter, term, or session observed by the institution.
4. Policies and regulations regarding student attendance, including leave, absences, class cuts, make-up work, tardiness, and causes for suspending or expelling a student for these reasons. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for these reasons.
5. Enrollment prerequisites for each course offered.
6. Policies and regulations of the institution regarding credit for previous education, training, work and life experience.
7. Amount of tuition, estimated fees, and costs of books, supplies, tools, and instructional aids to be used and purchased by students.
8. Policies and regulations regarding refunds of the unused portions of tuition, fees, materials and supplies.
9. A topical outline of each program for which approval is requested, indicating a statement of purpose, objectives, subjects, units, skills, and jobs to be learned in the program, and the approximate number of clock, credit or semester hours to be spent by the student in each phase of the program.

10. Policies and regulations regarding standards of progress required of the student by the institution. These policies shall define the grading system of the institution, the minimum grade average considered satisfactory for continued enrollment, and causes for suspending or expelling a student for unsatisfactory grades or progress. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for unsatisfactory grades or progress.
11. Policies and regulations regarding student conduct and causes for suspending or expelling a student for unsatisfactory conduct. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for unsatisfactory conduct.

**B.** A copy of each new or revised catalog shall be promptly submitted to the Board upon publication.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

**R4-39-302. Facilities and equipment**

**A.** The building, classrooms, equipment, furniture, grounds, instructional devices, instructional facilities and other physical requirements of the educational program shall be appropriate to insure that the educational objectives of the institution are achieved.
**B.** The physical plant, facilities and equipment shall meet all safety requirements and health standards.
**C.** The plant, facilities and equipment shall be in compliance with applicable local and state laws.
**D.** Insurance, necessary to protect the assets of the institution in the event of damage or a finding of liability, shall be maintained in force at all times.
**E.** The Board must be notified of a change of location prior to the change as specified in R4-39-110.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

**R4-39-303. Control and personnel**

**A.** In order to be licensed by the Board, the institution's administrators, directors, owners and beneficial owners, agents and faculty shall be of good moral character and shall obey the statutes and regulations of the Board.
**B.** No program or institution shall be licensed by the Board if an owner, beneficial owner or other person having direct or indirect control over the program or institution has been convicted of a felony within two years of application.
**C.** The Board may not issue a license if an owner, beneficial owner or other person having direct or indirect control over the program or institution has been convicted of a felony or misdemeanor or has been enjoined for violations of any state or federal laws relating to education.
**D.** The director or manager of the institution shall be responsible for the following:
1. The development of a curriculum capable of preparing students for educational or specific job entry levels.
2. Selection of faculty competent in the subject matter to be taught and possessing teaching techniques necessary to implement the applicable curriculum.

**E.** Faculty shall be qualified by education and experience and shall meet the following minimum requirements:
1. Faculty of an institution offering an associate, baccalaureate, master's or doctoral degree shall possess no less than the degree awarded to a graduate of the program in which they are teaching. Faculty degrees must have been obtained from an institution accredited by an accrediting agency recognized by the United States Department of Education or Council on Postsecondary Education.
2. For vocational programs, the institution shall demonstrate that each faculty member has the competency through education or experience, to teach the assigned subject area. Such competency shall be evidenced on resume forms provided by the Board. The accuracy of information provided in the resume shall be verified by the person responsible for the operation of the institution.
3. The faculty shall be sufficient in number to assure the effectiveness of the educational program.

**F.** The Board shall be notified in writing of any termination or change of directors, managers or faculty within thirty (30) days of the last day of employment. The Board shall also be notified in writing of any new director, manager or faculty member within 30 days of hiring.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

**R4-39-304. Agents**

**A.** No agent shall be licensed by the Board if he has been convicted of a felony within two years of application.
**B.** The Board may not issue a license to an agent who has been convicted of a felony or misdemeanor or has been enjoined for violations of any state or federal laws relating to education.
**C.** Agents shall have a clear understanding and knowledge of the courses and programs, services, tuition, student contract terms, and operating procedures of the institution. They shall also provide truthful and adequate information to persons regarding each educational institution they represent.
**D.** Agents shall be of good moral character and shall obey the statutes and regulations of the Board.
**E.** No person acting as an agent for, or representing, a non-accredited private institution operating in Arizona and not operating from the office or place of business of the institution, shall solicit or sell any course for consideration or remuneration unless that person holds an agent's license. An agent shall annually submit to the Board a copy of the institution's current student application and sample copies of each brochure, bulletin, catalog, and any other document presented to potential students regarding each educational institution the agent is employed by.
**F.** The Board shall verify the accuracy of the documents produced by each agent.
**G.** Each non-accredited educational institution not having physical facilities in Arizona shall submit to the Board a surety bond in the amount of $5,000.00 or in lieu of the surety bond, evidence of a cash deposit of $5,000.00 with the State Treasurer for each agent it employs. A receipt for the cash deposit with the State Treasurer shall suffice as evidence of the cash deposit.
**H.** Misrepresentation in any materials or testimony submitted to the Board may result in disciplinary action.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

**R4-39-305. Advertising**

**A.** Advertising shall be truthful and shall not include any false or misleading statements with respect to the institution, its personnel, its courses and services, or the occupational opportunities for its graduates.
**B.** The Board may institute disciplinary proceedings against a licensed agent, program or institution which engages in false or misleading advertising.

**C.** Advertising to solicit students in "help wanted" columns of newspapers, magazines or other similar publications is prohibited.
**D.** The use of the words "guarantee" and "free" shall not be used in connection with solicitations or advertising in any brochure, catalog, bulletin, leaflet or other publication of the institution, nor in newspapers, magazines or any other media.
**E.** All printed advertising shall include the full legal name, phone number and address of the institution.
**F.** The Board may require an institution to submit all advertising for approval prior to use.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

**R4-39-306. Recruitment**
**A.** Recruitment efforts shall be conducted in a professional and ethical manner.
**B.** The institution shall be responsible for providing training for all admissions personnel. Sales agents are prohibited from portraying themselves directly or indirectly as guidance counselors, advisors or as any other position to disguise the sales functions of their job.
**C.** Loans, grants, scholarships, discounts and other such items shall not be used as an inducement to enroll, where such use will result in unfair or unethical trade practices. "Scholarship" as used in this Regulation means any form of assistance extended to a prospective student which, in effect, amounts to a reduction in tuition. Tuition scholarships may be granted if rules relating to them are published by the institution to all students and prospective students.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

**R4-39-307. Admission Requirements**
**A.** The requirements for admission to an institution shall be published and shall be administered as stated.
**B.** The institution may admit only those students who have demonstrated through pre-enrollment tests, if applicable, or through the initial interview, their capability of satisfactorily completing the prescribed training from beginning to completion of a course during the time specified.
**C.** If an entrance exam is used, the institution shall set a minimum passing score for entrance to the institution and shall maintain a copy of the exam in the student's records.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

**R4-39-308. Placement**
The offer of placement services to students is optional but, if made, the following requirements shall apply:
1. Documented evidence of student referrals for job placement shall be maintained and shall include the following:
   a. The name of student referred and the corresponding name of the prospective employer.
   b. Result of referral.
   c. Final placement or other disposition.
2. Students shall be prepared for placement through instruction in preparation of resumes, preparation for interviews, interview procedures, appropriate dress, personal grooming and conduct on the job.
3. Lists of potential employers given to students or graduates shall not be considered a referral or offer of placement.
4. Each student application shall contain a disclaimer by the institution to the effect that job placement is not guaranteed to graduates or students.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

**R4-39-309. Pricing and Refund Policy**
**A.** Accurate prices of specific courses and subjects of study shall be disclosed in any contract to be signed by the prospective student. Prices for the same course or subject shall not vary between students in the same course or subject, except for group arrangements or following the published notice of a price change.
**B.** The prospective student shall not be required to make a non-refundable payment until it has been determined that the prospective student has been accepted for enrollment.
**C.** The refund policy of the institution shall be disclosed in any contract to be signed by the prospective student.
**D.** The institution shall fully disclose all charges and fees to a prospective student or his parent or guardian in writing and no claims shall be made as to scholarships or fee reductions, unless they are, in fact, scholarships or fee reductions and are clearly stated and described in the written material.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

**R4-39-310. Student records at the institution**
**A.** The institution shall maintain complete and accurate records for each student currently enrolled, including:
1. An enrollment agreement containing, but not limited to, the following information:
   a. Name and address of student.
   b. Signature of the student and an official of the institution.
   c. Commencement date of program.
   d. Title of the course or courses within the program.
   e. Total classroom and shop hours -- quarter, trimester or semester hours.
   f. Payment schedule and total cost to the student.
   g. Refund policy of the institution.
   h. A statement indicating that the individual signing the agreement has read and understands all aspects of the agreement.
   i. The holder in due course rule as defined in A.R.S. § 47-3302.
   j. A disclaimer by the institution that "job placement" is not guaranteed to graduates upon completion of this training or upon graduation.
   k. Student grievance procedures, if not printed in catalog, bulletin or other document provided each potential student.
   l. A cancellation notice in accordance with Federal Trade Commission (FTC) regulations.
2. Grades received, where applicable.
3. All obligations incurred and all funds paid by the student to the institution.
4. Student attendance information.
5. Counselling records.
6. A transcript.
7. Financial aid records.
8. Copy of the entrance exam, if applicable.

**B.** Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the Board.

**C.** An institution which gives credit toward a course based upon prior job experience, training, or life experience shall record each such credit in the institution's records relating to that student and in the student's official transcript and list the portion of the course for which the student is given credit. A copy of the transcript reflecting courses for which a student is given credit for prior job experience, training, or life experience shall be attached to the institution's official transcript and shall be retained as part of the student's permanent records.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

## ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS

### R4-39-401. Student records of graduates

Each licensed institution shall maintain graduate records which shall contain all information as detailed in R4-39-310 of these rules. In addition, the graduate records shall indicate the following:

1. Class rank upon graduating, where applicable.
2. Job placement provided, where applicable.
3. Place of employment and beginning salary after graduation, where applicable.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

### R4-39-402. Preservation of Records

When an institution or program which is licensed by this Board ceases operation, whether voluntarily or involuntarily, all educational records, or legible true copies of all educational records if originals are unavailable, shall be filed with the Board within 60 days of ceasing educational operations.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

### R4-39-403. Student complaint procedures

**A.** If a student has a complaint against a licensed institution or program and has exhausted all available grievance procedures established by the institution, that student may file a written complaint with the Board. All complaints must be filed within one year of the student's last date of attendance.

**B.** The Board's staff shall investigate the complaint and attempt to resolve it. If the complaint cannot be resolved through the Board's staff, the complaint may be placed on the agenda of the next Board meeting for consideration by the Board. The complainant and the institution or program shall receive written notice of the date, time and place at which the complaint will be heard by the Board.

**C.** The complainant's failure to appear at the Board meeting may result in dismissal of the complaint.

**D.** If after hearing the complainant and the response of the institution, the Board determines there are reasonable grounds to believe that the institution is in violation of Board statute or rules, the Board shall set the matter for hearing pursuant to A.R.S. §§ 32-3051 and 32-3052.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3).

## ARTICLE 5. HEARINGS AND INVESTIGATIONS

### R4-39-501. Hearing Procedures

**A.** In any hearing, the parties include all persons named in the Notice of Hearing and all persons properly admitted as intervenors.

**B.** The Board may appoint a hearing officer to hear the matter, make findings of fact and conclusions of law and recommend action to the Board. In addition, the hearing officer may make all determinations on procedural matters in the course of the hearing or of a rehearing.

**C.** Notice of Hearing:

1. All parties of record shall be given written notification at least 20 days prior to the hearing, of the date, time and place set for the hearing, together with a brief statement of the matters to be considered at the hearing.
2. Postponements shall be discretionary with the Board or its hearing officer.
3. Response to Notice of Hearing:
   a. A response to a Notice of Hearing shall be filed with the Board within 20 days of receipt by respondent. If the Notice of Hearing is amended at any time subsequent to service of the notice, respondent may be required to answer the amended assertions within a reasonable time.
   b. A response filed under this rule shall briefly state respondent's position or defenses to the proceeding and shall specifically admit or deny each of the assertions contained in the notice. If the respondent is without or is unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, he shall so state, which shall have the effect of a denial. Any assertion not denied shall be deemed to be admitted. When a responding party intends in good faith to deny only a part or a qualification of an assertion, he shall specify so much of it as is true and shall deny only the remainder.
   c. If the respondent fails to file a response within the time provided, the assertions contained in the Notice of Hearing shall be deemed to be admitted.
4. Service:
   a. The Notice of Hearing shall be served personally or by certified mail, return receipt requested, upon the respondent. All subsequent notices and documents required to be served by the Board and all documents filed by any party may be served by mail or by delivery in person. Service of any document shall be deemed complete when a true copy is deposited in the United States mail with first class postage prepaid, addressed to the address of record, or upon personal delivery. All motions and other papers required to be served upon any other party to a hearing shall be made by delivery in person or by first class mail, postage prepaid. Service upon an attorney or agent who has appeared on behalf of the party shall constitute service upon such party.
   b. Copies of all papers or documents filed shall, at the time of filing, be served on the hearing officer, if any, upon the Board and upon all parties to the hearing. The Board or hearing officer may require a copy of any document to be served upon any other person as may be designated by them. Proof of service may be made by affidavit of the person making service or by written acceptance of the service by the person upon whom the document is served. An original of all documents shall be filed with the Board.

**D.** Motions:

1. All motions filed with the Board or hearing officer shall be typewritten or legibly written on paper no larger than 8 1/2" x 11", shall contain the name and address of the party or other correspondent, shall designate the title and docket number, if any, shall state the name and address of each party served with a copy, shall be properly cap-

tioned and shall be signed by the party filing it or by at least one attorney, in his or her individual name, who represents the party. The signature certifies that the signer has read the paper, that to the best of his knowledge, information and belief there is good ground to support its contents and that it is not interposed for delay.

2. A motion for a procedural order, unless made orally during a hearing, shall be made in writing stating the grounds with particularity and setting forth the relief sought. All motions shall be served upon all of the parties who shall then have ten days after service of the motion to respond. If any party fails to timely respond or any party fails to appear at oral argument on the motion, if any, the Board or hearing officer may dispose of the motion summarily. Any party may request oral argument on any motion, or the Board or hearing officer may on their own initiative require oral argument.

**E.** Stipulations: Parties to any proceeding may by stipulation in writing agree upon any matter involved in the proceeding. If approved by the Board or hearing officer, the stipulation shall be binding upon all parties to the proceeding or as between those parties stipulating. Notwithstanding the foregoing, the hearing officer or Board may require presentation of evidence or proof of stipulated facts for their consideration.

**F.** Prehearing statements: Not less than five days before hearing, each party shall insure that the Board or hearing officer has received a prehearing statement which shall be so designated and which shall set forth with specificity the following:

1. A list of all exhibits and witnesses to be used at the hearing except those to be used for impeachment;
2. A list of the issues of law and fact which the party submitting the prehearing statement believes to be material;
3. That all lists have been exchanged with the other parties to the proceeding; and
4. No other exhibits or witnesses shall be used during the hearing other than those listed and exchanged, except for good cause shown.

**G.** Prehearing conferences: The Board or hearing officer, upon application of a party, or upon their own motion, may call a conference with all parties at any time for the purpose of clarifying the procedural steps to be followed in a hearing, or clarifying or limiting the legal or factual issues involved in a proceeding.

**H.** In addition to the oral arguments and evidence presented at the hearing, the Board or hearing officer may consider written statements or memoranda presented by any party prior to or at the hearing. The Board or hearing officer may also allow for a period of time not to exceed a total of 60 days after the hearing for the parties to submit post-hearing memoranda or proposed findings of fact and conclusions of law.

**I.** The recommendation of the hearing officer shall be submitted to the Board within 20 days of the completion of the hearing. The Board shall review the recommendation and may affirm, modify, reject, in whole or in part, the recommendation and may also remand it for further hearing or take evidence itself.

**J.** The final decision of the Board shall be made within ten days of receipt of the recommendation of the hearing officer or within 20 days of the completion of the hearing if held before the Board. The final decision of the Board shall be in writing, signed by the chairman or his designee, and shall state the action taken and the basis for such action. The final decision shall state separately the findings of fact and conclusions of law and the order of the Board. It shall be filed as a record of the Board and maintained in the file relating to the applicant or licensed institution. A copy of the final decision of the Board shall be served on each party.

**K.** A motion for rehearing may be filed by any party in accordance with A.R.S. § 32-3054(A).

**L.** A rehearing of the Board's decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the proceedings or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board, its employees or hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; and
7. That the decision is not justified by the evidence or is contrary to law.

**M.** An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

**R4-39-502. Investigations**

**A.** Board staff and designees of the Board shall investigate alleged violations of A.R.S. § 32-3001, et seq. or these rules by any applicant, program or institution covered by A.R.S. § 32-3001, et seq. upon request of the Board or upon receipt of a verified, written complaint.

**B.** Following an investigation, staff or the Board's designee shall report its findings and recommendation to the Board, in writing.

**C.** Board members, staff and designees of the Board may review the records of any institution being investigated and may request information from persons having specific information pertaining to the investigation. Staff and designees of the Board may request the production of documents and witnesses during the investigation. The institution may file written objections to the request within 15 days of receipt. Staff and designees of the Board shall attempt to resolve disputes as to production of documents and persons. If no resolution is reached, the matter shall be heard and decided by the Board.

**D.** Failure to produce documents or information, or failure to attempt to produce a witness, as requested by the staff and designees of the Board, and not objected to, in writing, shall, absent good cause, constitute a violation of these rules.

**Historical Note**
Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

## ARTICLE 6. STUDENT TUITION RECOVERY FUND

**R4-39-601. Submission of assessments**

**A.** Prior to June 30 of each year, the Board shall notify all institutions required to pay assessed fees of the fee amount, the submission deadline, and the penalties for failure to pay the fee. The notice shall be sent by certified mail in a sealed envelope with postage prepaid and addressed to the institution's latest address of record in the Board's office.

**B.** The assessed fee shall be submitted to the Board no later than 60 days following June 30 of the year.

**C.** For institutions seeking regular or provisional license renewal during the fiscal year then ended, the assessed fees shall be

based on the number of newly enrolled students for the 12-month period as identified on the license renewal application.

**D.** For institutions newly licensed during the fiscal year then ended, the assessed fees shall be based on the number of newly enrolled students enrolled during that fiscal year.

**E.** If on June 30 of any year the fund balance exceeds $300,000, only persons or institutions that have been issued an original regular license, a conditional license, or a provisional license shall pay the assessed fees for that fiscal year. Fees shall be assessed pursuant to R4-39-601(B) or (C).

**F.** If the Board determines that there is cause to question the amount of the fee or the manner in which the fee payment was made, the Board may set the matter on the agenda for a public meeting. The Board may require additional information and material and the personal appearance of representatives of the institution before the Board.

**Historical Note**

Adopted effective August 14, 1990 (Supp. 90-3).

**R4-39-602. Claims**

**A.** The Board shall investigate written complaints for claims against the fund pursuant to R4-39-502. If at a public meeting the Board finds the complaint and claim to be valid, it shall determine the amount of the claim to be paid and the party to whom the claim shall be paid.

**B.** The Board shall pay the claim in the amount determined and to the party named within 120 days of the date of the public meeting at which the claim was considered.

**C.** A claimant against the Student Tuition Recovery Fund who is not satisfied by the Board's decision may submit a motion for hearing pursuant to A.R.S. § 32-3054 and R4-39-501.

**Historical Note**

Adopted effective August 14, 1990 (Supp. 90-3).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 40. ARIZONA VETERANS' SERVICE COMMISSION

(Authority: A.R.S. § 32-2701 et seq.)

### ARTICLE 1. DEFINITIONS

Section
R4-40-101. Definitions

### ARTICLE 2. ELIGIBILITY

Section
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### ARTICLE 3. APPLICATION AND ADMISSION PROCESS

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R4-40-301. Application
R4-40-302. Application Process
R4-40-303. Preadmission Requirements
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### ARTICLE 4. STANDARDS OF CARE

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R4-40-401. Care and Treatment
R4-40-402. General Provisions
R4-40-403. Level of Care
R4-40-404. Level of Care or Eligibility Changes

### ARTICLE 5. RESIDENT SUPPORT

Section
R4-40-501. Billing
R4-40-502. Payment Process

### ARTICLE 6. RESIDENT RESPONSIBILITIES AND CONDUCT

Section
R4-40-601. General Provisions

### ARTICLE 7. RESIDENT DISCHARGE, GRIEVANCE, HEARING, AND APPEAL PROCESS

Section
R4-40-701. Resident Discharge
R4-40-702. Resident Grievance, Hearing, and Appeal Process
R4-40-703. Rehearing or Review of Commission's Decisions

### ARTICLE 8. RESIDENT TRUST FUND

Section
R4-40-801. General Provisions

### ARTICLE 1. DEFINITIONS

**R4-40-101. Definitions**

**A.** "Administrator" means the individual licensed by the Board of Examiners of Nursing Care Institution Administrators and Adult Care Home Managers who is the chief administrative officer of ASVH.

**B.** "Admission agreement" means the document signed by an applicant or the applicant's legal representative that provides the permission for the applicant to receive treatment, defines the rights and responsibilities the applicant will have as a resident, and sets forth the standard of care and support the applicant will receive as a resident.

**C.** "Admissions committee" means the administrator, director of nursing, veterans' service officer, social work supervisor, and business manager of ASVH who together determine eligibility for admission and designate a level of care for each resident according to R4-40-403.

**D.** "ALTCS" means Arizona Long-term Care System.

**E.** "Applicant" means an individual who submits a written ASVH admission application.

**F.** "Assistant Administrator" means the individual who acts as the administrator in the administrator's absence and performs other tasks as assigned by the administrator.

**G.** "ASVH" means the Arizona State Veterans Home, licensed pursuant to A.R.S. § 36-401 et seq. and the rules promulgated thereunder and recognized by the VA according to 38 CFR 17.165 (September 1, 1992, edition and no later editions or amendments) which is incorporated by reference and on file with the Secretary of State.

**H.** "Bedfast" means confined to bed or able to be out of bed for no more than 15 minutes at a time.

**I.** "Business manager" means the individual who is responsible for managing ASVH's finances.

**J.** "Care plan" means a written plan of care and treatment developed by the social worker, nursing staff, and physician that states:

1. The resident's health problems and functional status,
2. The treatment goals for the resident,
3. The actions necessary to reach the goals, and
4. The ASVH staff who is responsible for implementing each aspect of the plan.

**K.** "Commission" means the Arizona Veterans' Service Commission.

**L.** "Customized medical equipment and supplies" means those adapted to a resident's particular needs.

**M.** "Daily charge rate" is each resident's cost of care at ASVH for each 24-hour period, beginning at midnight.

**N.** "Daily living activities" means bathing, dressing, using the toilet, eating, transferring in and out of a bed or chair, using a wheelchair, and ambulation with or without the assistance of medical devices.

**O.** "Dangerous to self or others" means likely to cause serious physical harm to a resident or nonresident.

**P.** "Director of nursing" means a registered nurse who is responsible for the direction of nursing care for all ASVH residents.

**Q.** "Disruptive behavior" means a resident's actions that interfere with the daily activities of others, including loud arguing, verbal or physical threats, assault, and theft.

**R.** "Grievance" means a complaint initiated in accordance with R4-40-305 or R4-40-702.

**S.** "Legal representative" means an individual or entity designated by an applicant, a resident, or a court of competent jurisdiction to act as a power of attorney, guardian, or conservator of an applicant or resident, and who directs the care or management of an incapacitated applicant or resident and who provides documentation to ASVH to verity the legal representative status.

**T.** "Medicare" means the health insurance program for the aged and disabled under Title XVIII of the Social Security Act.

**U.** "Nursing services" means services as described in A.R.S. § 36-401(A)(28) and A.A.C. R9-10-905.

**V.** "Occupational therapy" means therapy as described in A.R.S. § 32-3401(5).

**W.** "PASARR" means a preadmission screening and annual resident review that is conducted pursuant to A.R.S. § 36-2936.

**X.** "Physical therapy" means therapy as described in A.R.S. § 32-2001(A)(7) et seq.
**Y.** "Physician" means a person licensed pursuant to A.R.S. § 32-1401 et seq., or A.R.S. § 32-1800 et seq., or a VA physician.
**Z.** "Psychosocial behavior" means a person's social relations, conduct, and manners based on mental and psychological factors, including level of consciousness, judgment, orientation, perception disturbances, and concerns.
**AA.** "Resident" is an individual who has been admitted to ASVH.
**BB.** "Resident support charge" means the dollar amount that is billed every calendar month to a resident or legal representative for the resident's care.
**CC.** "Respiratory care" means the practice of respiratory care as described in A.R.S. § 32-3501(5).
**DD.** "Skilled nursing care" means nursing and health-related services that foster rehabilitation of a person who needs assistance with daily living activities, provided at a nursing facility licensed pursuant to A.R.S. § 36-401 et seq. and the rules promulgated thereunder.
**EE.** "Social worker" means a person certified pursuant to A.R.S. § 32-3291 et seq.
**FF.** "Speech therapy" means medically prescribed diagnosis and treatment provided by a speech therapist who has been granted a certificate of clinical competence by the American Speech and Hearing Association.
**GG.** "Spouse" means an individual who entered into a marriage contract that is valid in Arizona with a veteran at least 1 year before the veteran was admitted to ASVH.
**HH.** "Surviving spouse" means an individual who entered into a marriage contract that is valid in Arizona with a veteran at least 1 year before the veteran's death.
**II.** "Therapeutic leave days" means the time that a resident is absent from ASVH, as ordered by the resident's physician, to live on a trial or therapeutic basis in a home setting.
**JJ.** "Third-party reimbursement" means that part or all of a resident's daily charge rate and other expenses are paid by a 3rd-party payor.
**KK.** "Third-party payor" means any individual, entity, or program that is or may be liable to make 3rd-party reimbursements, including:
1. An ALTCS contract provider for a resident who is certified as eligible for ALTCS services pursuant to A.A.C. R9-28-401 et seq.,
2. Per diem payments from the VA pursuant to 38 CFR 17.166(c),
3. Medicare, or
4. Health or long-term care insurance.

**LL.** "Transitional living training" means a planned program that assists residents to adapt to in-home conditions by developing independent living and self-care skills.
**MM.** "VA" means the United States Department of Veterans' Affairs.
**NN.** "Veteran" means an individual who served in the active United States Army, Navy, Marine Corps, Air Force, or Coast Guard and who was discharged or released under conditions other than dishonorable, and an individual who served in the merchant marine or as a civil service crew resident between December 7, 1941, and August 15, 1945.
**OO.** "Veterans service officer" means an individual who is accredited with the VA and who provides technical assistance for veterans' benefits and files claims for those benefits on behalf of a veteran or an eligible resident of the veteran's family.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

## ARTICLE 2. ELIGIBILITY

### R4-40-201. Eligibility

**A.** An applicant is eligible for admission to ASVH if the applicant is a veteran, spouse, or surviving spouse who meets the requirements set forth in Article 3, and:
1. Has been an Arizona resident for at least 1 year before the date of application,
2. Requires skilled nursing care as determined by a physician, and
3. Is not dangerous to self or others as determined by a physician.

**B.** The number of spouses and surviving spouses admitted to ASVH shall not be more than 25% of the total number of residents at ASVH as prescribed in 38 CFR 17.173(b)(1) (September 1, 1992, edition and no later editions or amendments) incorporated by reference and on file with the Secretary of State.
**C.** Veterans for whom the VA has approved reimbursement to live in a State Veterans home, in accordance with 38 CFR 17.165 and 17.166 (September 1, 1992, edition and no later editions or amendments) incorporated by reference and on file with the Secretary of State, shall be admitted to ASVH before other applicants whose applications or admission is pending.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

## ARTICLE 3. APPLICATION AND ADMISSION PROCESS

### R4-40-301. Application

**A.** Applicants shall apply for admission to ASVH on the form provided by ASVH. When both a veteran and the veteran's spouse are applying for admission, they shall file separate applications. Applications may be obtained from the Commission, VA, or ASVH.
**B.** The applicant shall provide the following information on the admission application:
1. The applicant's name, street address, mailing address, and telephone number;
2. The next of kin or legal representative's name, street address, mailing address, and telephone number;
3. The applicant's place and date of birth;
4. The applicant's and veteran's social security numbers;
5. The applicant's marital status and gender;
6. The applicant's or veteran's military service information;
7. The applicant's health insurance and other 3rd-party payor information;
8. The applicant's assessment of the applicant's ability to participate in daily living activities and the applicant's psychosocial behavior;
9. The applicant's current financial resources;
10. The applicant's medical history, current medical status, a signed statement that the applicant requires the level of skilled nursing care in accordance with R4-40-403, and that the applicant is not dangerous to self or others. The applicant shall have the applicant's physician provide this information directly to ASVH; and
11. The applicant's or legal representative's signature.

**C.** The applicant shall submit the following to the admissions committee with the admission application:
1. A copy of the veteran's discharge document from the United States military, that may include either Form DD214, Form DD215, the Statement of Service issued by the National Personnel Records Center, or equivalent separation-of-service document;
2. A certified copy of the applicant's marriage certificate if the applicant is a spouse or a surviving spouse;

3. A certified copy of the applicant's birth certificate; and
4. A certified copy of the veteran's death certificate if the applicant is a surviving spouse.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-302. Application Process**

**A.** Within 10 days after the applicant has filed a complete application with ASVH, the admissions committee shall review the application and determine whether to admit the applicant. The committee shall admit applicants of a 1st-come basis, based on the date that the complete application is filed, except for applicants given admission preference pursuant to R4-40-201(C).

**B.** After determining that an applicant shall be admitted, the admissions committee shall designate a level of care for the applicant pursuant to R4-40-403.

**C.** If the admissions committee is unable to determine the level of care from the application information, the applicant shall comply with a PASARR so that the committee may determine the appropriate level of care.

**D.** The administrator shall notify the applicant, in writing, within 20 days after the applicant files a complete application of the committee's decision whether to admit the applicant. In that notice, the administrator also shall notify those applicants who have been approved for admission of their designated level of care.

**E.** Within 10 days of the mailing date of the notice from the administrator, an applicant may submit documentation to the administrator that another level of care is more appropriate. The administrator shall make the final determination of what level of care is appropriate and provide written notice of that level to the applicant within 10 days after the applicant has filed documentation to the administrator that another level of care is more appropriate.

**F.** If there is no availability for the designated level of care, the applicant's name shall be placed on a waiting list for that level on a 1st-come basis, based on the date the applicant filed a complete application. If space is available, or when space becomes available, the applicant shall be admitted to ASVH.

**G.** Applicants may not be admitted without providing updated information if more than 6 months have passed since the applicant's complete application was filed.

1. If an applicant's admission is pending and the applicant's application was filed more than 6 months before the scheduled date of admission, the admissions committee shall re-review the application to determine whether the applicant can currently function at the previously designated level of care.
2. The applicant shall then be admitted to the currently appropriate level of care if space is available. If space is not available, the applicant's name shall be placed on the waiting list as stated in subsection (F).

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-303. Preadmission Requirements**

**A.** Before admission, an admission agreement, including the applicant's daily charge rate, shall be executed by the applicant or legal representative and ASVH.

**B.** Before admission, the applicant or legal representative shall notify ASVH of any changes in the information provided during the application.

**C.** If the applicant's level of care requirements may have changed, based on information provided by the applicant or legal representative, the applicant shall complete a PASARR.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-304. Admission Process**

**A.** The administrator shall notify the applicant or legal representative, in writing, of the date and time that the applicant is to be admitted to ASVH.

**B.** The applicant or legal representative shall submit to an admission interview with the administrator, during which the administrator shall review the following with the applicant or legal representative:

1. Resident responsibilities and conduct;
2. Resident support charge, billing, and payment; and
3. The admission agreement.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-305. Applicant Grievance, Hearing, and Appeal Process**

**A.** An applicant or legal representative who believes that any of the provisions of Articles 2 or 3 have not been applied or have been unfairly applied may file a written grievance with the administrator by mailing or hand-delivering the grievance to the administrator. The grievance shall set forth the facts that form the basis of the grievance and the requested action by ASVH.

**B.** Within 10 days after the grievance is filed, the administrator shall contact the applicant or legal representative, by telephone or in writing, and attempt to satisfy the concerns raised in the grievance. If the grievance is satisfied, the administrator shall send a letter to the applicant or legal representative, within 20 days after the grievance is filed, documenting the satisfaction and obtain the applicant's or legal representative's signature on the letter acknowledging the satisfaction. This letter shall be kept with the grievance.

**C.** If the grievance cannot be informally satisfied, the administrator shall notify the applicant or legal representative, in writing within 30 days after the grievance is filed, of the administrator's decision regarding the grievance.

**D.** The applicant or legal representative may file an appeal of the administrator's decision with the Commission, in writing, within 10 days of the mailing date of the administrator's decision.

**E.** If the Commission receives a timely filed appeal of the administrator's decision, the Commission shall file a Notice of Hearing pursuant to A.R.S. § 41-1061. At the hearing, the applicant shall be the moving party and have the burden of proof. The hearing shall be conducted pursuant to A.R.S. § 41-1061 et seq.

**F.** The Commission shall provide written notice of its decision to the applicant or legal representative within 30 days after the hearing.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-306. Rehearing or Review of Commission's Decisions**

**A.** A party to an action before the Commission who is aggrieved by the Commission's decision may file with the Commission, not later than 20 days after the service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefore. A decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the party's last known address.

**B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Commission. A response may be filed within 10 days after a motion or amended motion has been filed by any other party. The Commission may require

the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** A rehearing or review of the decision may be granted, in whole or part, for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings by the Commission or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Commission or the prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
5. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
6. That the decision is not justified by the evidence or is contrary to law.

**D.** The Commission may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.

**E.** Not later than 10 days after a decision is rendered, the Commission may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Commission may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing on review shall specify the grounds therefore.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after the motion has been filed, serve opposing affidavits. This period may be extended for an additional period not exceeding 20 days by the Commission for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

**G.** Once a Commission decision is final, an aggrieved party may file an application for judicial review of the decision within the time limits permitted for applications for judicial review of final agency decisions pursuant to A.R.S. § 12-901 et seq.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

## ARTICLE 4. STANDARDS OF CARE

### R4-40-401. Care and Treatment

**A.** Within 10 days of a resident's admission, the resident's care plan shall be developed based on the resident's physician's treatment orders and the resident's physical, social, and psychosocial needs. The care plan shall be in writing and include:
1. Health problems and the diagnosis or diagnoses;
2. Medical status measurements including vital signs, weight, height, and any laboratory findings;
3. Sensory impairments and communication status;
4. Physical function, including range of motion, balance, coordination, and daily living activities;
5. Nutritional status, including nutritional deficiencies, food preferences, intake and output problems, and food allergies;
6. Social and psychosocial status, including cultural or religious constraints, outside contacts, use of free time, interaction with other residents, and behavioral problems;
7. Rehabilitation potential; and
8. Discharge potential, including status of independent physical function, availability of family support, and financial resources.

**B.** Each resident's progress toward care goals shall be evaluated, in writing, at least every 90 days, including:
1. Whether each goal was achieved, partially achieved, or unachieved;
2. The reasons for any goal being partially achieved or unachieved; and
3. New health problems and new or revised goals identified, if any.

**C.** ASVH staff shall immediately notify the resident's physician, in writing, of any change in the resident's condition that may require a level of care change.

**D.** The certified or licensed health care professionals at ASVH shall provide care and treatment to each resident pursuant to the laws, rules, and standards in their professions.

**E.** The following minimum care shall be provided to each resident, as specifically set forth in each resident's care plan:
1. Speech therapy, physical therapy, occupational therapy, respiratory care, and transitional living training;
2. Services and treatments that foster the rehabilitation of the resident to the highest level of functioning;
3. Physical exercise to maintain or improve muscle tone, joint function, and mobility;
4. Freedom from bruises, injuries, bedsores, and infections on the skin;
5. Sufficient fluids to maintain hydration;
6. Nutrition planned by a dietitian to achieve or maintain an ideal weight range based on age, height, gender, activity, food allergies, and medications;
7. Sensory stimulation to compensate for sensory loss;
8. Mental stimulation to maintain or improve intellectual function;
9. Individual attention and social interaction to maintain identify and self-worth;
10. Encouragement and assistance in preserving family and friends support systems.

**F.** The ASVH nursing staff shall provide the following minimum care to each resident:
1. Care of mouth, teeth, skin, nails, hair, feet, and perineal area daily;
2. Tub baths, showers, or bed baths as needed, but at least twice weekly unless otherwise documented in the resident's care plan;
3. Checks at least every 2 hours of incontinent residents to keep them clean, dry, and free from odor;
4. Shampoos, shaves, and haircuts to maintain a clean and neat appearance;
5. Clothing cleaned and maintained in good condition;
6. Soiled personal clothing stored in closed containers;
7. Bed linen, including mattress pad, sheets large enough to tuck under the mattress, pillow case, bedspread, and blanket to ensure warmth, changed as often as necessary to assure cleanliness but at least twice a week, and, in the case of bedfast residents, changed at least daily;
8. Towel and washcloth, which is available at resident's bedside or in the bathroom in a manner that identifies which towel and washcloth belongs to which resident, changed as often as necessary to assure cleanliness but at least twice a week; and
9. Comb, supplies for dental or mouth care, drinking glass, pitcher, and soap maintained in a manner that prevents use by more than 1 resident.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-402. General Provisions**

**A.** Residents shall purchase any needed customized medical equipment and supplies.

**B.** Single-occupancy rooms shall only be for residents with medical conditions requiring isolation, as ordered by the resident's physician.

**C.** A resident's bed shall be held for no more than 4 days without the resident paying a daily charge rate when the resident is admitted to a hospital, another health or medical facility, or on therapeutic leave as ordered by the resident's physician. If the resident does not pay the charges incurred, the resident may lose that space and be placed on the waiting list pursuant to R4-40-302(F).

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-403. Level of Care**

**A.** The amount of skilled nursing care time required to provide resident care shall be considered in determining the appropriate level of care. Consideration shall include:
1. The ability of the resident to get in and out of bed and ambulate,
2. The ability of the resident to perform activities of daily living,
3. The ability of the resident to communicate and interact in the resident's environment,
4. The ability of the resident to control bowel and bladder functions, and
5. The complexity of prescribed medication and treatments.

**B.** Personal-care level. The personal-care level is appropriate only for persons who require minimum assistance with activities of daily living. A personal-care resident exhibits the following characteristics:
1. Is able to ambulate independently with or without the use of assistive devices such as a cane, walker, or wheelchair;
2. Requires no more than stand-by assistance to transfer from bed, chair, or toilet;
3. Does not need restraints to control a behavioral or medical problem;
4. Requires minimum assistance with bathing, dressing, and grooming;
5. Is able to eat independently, although assistance may be needed in preparing food before eating;
6. Is continent of bowel and bladder or requires minimum assistance in the care of an indwelling catheter or colostomy;
7. Is able to socially interact, although there may be episodes of confusion, memory defects, impaired judgment, or agitation; minimum staff intervention is required; or
8. Receives routine medications or treatment requiring general staff monitoring.

**C.** Class 1 care level. The Class 1 care level is appropriate only for residents who require moderate assistance with activities of daily living. A Class 1 care resident exhibits 1 or more of the following characteristics:
1. Needs the assistance of 1 or more than 1 staff person to transfer from bed, chair, or toilet;
2. Needs assistance in walking but is able to self-propel a wheelchair;
3. Requires moderate assistance in bathing, grooming, dressing, and feeding;
4. May need restraints for personal safety;
5. Is periodically incontinent of bowel and bladder or requires care of an indwelling catheter or colostomy;
6. Demonstrates socially acceptable behavior but may have periodic emotional or mental disturbances, including combativeness, that can be controlled by moderate staff intervention; or
7. Receives routine medications and treatments requiring general staff monitoring.

**D.** Class 3 Care Level. Class 3 care level is appropriate for the residents who require maximum assistance with activities of living. A Class 3 care resident exhibits 1 or more of the following characteristics:
1. Needs the assistance of more than 1 staff person to transfer from bed, chair, or toilet or is bedfast.
2. Needs maximum assistance in walking and moving from 1 location to another;
3. Requires maximum assistance in bathing, dressing, grooming, and feeding;
4. Is totally incontinent of bowel and bladder;
5. Is disoriented, confused, combative, withdrawn, or depressed; frequent staff intervention is required; or behavior may be socially unacceptable; or
6. Requires complex medications or treatments requiring close monitoring.

**E.** When the resident's level of care borders between 2 levels of care or when the required level of care fluctuates, the Director of Nursing shall confer with the resident's physician to determine appropriate placement. The decision shall be documented in the resident's medical record.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-404. Level of Care or Eligibility Changes**

**A.** If a resident no longer requires skilled nursing care, or becomes dangerous to self or others, as determined by a physician, the administrator shall discharge the resident from ASVH pursuant to R4-40-701.

**B.** A resident requiring a level of care change shall be transferred to the appropriate level of care as soon as space is available.

**C.** ASVH shall place residents requiring a level of care change in available space until space at the appropriate level of care is available.

**D.** If a resident needs a level of care, as determined by the resident's physician, that ASVH does not offer, the resident's physician shall refer the resident to a VA medical center or another medical facility equipped to meet the resident's needs. The resident is responsible for paying any charges incurred at the other medical facility and the daily charge rate at ASVH after 4 days absence as stated in R4-40-402(C).

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

## ARTICLE 5. RESIDENT SUPPORT

**R4-40-501. Billing**

**A.** Each resident or the resident's legal representative shall pay ASVH the daily charge rate for all services, treatments, and customized medical equipment and supplies provided to the resident that are not paid to ASVH by a 3rd-party payor.

**B.** A monthly resident support charge bill shall be sent to the resident or the legal representative at least 10 days before the payment due date. The bill shall state the total payment due for the upcoming month plus any past-due amount and any services, treatments, and custom medical equipment and supplies not included in the daily charge rate, less any anticipated 3rd-party reimbursements, credits, or refunds.

**C.** ASVH's business manager shall credit a resident's account within 30 days of verifying that a credit or refund is due. If a resident is discharged, the business manager shall submit the

amount of any refund or credit to the former resident or legal representative within 30 days of the resident's discharge. If a resident is deceased, the business manager shall submit the amount of any refund or credit to the executor or administrator of the resident's estate or legal representative within 30 days of verifying that an amount is due.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-502. Payment Process**

**A.** The resident shall pay the resident support charge 1 month in advance, by the 1st business day of each month.

**B.** If payment is not received by ASVH within 30 days of the due date, ASVH may discharge a resident pursuant to R4-40-701.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

## ARTICLE 6. RESIDENT RESPONSIBILITIES AND CONDUCT

**R4-40-601. General Provisions**

**A.** The resident or legal representative shall:
1. Report any change in the resident's financial resources, or all 3rd-party payors' responsibilities for paying the resident's care and treatment;
2. Provide accurate and complete information about the resident's medical history, including previous illnesses, hospitalizations, and medications, and current physical, psychological, and mental condition;
3. Report changes in the resident's physical, psychological, or mental condition to the resident's physician or the Director of Nursing;
4. Participate in care planning, cooperate with the carrying out of the care plan, and participate in the evaluation of the care plan;
5. Be considerate of the rights of other residents and treat other residents, staff, and visitors with dignity and respect;
6. Avoid disruptive behavior;
7. Respect the property of other residents, staff, and ASVH. A resident or legal representative may be held financially responsible for any property damaged or destroyed by the resident;
8. Keep scheduled appointments with ASVH staff and if unable to do so, notify the staff;
9. Maintain personal hygiene, clothing, and living area in a clean and neat condition, to the extent possible based on physical and mental capabilities;
10. Carry Medicare Part B insurance, if eligible;
11. Maintain all records regarding the resident's finances and provide all information required by ASVH to compute the resident's support charge; and
12. If a resident has a conservator, the conservator shall submit a copy of the annual conservatorship report to ASVH.

**B.** The resident shall not:
1. Use or possess alcoholic beverages or illegal substances on ASVH premises,
2. Possess firearms or weapons on ASVH premises;
3. Smoke in an ASVH building; or
4. Engage in disruptive behavior.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

## ARTICLE 7. RESIDENT DISCHARGE, GRIEVANCE, HEARING, AND APPEAL PROCESS

**R4-40-701. Resident Discharge**

**A.** The administrator may discharge a resident for:
1. Loss of eligibility to reside at ASVH pursuant to R4-40-201,
2. Failure to pay the resident support charge pursuant to R4-40-502,
3. Failure to comply with resident responsibilities pursuant to R4-40-601.

**B.** Before ordering the discharge of a resident, the administrator shall have a staff member meet with the resident or legal representative about the alleged grounds for discharge. The staff member shall submit a written report to the administrator detailing the outcome of the meeting.

**C.** If the report concludes that the alleged grounds for discharge no longer warrant discharge, the matter shall be closed.

**D.** If the report concludes, and the administrator agrees, that the grounds for discharge are substantiated and warrant the resident's discharge, the administrator shall notify the resident or legal representative, in writing, at least 30 days before the effective date of discharge of the reasons for and effective date of the discharge. A written notice by the Director, Arizona Veterans' Service Commission, to a resident or legal representative may be made as soon as practicable but at least 10 days prior to a resident's transfer or discharge when:
1. The safety of individuals in the facility would be endangered,
2. The health of individuals in the facility would be endangered,
3. The resident's health improves sufficiently to allow a more immediate transfer or discharge, or
4. An immediate transfer or discharge is required by the resident's urgent care medical needs.

**E.** A resident who has been discharged shall be readmitted to ASVH only when the admissions committee determines that the grounds for the discharge are not likely to recur. The resident's readmission shall be in accordance with the applicable portions of R4-40-302, R4-40-303, and R4-40-304.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-702. Resident Grievance, Hearing, and Appeal Process**

**A.** A resident or legal representative who believes that any of the provisions of Articles 4, 5, 6, 7, or 8 have not been applied or have been unfairly applied may file a written grievance with the administrator by mailing or hand-delivering the grievance to the administrator. A grievance shall contain a statement of the grievance and the requested action.
1. A grievance filed regarding a resident's discharge shall be filed within 10 days of the mailing date of the notice that states the effective date of the discharge; and
2. A grievance filed pursuant to subsection (A)(1) stays the effective date of the resident's discharge until the grievance is satisfied, the administrator makes a decision regarding the grievance, or the matter is a final administrative decision pursuant to A.R.S. § 12-901(2), whichever is later.

**B.** Within 5 days of the grievance being filed, the administrator shall assign a social worker to discuss the grievance with the resident or legal representative. Within 10 days of the grievance being filed with the administrator, the social worker shall investigate the matter, meet with the resident or legal representative, and attempt to resolve the grievance.

**C.** If the grievance is satisfied, the administrator shall send a letter to the resident or legal representative, within 20 days of the grievance being filed, documenting the satisfaction. The administrator shall obtain the resident's or legal representative's signature on the letter acknowledging the satisfaction and keep this letter with the grievance.
1. If the satisfaction is that the resident no longer disputes being discharged, the resident shall be discharged on a date agreed to in the letter of satisfaction between the administrator and the resident or legal representative, not to exceed 10 days from the date of the satisfaction letter.
2. If the satisfaction is that the discharge is no longer warranted, the letter of satisfaction shall state the reasons therefore and the pending discharge matter shall be closed.

**D.** If the grievance cannot be informally satisfied, the administrator shall notify the resident or legal representative, in writing within 30 days of the grievance being filed, of the administrator's decision regarding the grievance.

**E.** The resident or legal representative may file an appeal of the administrator's decision as set forth in R4-40-305(D). If an appeal is filed, the Commission shall proceed and a hearing shall be held as set forth in R4-40-305(E) and (F).

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**R4-40-703. Rehearing or Review of Commission's Decisions**
A rehearing or review of a Commission decision shall be in accordance with R4-40-306.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

**ARTICLE 8. RESIDENT TRUST FUND**

**R4-40-801. General Provisions**

**A.** If a resident or legal representative has ASVH manage the resident's finances, a written authorization shall be executed by ASVH's business manager and the resident or legal representative.
1. The resident or legal representative's written consent may be withdrawn at any time.
2. ASVH's managing of a resident's finances shall not be a condition of admission to or continued residence at ASVH.

**B.** ASVH shall maintain an interest-bearing account with a federally insured bank for each resident for whom ASVH manages finances.
1. The administrator or business manager shall keep written receipts of each resident's deposits, withdrawals, and expenditures.
2. The administrator or business manager shall provide the resident or legal representative with a monthly statement accurately reflecting deposits, withdrawals, disbursements, interest, and current balances.
3. Residents' finances and funds shall be kept separate from each others' and from ASVH's.
4. All funds that have been entrusted to ASVH, less any amount owed for resident support or costs of care, shall be returned to the resident or legal representative within 30 days of the resident's discharge or the demand from the resident or legal representative, whichever is sooner. The administrators or business manager shall obtain a signed receipt from the resident or legal representative acknowledging that the resident's funds have been properly returned.
5. Within 30 days of a resident's death, all funds, less any amount owed for resident support or costs of care, and a resident's valuables that have been entrusted to ASVH shall be returned to the legal representative or to the executor or administrator of the resident's estate.

**Historical Note**
Adopted effective January 2, 1996 (Supp. 96-1).

Recodified

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 41. RECODIFIED**

*Title 4, Chapter 41, the rules of the Office of Tourism, has been recodified to Title 20, Chapter 3 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

Reserved

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 42. RESERVED**

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS

(Authority: A.R.S. § 32-3401 *et seq.*)

### ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of Sections R4-43-101 through R4-43-103, adopted effective October 14, 1992 (Supp. 92-4).*

*Article 1, consisting of Sections R4-43-101 through R4-43-103, adopted again by emergency action effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 1, consisting of Sections R4-43-101 through R4-43-103, adopted again by emergency action effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 1, consisting of Sections R4-43-101 through R4-43-103, adopted again by emergency action effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

*Article 1, consisting of Sections R4-43-101 through R4-43-103, adopted by emergency action effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

Section

R4-43-101. Definitions
R4-43-102. Fees
R4-43-103. Service by the Board

### ARTICLE 2. LICENSURE

*Article 2, consisting of Sections R4-43-201 through R4-43-205, adopted effective October 14, 1992 (Supp. 92-4).*

*Article 2, consisting of Sections R4-43-201 through R4-43-204, adopted again by emergency action effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 2, consisting of Sections R4-43-201 through R4-43-204, adopted again by emergency action effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 2, consisting of Sections R4-43-201 through R4-43-204, adopted again by emergency action effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

*Article 2, consisting of Sections R4-43-201 through R4-43-204, adopted by emergency action effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

Section

R4-43-201. Initial Application
R4-43-202. Renewal of License
R4-43-203. Continuing Education for Renewal of License
R4-43-204. Inactive License
R4-43-205. Procedures for Processing License Applications
R4-43-206. Renumbered

### ARTICLE 3. HEARINGS

*Article 3, consisting of Sections R4-43-301 and R4-43-302, adopted effective October 14, 1992 (Supp. 92-4).*

*Article 3, consisting of Sections R4-43-301 and R4-43-302, adopted again by emergency action effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 3, consisting of Sections R4-43-301 and R4-43-302, adopted again by emergency action effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 3, consisting of Sections R4-43-301 and R4-43-302, adopted again by emergency action effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

*Article 3, consisting of Sections R4-43-301 and R4-43-302, adopted by emergency action effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

Section

R4-43-301. Hearing Procedures
R4-43-302. Rehearing or Review of Decision

### ARTICLE 4. REGULATORY PROVISIONS

*Article 4, consisting of Sections R4-43-401 through R4-43-406, adopted effective October 14, 1992 (Supp. 92-4).*

*Article 4, consisting of Sections R4-43-401 through R4-43-406, adopted again by emergency action effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 4, consisting of Sections R4-43-401 through R4-43-406, adopted again by emergency action effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 4, consisting of Sections R4-43-401 through R4-43-406, adopted again by emergency action effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

*Article 4, consisting of Sections R4-43-401 through R4-43-406, adopted by emergency action effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

Section

R4-43-401. Supervision of Occupational Therapy Assistants
R4-43-402. Supervision of Occupational Therapy Aides and Other Unlicensed Personnel
R4-43-403. Designation of Title
R4-43-404. Limited Permit Practice
R4-43-405. Display of License Certificate
R4-43-406. Change of Name or Address

### ARTICLE 1. GENERAL PROVISIONS

**R4-43-101. Definitions**

**A.** "Facility of Practice" means the principal location of each agency or organization for which the occupational therapist or occupational therapy assistant practices occupational therapy.

**B.** "Good Moral Character" means the person has not been convicted of a felony or a misdemeanor within 5 years prior to application and has never been convicted of a felony or misdemeanor involving moral turpitude.

**C.** "Health Care Professional" means any person who is certified as an Occupational Therapist or an Occupational Therapy Assistant by the American Occupational Therapy Certification Board or the National Board for Certification in Occupational Therapy, Incorporated or any health care professional duly licensed pursuant to A.R.S. Title 32 or the equivalent if licensed outside of Arizona.

**D.** "Immorality or misconduct that tends to discredit the occupational therapy profession" means:

1. Engaging in false advertising regarding occupational therapy services.
2. Engaging in assault and battery of a patient or client, or other person, with whom the licensee has a professional relationship.
3. Engaging in or attempting to falsify patient or client documentation or reports or intentionally making false reports.
4. Failing to provide appropriate supervision of occupa-

tional therapy assistants or unlicensed personnel practicing or performing occupational therapy.

5. Failing to provide a comprehensive occupational therapy service that is compatible with current research and within an ethical and professional framework or provide professional occupational therapy services based upon the evaluation of the patient or client needs and appropriate treatment procedures.
6. Failing or refusing to document or maintain adequate patient treatment records or prepare patient or client reports within 30 days of service or treatment.
7. Failing to renew a license while continuing to practice occupational therapy.
8. Falsely or fraudulently claiming to have performed a professional service, charging for a service, or representing a service as the licensees own when the licensee has not rendered the service or assumed supervisory responsibility for the service.
9. Obtaining a fee by fraud, misrepresentation, or offering to refer or referring a patient or client for a fee or other compensation from a 3rd party.
10. Sexually inappropriate conduct with a current client or patient or with a former client or patient within 6 months after the cessation or termination of treatment.
11. Signing a blank undated or unprepared prescription form.
12. Using fraud, misrepresentation, or deception in assisting another person to obtain or attempt to obtain an occupational therapist or occupational therapy assistant license.
13. Violation of any federal or state law or administrative rules and regulations applicable to the practice of occupational therapy.
14. Violating the rules and statutes involving the training of unlicensed personnel assisting with the practice of occupational therapy or requiring an unlicensed person to provide occupational therapy services for which they have not been trained.

**E.** "Licensee" means a person licensed in Arizona as an occupational therapist or an occupational therapy assistant.

**F.** "Occupational therapy aide," "unlicensed personnel," and "occupational therapy technician" mean a person who is not a licensed occupational therapist or occupational therapy assistant, who works under the direct supervision of a licensed occupational therapist, and assists in the practice of occupational therapy. The person's activities may require an understanding of occupational therapy, but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

**G.** "Physically Present" means personally present to observe the practice of occupational therapy.

**H.** "Premise" means the building and the surrounding property in which the occupational therapy is practiced.

**I.** "Person" means the same as in A.R.S. § 41-1001.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended effective November 6, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-102. Fees**

**A.** The Board shall charge the following fees:

1. An applicant for licensure:
   a. Application fee: $100. This fee is in addition to the initial license fee.
   b. Limited permit fee: $35. Upon full licensure, the Board shall subtract $35 from the initial licensure fee.
2. A licensee:
   a. Reinstatement fee: $75. This reinstatement fee is in addition to the appropriate license renewal fee.
   b. Duplicate license fee: $10.
3. An occupational therapist:
   a. Initial license fee: $135.
   b. Renewal license fee: $135.
   c. Inactive status renewal fee: $25.
4. An occupational therapy assistant:
   a. Initial license fee: $70.
   b. Renewal license fee: $70.
   c. Inactive status renewal fee: $15.

**B.** All fees set forth in subsection (A) are nonrefundable except as provided in A.R.S. § 41-1077.

1. Initial application, initial licensure, limited permit, and returned or insufficient fund replacement checks shall be remitted in cash, cashier's check, or money order.
2. Renewal, duplicate license, and reinstatement fees shall be remitted in cash, cashier's check, money order, or personal check.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-103. Service by the Board**

Pursuant to A.R.S. § 41-1063(A), service may be made by, for and on behalf of the Board of any decision, order, subpoena, notice or other process by personal service or by mailing a copy by certified mail. Service by certified mail shall be made to the last address of record filed with the Board. Service upon an attorney who has appeared on behalf of a party constitutes service upon the party. If service is by certified mail, service is complete upon deposit in the United States mail.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90

days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4).

## ARTICLE 2. LICENSURE

### R4-43-201. Initial Application

**A.** An applicant for an initial license to practice as an occupational therapist or an occupational therapy assistant shall submit an application form provided by the Board to the Board's office. The application and all supporting documentation shall be received by the Board at least 7 days before a Board meeting to be considered at that Board meeting.

**B.** The initial application form shall be signed by an applicant and include the following information on the applicant:
1. Applicant's last name, 1st name, and middle name;
2. How applicant's name is to be shown on the licensure certificate;
3. Other names used;
4. Social security number;
5. Residence address;
6. Alternate mailing address if the residential address is to remain confidential;
7. The type of license for which applying;
8. The amount of the application and license fee to be submitted;
9. Applicant's American Occupational Therapy Certification Board or National Board for Certification in Occupational Therapy, Inc. certification number, date of certification, and the number of times the applicant has taken the national examination;
10. Education;
11. Professional experience, field work, or both within the last 5 years;
12. Employer's name, address, and telephone number;
13. Current and previous occupational therapy or other professional license or certification numbers from other states and foreign countries and the status of the license or certification;
14. Current and previous disciplinary actions;
15. Affidavit of applicant.

**C.** An applicant shall submit or cause to be submitted on the applicant's behalf the following:
1. Application fee;
2. Written verification received from:
   a. The National Board For Certification In Occupational Therapy, Incorporated or the American Occupational Therapy Certification Board of a passing score on the examination administered by these entities; or
   b. Certified letters of good standing issued by each state that has previously issued the applicant an occupational therapy license, provided at least 1 of the states requires standards for licensure equivalent to the requirements for licensure in this Chapter and A.R.S. §§ 32-3401 et seq.
3. Recommendation of good moral character from 2 health care professionals on a form that shall include the following:
   a. Applicant's last name, 1st name, and middle initial, and other names used by applicant;
   b. Applicant's mailing address;
   c. Applicant's American Occupational Therapy Certification Board or the National Board For Certification In Occupational Therapy certification number;
   d. Period of time the health care professional has known the applicant;
   e. Period of time the health care professional has worked with the applicant;
   f. A statement that the health care professional considers the applicant to be of good moral character;
   g. Address, city, state, and zip code where the health care professional worked with the applicant;
   h. A description of the professional relationship or professional experience with the applicant and why the health care professional recommends the applicant for an occupational therapy license;
   i. Name, address, and telephone number of the health care professional;
   j. The professional license or certification number and issuing agency of the health care professional;
   k. The health care professional's signature and date.

**D.** An applicant applying for a limited permit shall submit the application and information listed in subsections (B), (C), and this subsection. An Arizona licensed occupational therapist assuming the professional and legal responsibility for supervision of a limited permit applicant shall complete and sign a Direct Supervision Agreement for a Limited Permit form with the Board. The occupational therapist shall file the Direct Supervision Agreement for a Limited Permit form with the Board before the Board shall issue a limited permit. The Direct Supervision Agreement for a Limited Permit form shall contain the following:
1. Applicant's last name, 1st name, middle name, and other names used by the applicant;
2. Date the form is completed and signed by the supervising occupational therapist;
3. Name of the supervising occupational therapist;
4. Arizona license number of the supervising occupational therapist;
5. Limited permittee's employment address;
6. Supervisor's mailing address;
7. Supervisor's employment address and employment telephone number;
8. Description of supervision;
9. Signature of the supervising occupational therapist.

**E.** The Board shall retain the application and documents filed in support of the application.

**F.** If the Board denies an application, the applicant may, within 30 days of service of the notice of denial, make a written request for a hearing to review the Board's decision. The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Article 10.

**G.** In a hearing conducted on a denial of a license, the applicant has the burden of proof.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

### R4-43-202. Renewal of License

**A.** A licensee shall renew a license by submitting to the Board a renewal application, proof of completion of the continuing

education requirements in R4-43-203, and paying the renewal fee within 2 years of initial licensure or last license renewal date.

**B.** The renewal application form provided by the Board shall include the following:
1. Applicant's last name, first name, middle initial, and other names used by the applicant;
2. How applicant's name is to be shown on the renewal license;
3. Residence address;
4. Alternate mailing address if the residential address is to remain confidential;
5. Current Arizona Board of Occupational Therapy Examiners license number;
6. Type of renewal license for which applying;
7. The amount of the renewal fee;
8. Disciplinary actions since initial licensure;
9. Hours and titles of continuing education completed;
10. Total hours of continuing education completed;
11. Social security number;
12. Employer's name, address, and telephone number;
13. Signature and date.

**C.** Unless otherwise required by A.R.S. § 32-3202, a license that is not renewed within 2 years of the date of issuance expires by operation of law. A licensee may reinstate within 180 calendar days of the expiration date upon payment of the required renewal fee, a reinstatement fee under R4-43-102(A)(2)(a) and submittal of proof of completion of the continuing education requirements in R4-43-203.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Former Section R4-43-202 repealed; new Section R4-43-202 renumbered from R4-43-203 and amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-203. Continuing Education for Renewal of License**

**A.** A licensee shall complete continuing education for renewal of a license as follows:
1. Occupational Therapist, 20 clock-hours for renewal of a 2-year license; and
2. Occupational Therapy Assistant, 12 clock-hours for renewal of a 2-year license.

**B.** A licensee shall complete the continuing education clock hours in subsection (A) within the 2-year period before the date the licensee's license expires, or if requesting a return to active status license, within the 2-year period before the date the licensee submits the return to active status request to the Board.

**C.** Continuing education shall contribute to professional competency and the practice of occupational therapy. The Board shall determine if continuing education hours contribute directly to the professional competency and if the continued education hours relate to the clinical practice of occupational therapy.

**D.** A licensee may fulfill the licensee's continuing education requirement by completing any of the following:
1. A professional workshop, seminar, or conference and submitting proof of attendance as follows:
   a. The American and Arizona Occupational Therapy Association's original check-in sheet displaying the organization's name, official stamp, hours, and licensee's name; or
   b. Photocopy of a signed certificate or letter issued by the sponsoring organization or instructor displaying the clock-hours, date of attendance, name of the workshop, seminar, or conference, licensee's name, and information necessary to contact the sponsoring organization or instructor for verification of attendance;
2. Self-study or formal study through course work and submitting a photocopy of a signed certificate or letter issued by the sponsoring organization or instructor displaying the clock hours, dates of attendance, name of the study or course work, licensee's name, and information necessary to contact the sponsoring organization or instructor for verification of attendance;
3. Viewing a taped video presentation and submitting a photocopy of a signed certificate or letter issued by the sponsoring organization or instructor displaying the clock-hours, dates of attendance, name of the study or course work, licensee's name, and information necessary to contact the sponsoring organization or instructor for verification of attendance;
4. Undergraduate, graduate college, or university course work of a grade "C" or better and submitting a course completion notification sheet and a statement describing how the course extends the licensee's professional skill and knowledge;
5. Publishing:
   a. A book, for a maximum credit of 10 clock-hours, and submitting a copy of the book;
   b. An article, for a maximum credit of 4 clock-hours, and submitting a copy of the article;
   c. A chapter of a book, for a maximum of 5 clock-hours, and submitting a copy of the chapter or book;
   d. A film, for a maximum of 6 clock-hours, and submitting a copy of the film; or
   e. A videotape, for a maximum of 6 clock-hours, and submitting a copy of videotape;
6. Presenting a program, workshop, seminar, or conference of not less than 1.5 hours in duration for a maximum of 4 clock-hours and submitting a brochure, agenda, or similar printed material describing:
   a. The content of the presentation, workshop, seminar, or conference;
   b. The date, duration, and location of the presentation conference, workshop, or seminar; and
   c. The name of the presenting licensee or a signed certificate or letter from the program organizer if other than the presenting licensee; or
7. In-service training related to clinical occupational therapy services excluding safety, fire evacuation, and cardiopulmonary resuscitation (CPR), for a maximum of 4 clock-hours and submitting:
   a. A letter from the supervising occupational therapist or other immediate supervisor; and
   b. A licensee's statement consisting of:
      i. Specific topics,
      ii. Presenters,
      iii. Dates,
      iv. Times,
      v. Location, and

vi. How the training or in-service relates to the clinical practice of occupational therapy or contributes to professional competency.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Former Section R4-43-203 renumbered to R4-43-202; new Section R4-43-203 renumbered from R4-43-204 and amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-204. Inactive License**

**A.** A licensee may transfer an active license into inactive status if the licensee's license is current and in good standing.

**B.** The licensee shall not practice during the time the license is inactive.

**C.** A licensee may renew or reactivate an inactive license by:
1. Submitting a renewal application under R4-43-202;
2. Paying the licensure renewal fee under R4-43-102 or, if reactivating an inactive license, paying the renewal fee less the last inactive status fee paid by the applicant; and
3. Meeting the continuing education requirements under R4-43-203.

**Historical Note**

R4-43-204 adopted by emergency effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Section R4-43-204 adopted by emergency action permanently adopted as R4-43-205, new Section R4-43-204 adopted effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Amended effective December 5, 1997 (Supp. 97-4). Former Section R4-43-204 renumbered to R4-43-203; new Section R4-43-204 renumbered from R4-43-205 and amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-205. Procedures for Processing License Applications**

**A.** Initial application for a license or permit.
1. Within 60 calendar days after receipt of an initial application for a license or permit, the Board shall perform an administrative completeness review and notify the applicant in writing that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what documentation or information is missing.
2. If the Board has notified an applicant that an application is incomplete within the 60-day administrative completeness review time-frame, the time-frame is suspended from the date of the notice.
3. An applicant with an incomplete application shall submit all missing documentation and information within 60 days from the date of the notice. If the applicant fails to do so for an initial license or permit, the Board may close the applicant's file. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
4. Except for a limited permit application, an application is not complete until the applicant has fully complied with the application requirements of A.R.S Title 32, Chapter 34 and this Article. A limited permit application is complete when the Board receives all of the information required in R4-43-201(D) except for the exam score in R4-43-201(C)(2)(a).
5. If an applicant for an initial license or permit cannot submit all missing documentation or information within 60 days from the date of the notice, the applicant may request an extension by submitting a written request to the Board post marked or delivered not later than 60 days from the date of the notice. The written request for an extension shall explain the reasons for the applicant's inability to meet the 60-day deadline.
6. Under A.R.S. § 32-3403(A), the Executive Director's duties shall include review of requests for an extension. The Executive Director shall grant an extension request, if the extension will enable the applicant to submit the missing documentation or information, but shall not grant an extension of more than 60 days. The Executive Director shall notify the applicant in writing of the decision to grant or deny the request for an extension.
7. If the applicant fails to submit all missing documentation and information within the extension period, the Board may close the applicant's file. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
8. After receipt of all missing documentation or information within the administrative completeness time-frame specified in this Section, the Board shall notify the applicant in writing that the application is complete.
9. The Board shall perform the substantive review and issue or deny the license or permit no later than 60 days after receipt of a complete application. For this subsection, the date of receipt is the date of the notice advising the applicant that the application is complete.

**B.** Renewal license application, request to transfer into inactive status, or application to return to active status.
1. Within 60 calendar days after receipt of an application described in subsection (B)(2), the Board shall perform an administrative completeness review and notify the applicant in writing that the application is complete or incomplete.
2. The following applications are governed by this subsection:
   a. A renewal license application;
   b. A request to transfer into inactive status by a licensee with an unexpired license; and
   c. A renewal application to return to active status.
3. If the Board has notified an applicant that an application is incomplete within the 60-day administrative completeness review time-frame, the time-frame is suspended from the date of the notice.
4. An application is not complete until the applicant has fully complied with all of the application requirements of A.R.S. Title 32, Chapter 34 and this Article.
5. After receipt of all missing documentation and information within the administrative completeness time-frame

specified in this Section, the Board shall notify the applicant that the application is complete.

6. The substantive review time-frame runs from the date of the Board's notice advising the applicant that the application is complete until the Board grants or denies the renewal or transfer. The substantive review time-frame is 60 days.
7. A timely submittal renewal application causes the license to remain in effect until further notice by the Board.
8. If a licensee fails to submit a renewal application before the expiration date, the applicant may seek reinstatement under R4-43-202(C) if applicable or reapply under R4-43-201.

**C.** For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for any license or permit it issues:

1. Administrative completeness review time-frame: 60 days.
2. Substantive review time-frame: 60 days.
3. Overall time frame: 120 days.

**Historical Note**

R4-43-204 adopted by emergency effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Former R4-43-204 now adopted as R4-43-205 effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Former Section R4-43-205 renumbered to R4-43-204; new Section R4-43-205 renumbered from R4-43-206 and amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-206. Renumbered**

**Historical Note**

Adopted effective October 21, 1997 (Supp. 97-4). Section R4-43-206 renumbered to R4-43-205 by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

## ARTICLE 3. HEARINGS

**R4-43-301. Hearing Procedures**

The Board shall conduct all hearings held under A.R.S. § 32-3442 et seq. in accordance with A.R.S. Title 41, Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted without change effective October 14, 1992 (Supp. 92-4). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-302. Rehearing or Review of Decision**

**A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and rules established by the Office of Administrative Hearings.

**B.** A party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.

**C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.

**D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:

1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
2. Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
5. Excessive penalty;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
7. That the Board's decision is a result of passion or prejudice; or
8. That the findings of fact or decision is not justified by the evidence or is contrary to law.

**E**. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).

**G.** Not later that 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.

**H.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.

**I.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and:

1. A ruling on the motion will further administrative convenience, expedition, or economy; or
2. A ruling on the motion will avoid undue prejudice to any party.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8,

1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended by final rulemaking at 5 A.A.R. 1614, effective May 6, 1999 (Supp. 99-2).

## ARTICLE 4. REGULATORY PROVISIONS

### R4-43-401. Supervision of Occupational Therapy Assistants

**A.** The occupational therapist shall be responsible for the supervision of the occupational therapy assistant and the treatment of the patient. The supervising therapist need not be physically present or on the premises at all times when the occupational therapy assistant is performing the service. When the supervising therapist is not physically present, the supervising therapist must be available for telephonic consultation.

**B.** The occupational therapist shall be responsible for the evaluation of the patient and development of the patient's treatment plan. The occupational therapy assistant may contribute information from observations and standardized test procedures to the evaluation and the treatment plans.

**C.** The supervising occupational therapist shall determine the mode and extent of the communication between the supervising occupational therapist and the occupational therapy assistant. This determination shall be based on the competency and level of experience of the occupational therapy assistant and the patient's diagnosis and condition. At a minimum, every 30 days the occupational therapist and occupational therapy assistant shall meet and review:

1. Patient's progress,
2. Treatment rendered,
3. Treatment plan.

**D.** The occupational therapist is responsible for maintaining written records documenting the meeting and the items discussed between the licensed occupational therapist and the occupational therapy assistant.

**E.** At a minimum, every 30 days, the occupational therapist shall observe re-assess the patient's performance and make necessary modification to the treatment plan as needed when patient treatment has been delegated to an occupational therapy assistant.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4).

### R4-43-402. Supervision of Occupational Therapy Aides and Other Unlicensed Personnel

**A.** The occupational therapist shall be responsible for the on-the-job training and supervision of the occupational therapy aide and any other unlicensed personnel. Written records shall be maintained of the on-the-job training and specific duties that have been delegated to the occupational therapy aide by the supervising occupational therapist.

**B.** The occupational therapist is responsible for and may delegate specific occupational therapy-related tasks to an occupational therapy aide. The supervising occupational therapist shall provide initial direction and periodic inspection of the tasks being performed. The nature of the tasks shall be limited to duties that support treatment, including transportation, preparation of materials, setup of equipment, arrangement of therapy schedules and aiding the occupational therapist or certified occupational therapy assistant who is actively providing individual or group treatment.

**C.** The supervising occupational therapist shall be on the premise during any patient-related activity performed by unlicensed personnel. The supervising occupational therapist shall remain in that part of the premise where any occupational therapy-related activity is being conducted by unlicensed personnel. The supervising occupational therapist shall be available to provide direction and supervision to the aide and other unlicensed personnel at all times. The supervision of unlicensed personnel shall be daily and periodic throughout the day.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4).

### R4-43-403. Designation of Title

On official patient records or third-party reimbursement forms, title shall be designated as follows:

1. A person who is practicing under a limited permit shall use the term "limited permit" following his or her name.
2. The occupational therapist supervisor of an occupational therapy aide shall require the aide to use the abbreviation of "OT Aide".

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted without change effective October 14, 1992 (Supp. 92-4).

### R4-43-404. Limited Permit Practice

**A.** Any change or addition of a supervising occupational therapist requires the filing of a new Direct Supervision Agreement for a Limited Permit form by the supervisor under R4-43-201(D). The supervisor shall submit the Direct Supervision Agreement for a Limited Permit form within 7 days of any change or addition of a supervising occupational therapist.

**B.** The supervising occupational therapist shall co-sign all patient records documenting patient treatment and progress.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8,

1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-405. Display of License Certificate**

Each licensee shall display a current license certificate issued by the Board in a prominent place in each facility of practice. A licensee may use a copy of the license certificate to satisfy this requirement.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 8, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

**R4-43-406. Change of Name or Address**

**A.** A licensee shall notify the Board in writing within 30 days of a legal name change. A copy of the official document evidencing the name change shall be included. The Board shall issue a duplicate license certificate reflecting the name change.

**B.** A licensee shall notify the Board in writing within 30 days of a change in mailing address.

**Historical Note**

Emergency rule adopted effective December 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 11, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective June 5, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted without change effective October 14, 1992 (Supp. 92-4). Amended effective September 15, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1427, effective April 22, 1999 (Supp. 99-2).

# TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

## CHAPTER 44. AUDITOR GENERAL

(Authority: A.R.S. § 41-1279.01 et seq.)

### ARTICLE 1. SUSPENSION AND DEBARMENT OF CONTRACTORS PROVIDING SCHOOL DISTRICT AUDIT SERVICES; DISAPPROVAL OF CONTRACTS

R4-44-101. Definitions
R4-44-102. Parties
R4-44-103. Hearing Officer
R4-44-104. Cause for Suspension or Debarment
R4-44-105. Notice of Hearing and Response
R4-44-106. Service
R4-44-107. Form of Documents; Motions
R4-44-108. Continuances; Extensions of Time
R4-44-109. Stipulations
R4 44-110. Prehearing Statements
R4-44-111. Hearing Procedures
R4-44-112. Recording; Transcript
R4-44-113. Decision
R4-44-114. Period of Suspension or Debarment
R4-44-115. Rehearing
R4-44-116. Reinstatement
R4-44-117. Disapproval of Contracts

### ARTICLE 1. SUSPENSION AND DEBARMENT OF CONTRACTORS PROVIDING SCHOOL DISTRICT AUDIT SERVICES; DISAPPROVAL OF CONTRACTS

**R4-44-101. Definitions**

The following definitions shall apply throughout these rules except as otherwise required by the context or except as otherwise defined by statute:

1. "Affiliate" means a person controlling, controlled by, or under common control with another person.
2. "Auditor General" means the person designated pursuant to A.R.S. § 41-1279.01(A) to act as Auditor General.
3. "Contractor" means the person or entity who contracts with a school district to provide audit services.
4. "Debarment" means a decision to preclude or prohibit a person from offering a bid or proposal for school district audit services for a period not to exceed three years.
5. "Decision" means a written determination by the Auditor General which is signed by the Auditor General.
6. "Person" means a corporation, company, partnership, firm, association, or society, as well as a natural person.
7. "Suspension" means a decision to preclude or prohibit a person from offering a bid or proposal for school district audit services for a period not to exceed one year.

**Historical Note**

Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-102. Parties**

In any hearing, the parties include all persons named in the notice of hearing including the Auditor General, a contractor, and all persons properly admitted as intervenors. All parties are bound by the decisions of the Auditor General relating to the hearing.

**Historical Note**

Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-103. Hearing Officer**

The hearing officer appointed by the Auditor General may make findings of fact and conclusions of law and recommend that the Auditor General make certain orders after the hearing officer has heard all of the evidence. In addition, the hearing officer may make all determinations on procedural matters in the course of the hearing or rehearing.

**Historical Note**

Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-104. Cause for Suspension or Debarment**

The causes for suspension or debarment include the following:

1. Conviction of any person or affiliate of such person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract.
2. Conviction of any person or affiliate of such person under any statute of the federal government, this state, or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty.
3. Conviction or civil judgment finding a violation by any person or affiliate of any such person under state or federal antitrust statutes.
4. Violations of material contract provisions including but not limited to failure to perform or negligent performance of any term or standard of one or more school district audit services contracts. The failure to perform caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment.
5. Any other cause deemed to affect the ability to perform as a contractor, including suspension or debarment of such person or any affiliate of such person by another state agency or political subdivision.

**Historical Note**

Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-105. Notice of Hearing and Response**

**A.** If the Auditor General believes that cause exists to suspend or debar a contractor, the Auditor General shall notify the contractor in writing of such basis or cause and set the date, time, and place for hearing.

**B.** The contractor shall file a response to the assertions contained in the notice of hearing. The response shall be in writing and shall be filed with the Auditor General within 20 days after service of the notice upon the contractor. If the notice is amended any time subsequent to service of the notice, the contractor may be required to answer the amended assertions within a reasonable time.

**C.** A response filed under this rule shall briefly state the position or defenses of the responding contractor and shall specifically admit or deny each of the assertions contained in the notice. If the responding contractor is without or is unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, the contractor shall so state and this shall have the effect of a denial. Any assertion not denied shall be deemed to be admitted.

**D.** If a contractor fails to file a response within the time provided, the assertions contained in the notice of hearing shall be deemed to be admitted.

**Historical Note**

Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-106. Service**

**A.** All notices and documents required to be served by the Auditor General and all documents filed by any contractor may be served by mail or by delivery in person. Service of any document shall be deemed complete when a true copy is deposited in the United States mail with first class postage prepaid, addressed to addressee of record, or upon personal delivery to the contractor. Service upon an attorney or agent who has appeared on behalf of the Auditor General or on behalf of a contractor shall constitute service upon the Auditor General or upon the contractor on whose behalf the particular attorney or agent has appeared.

**B.** Copies of all papers or documents filed shall be served on the hearing officer, if any, and upon the contractor. The Auditor General may require a copy of any document to be served upon any other persons or entities. Proof of service may be made by affidavit of the person making service, or by written acceptance of the service by the person upon whom the document is served. An original and one legible copy of all documents shall be filed with the Auditor General.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-107. Form of Documents; Motions**

**A.** All papers filed with the Auditor General in any matter pertaining to the hearing shall be typewritten or legibly written on paper no larger than 8 1/2 by 11 inches, shall contain the name and address of the party or other correspondent, shall designate the title and docket number, if any, shall state the name and address of each person or entity served with a copy, shall be properly captioned, and shall be signed by the individual or entity filing it or by at least one attorney who represents the entity or individual. The signature certifies that the signer has read the paper, that to the best of the signer's knowledge, information, and belief, there is good ground to support its contents and that it is not interposed for delay.

**B.** A motion for an order shall be made in writing stating the grounds with particularity and setting forth the relief sought except that a motion made during a hearing need not be in writing. All motions made prior to hearing shall be served upon all parties who shall have 10 days after service of the motion to respond except in the case of unforeseeable circumstances or emergency, in which case the motion shall be heard as soon as practicable after the motion has been served on the other parties. If any party to the hearing fails to timely respond or any party fails to appear at oral argument of the motion, if any, the Auditor General or the hearing officer may dispose of the motion summarily. Any party may request oral argument on any motion or the Auditor General or the hearing officer may require oral argument.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-108. Continuances; Extensions of Time**

**A.** A continuance or postponement of the time for filing any response required by these rules or of any hearing may be granted, in the interests of justice, by the Auditor General or the hearing officer upon application in writing or upon stipulation between the Auditor General and all other parties.

**B.** Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper and the notice or paper is served by mail, five days shall be added to the prescribed period.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-109. Stipulations**

Parties to any proceeding may by written stipulation agree upon any matter involved in the proceeding. If approved by the Auditor General or the hearing officer, the stipulation shall be binding upon all parties to the proceeding or as between the parties stipulating. Notwithstanding the foregoing, the Auditor General or the hearing officer may require presentation of evidence for proof of stipulated facts.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4 44-110. Prehearing Statements**

**A.** Not less than two days before hearing, each party shall insure that the Auditor General or the designated hearing officer has received a prehearing statement which shall be so designated and which shall set forth with specificity the following:
1. A list of all exhibits and witnesses to be used at the hearing; and
2. A list of the issues of law and fact which the party submitting the prehearing statement believes to be material.

**B.** No other exhibits or witnesses shall be used during the hearing other than those listed and exchanged, except for good cause shown or for impeachment purposes.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-111. Hearing Procedures**

**A.** A hearing for suspension or debarment is a contested case as defined by A.R.S. § 41-1001(3), and the provisions of A.R.S. Title 41, Chapter 6, Article 6 (A.R.S. § 41-1061 et seq.) apply to those cases.

**B.** The hearing officer may:
1. Hold prehearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
2. Require parties to state their positions concerning the various issues in the proceeding;
3. Require parties to produce for examination those relevant witnesses and documents under their control;
4. Rule on motions and other procedural items on matters pending before such officer;
5. Regulate the course of the hearing and conduct of participants;
6. Establish time limits for submission of motions or memoranda;
7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
   a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
   b. Excluding all testimony of an unresponsive or evasive witness; and
   c. Expelling a person from further participation in the hearing;
9. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
10. Administer oaths or affirmations.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-112. Recording; Transcript**

All hearings before the Auditor General or a hearing officer shall be mechanically recorded or stenographically reported. Nothing contained herein shall be construed as prohibiting or limiting any person from mechanically recording the proceedings or having them stenographically reported. However, the official record of the proceeding shall be that which is designated by the Auditor General. The cost of the reporter, if any, and the transcript shall be paid by the party making the request unless assessment of the cost is waived by the Auditor General.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-113. Decision**

**A.** The decision shall:
1. Be in writing;
2. State separately the findings of fact and conclusions of law and the order of the Auditor General and the effective period of the action; and
3. Be served on the parties.

**B.** A decision shall be effective on the date signed by the Auditor General.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-114. Period of Suspension or Debarment**

**A.** The period of time for a suspension shall not exceed one year from the date of the decision.

**B.** The period of time for a debarment shall not exceed three years from the date of the decision.

**C.** If suspension or debarment is based solely upon suspension or debarment by another governmental agency, the period of suspension or debarment may run concurrently with the period established by that other suspending or debarring agency.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-115. Rehearing**

**A.** Any party aggrieved by a decision rendered by the Auditor General may file with the Auditor General or the hearing officer, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor.

**B.** A motion to alter or amend a decision or order shall be filed not later than 15 days after service of the decision.

**C.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Auditor General.

**D.** A response, if any, shall be filed and served within ten days after service of such motion.

**E.** The Auditor General or the hearing officer may require the filing of written memoranda upon the issues raised in the motion and may provide for oral argument.

**F.** Any argument not raised in the request or in the response is waived.

**G.** Rehearing of the decision may be granted for any of the reasons materially affecting the moving party's rights:
1. Irregularity in the proceedings before the Auditor General or hearing officer or an abuse of discretion by the Auditor General or hearing officer, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Auditor General, staff or hearing officer, or the prevailing parties;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing; or
5. A showing that the decision was not justified by the evidence or is contrary to law.

**H.** An order granting rehearing shall specify with particularity the grounds on which the rehearing is granted and the rehearing shall cover only those matters so specified.

**I.** The Auditor General or the hearing officer, within the time for filing a request for rehearing under this rule, may order a rehearing of the decision for any reason for which a rehearing might have been granted on application of a party.

**J.** The Auditor General or the hearing officer may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth above.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-116. Reinstatement**

**A.** The Auditor General may, at any time after a final decision on a suspension or debarment, reinstate a contractor or rescind the decision upon a determination that the cause upon which the suspension or debarment is based no longer exists or has been substantially mitigated.

**B.** Any suspended or debarred person may request reinstatement by submitting a petition to the Auditor General supported by documentary evidence showing that the cause for suspension or debarment no longer exists or has been substantially mitigated.

**C.** The Auditor General may require a hearing on the request for reinstatement.

**D.** The decision on reinstatement shall be in writing, be made within 30 days after the request is filed or, if there is a hearing, 30 days after hearing, and specify the factors on which it is based.

**E.** Decisions on reinstatement requests are not subject to judicial appeal.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

**R4-44-117. Disapproval of Contracts**

**A.** The Auditor General may disapprove a contract for the same causes provided for in R4-44-104.

**B.** The Auditor General may disapprove a contract if the contract does not contain a provision to the following effect: "The audit shall be conducted in accordance with generally accepted auditing standards, *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget Circular A-128, *Audits of State and Local Governments*."

**C.** A decision to disapprove a contract shall be in writing and shall state the cause or reasons for the disapproval. The disapproval shall be sent to the school district.

**Historical Note**
Adopted effective July 23, 1993 (Supp. 93-3).

# TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS

# CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS

(Authority A.R.S. § 32-3504 et seq.)

## ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of Sections R4-45-101 through R-45-104, adopted effective September 12, 1996 (Supp. 96-3).*

Section
R4-45-101. Definitions
R4-45-102. Fees
R4-45-103. Service by the Board
R4-45-104. Change of Name or Address

## ARTICLE 2. LICENSURE

*Article 2, consisting of Sections R4-45-201 through R-45-214, adopted effective September 12, 1996 (Supp. 96-3).*

Section
R4-45-201. Application
R4-45-202. Minimum Standards Curriculum
R4-45-203. Examinations
R4-45-204. Application Based on Foreign Training
R4-45-205. Application Based on Licensure by Another State
R4-45-206. Licensure Based on Organizational Registration or Certification
R4-45-207. Renewal
R4-45-208. Continuing Education Requirements
R4-45-209. Approved Continuing Education Programs
R4-45-210. Criteria for Approved Continuing Education Courses and Programs
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## ARTICLE 3. HEARINGS

*Article 2, consisting of Sections R4-45-301 and R-45-302, adopted effective September 12, 1996 (Supp. 96-3).*

Section
R4-45-301. Hearing Procedures
R4-45-302. Rehearing or Review of Decision

## ARTICLE 1. GENERAL PROVISIONS

### R4-45-101. Definitions

In addition to the definitions in A.R.S. § 32-3501, in this Chapter, unless otherwise specified:

1. "ACLS" means Advanced Cardiac Life Support Protocols.
2. "Applicant" means an individual who meets the qualifications of A.R.S. § 32-3523 and applies for licensure under A.R.S. § 32-3522.
3. "Approved continuing education" means a planned course or program that the Board confirms meets the criteria in R4-45-210 or is qualified by the American Association for Respiratory Care or the Arizona Society for Respiratory Care.
4. "BLS" means Basic Life Support Protocols.
5. "CPR" means cardiopulmonary resuscitation.
6. "Contested case" means the same as defined in A.R.S. § 41-1001.
7. "Continuing education unit" or "CEU" means a segment of an approved continuing education course or program.
8. "Day" means calendar day.
9. "Direct supervision" means that a licensed respiratory care practitioner, or physician licensed under A.R.S Title 32, Chapters 13 or 17, is physically present at a work site and readily available to provide respiratory care to a patient or observe and direct the practice of a temporary licensee.
10. "Executive Director" means the officer employed by the Board to perform administrative and investigative functions.
11. "health professional", as defined in A.R.S. § 32-3201, means a licensee, in addition to the health professionals listed.
12. "Individual", as used in A.R.S. § 32-3521(B)(4), means only those persons listed with current, valid certifications, registrations, or licenses acting within the scope of their authorized practice.
13. "License" means the document issued by the Board to practice respiratory care in Arizona.
14. "License application package" means a license application form and any documents required to be submitted with the application.
15. "Licensee" means an individual who holds a current license issued under A.R.S. Title 32, Ch. 35.
16. "National Board for Respiratory Care, Inc." or "NBRC" means the national credentialing board for respiratory therapy.
17. "Party" means the same as the definition in A.R.S. § 41-1001.
18. "Pharmacological, diagnostic, and therapeutic agents", as used in A.R.S. § 32-3501(5), means medications that are aerosolized and given through artificial airways or through vascular access.
19. "Temporary license" means the document issued by the Board under A.R.S. § 32-3521 that allows an applicant to practice respiratory care under direct supervision before the Board issues the applicant a license.
20. "Verification of license" means a form the Board provides to an applicant to submit for completion to a state to confirm that the applicant currently holds or previously held a license, certification, or registration.
21. "Verification by a licensed respiratory therapist or respiratory therapy technician", as used in A.R.S. § 32-3521(B)((7) and (C), means a licensee's written confirmation, before equipment is delivered, that the equipment is consistent with the prescription and needs of the patient.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).
Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

### R4-45-102. Fees

**A.** The Board shall charge the following fees:

1. Application for a license, $100;
2. Application based on a diploma from a foreign respiratory therapy school, $150;

3. Initial license, $85;
4. Biennial renewal of a license, $85;
5. Renewal of a temporary license, $25;
6. Verifying an Arizona license to another state, $10;
7. Duplicate license or duplicate wallet license card, $10;
8. Copy of the Board's Respiratory Care Practitioner List compiled under A.R.S. § 32-3504(A)(7), $25;
9. Insufficient funds check submitted to the Board as payment of any fee, $25;
10. Fingerprint fee in the form of a certified check or money order, $36.

**B.** With the exception of the fingerprint fee specified in subsection (A)(10), all fees shall be remitted to the Board of Respiratory Examiners by personal check, cashier's check, or money order. All fees remitted to the Board are nonrefundable, except as provided in A.R.S. § 41-1077.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).
Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

**R4-45-103. Service by the Board**
Service of any decision, order, subpoena, notice, or other written process may be made by, for, or on behalf of the Board by personal service or by mailing a copy by certified mail. Service by certified mail shall be made to the address of record on file with the Board. Service upon an attorney who has appeared on behalf of a party constitutes service upon the party. If service is by certified mail, service is complete upon deposit in the United States mail.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-104. Change of Name or Address**

**A.** A licensee shall notify the Board in writing within 30 days after the licensee's name is legally changed. The notice shall include a notarized or certified copy of the official document evidencing the name change. At the time of notification, the licensee shall request a duplicate license in the new name and shall pay the fee prescribed in R4-45-102(A)(7).

**B.** A licensee shall notify the Board in writing within 10 days after a change in the licensee's address of record.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

## ARTICLE 2. LICENSURE

**R4-45-201. Application**

**A.** An applicant for a license to practice as a respiratory care practitioner shall submit the following information on a form furnished by the Board.
1. Applicant's full name and social security number;
2. Applicant's current mailing and permanent addresses;
3. Employer's name, address, and phone number;
4. Applicant's area of care or specialty;
5. Applicant's birth date;
6. Applicant's home and work phone numbers;
7. Any name by which the applicant has ever been known. The applicant shall submit documentation if the applicant is applying for licensure under a different name than that on the applicant's credentials, educational degree, or diploma;
8. A statement of the facts entitling the applicant to take an examination or to receive a license without examination under R4-45-206;
9. Name of any state or province in which the applicant has been granted a certification, registration, or license as a respiratory care practitioner; including certificate number, date issued, expiration date, and a statement whether that certificate, registration, or license has ever been the subject of discipline, censure, probation, practice restriction, suspension, revocation, or cancellation;
10. Whether the applicant has ever been denied a professional license or certificate by a governing licensing authority and, if the answer is yes, a complete explanation of the denial including date, state or province, and a copy of any order issued;
11. Whether the applicant is the subject of any pending disciplinary action that is directly or indirectly related to the practice of respiratory therapy and, if the answer is yes, a complete explanation, including date, state or province, and a copy of any order issued;
12. Whether the applicant has ever voluntarily surrendered a professional license and, if the answer is yes, a complete explanation, including dates, state or province, and a copy of any order issued;
13. Whether the applicant has ever filed an application for a respiratory care practitioner license in Arizona and, if the answer is yes, the date;
14. Whether the applicant has been enrolled in or committed to a substance abuse program (substance abuse includes alcohol) in the past 10 years and, if the answer is yes, a complete explanation, including date, place, and a copy of any documentation of completion of the program;
15. Omitting minor traffic violations (infractions), whether the applicant has ever been convicted of, pled no contest (nolo contendere) to, entered into any agreement concerning an arrest or charge (even if the agreement resulted in a dismissal or expungement), or has an outstanding arrest or charge for any violation of any law of any state of the United States, or a foreign country and, if the answer is yes, a complete explanation, including place, date, and a copy of any pertinent documentation such as court orders or plea agreements;
16. Whether the applicant has even had an intemperance to drugs or alcohol and, if the answer is yes, a complete explanation;
17. Applicant's physical description, including height, weight, eye and hair color;
18. Highest level of education completed by applicant;
19. Consistent with the Board's statutory authority, such other information or documentation as the Board may deem necessary to fully evaluate the applicant;
20. A record or documentation release and Applicant's sworn statement verifying the truthfulness of the information provided by the applicant and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules.

**B.** An applicant shall submit or have submitted on the applicant's behalf the following with the application form:
1. 2" by 2" color, bust photograph of applicant;
2. Photocopy of the applicant's diploma awarded upon successful completion of a respiratory therapy training program, or letter of completion from a respiratory therapy training program, that provides the date of the applicant's successful completion;
3. If NBRC-certified, a photocopy of the applicant's registration or certification issued by the NBRC;
4. A verification of license, completed, signed, and authenticated by seal or notarization by the board of each state in which the applicant holds or has held certification, licensure, or registration as a respiratory care practitioner;

5. If foreign-trained, the applicant shall cause the foreign respiratory therapy school to deliver to the Board certified copies of course transcripts as well as all information concerning the applicant's course of study and the applicant shall provide a photocopy of the applicant's diploma from a foreign respiratory therapy school;
6. The required fee;
7. A full set of fingerprints submitted on a card provided by the Board for a state and federal criminal background check along with a certified check or money order in the amount prescribed at R4-45-102(A)(10) as authorized at A.R.S. § 41-1008(C);
8. A photocopy of the applicant's NBRC CRTT exam results. The exam results in this subsection are not required for issuance of a temporary license under R4-45-213; and
9. The documents and information under R4-45-215(D). The documents and information in this subsection are not required for issuance of a temporary license under R4-45-213.

**C.** An applicant shall inform the Board in writing of any change in the applicant's address of record within 10 days from the date of change.

**D.** An applicant shall be a high school graduate or have obtained a General Equivalency Diploma (GED).

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).
Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

**R4-45-202. Minimum Standards Curriculum**
A training program for respiratory therapists or respiratory therapy technicians shall consist of a curriculum conforming to the requirements of the Essentials and Guidelines of an Accredited Education Program for the Respiratory Therapy Technician and Respiratory Therapist as adopted in 1962, and revised in 1986 (and no later amendments or editions) by the Joint Review Committee for Respiratory Therapy Education of the Commission on Accreditation of Allied Health Education Programs (CAAHEP), which is incorporated by this reference and on file with the Board and the Office of the Secretary of State.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-203. Examinations**

**A.** Except when a license may be issued without an examination pursuant to A.R.S. § 32-3524, an applicant shall pass a written examination for Certified Respiratory Therapy Technicians provided by the NBRC. The passing score shall be a scaled-score set by the NBRC.

**B.** An applicant shall inform the Board that the applicant passed the Certified Respiratory Therapy Technicians examination by of the following methods:
1. Forward a copy of either the examination results or certificate, or
2. Direct the NBRC to forward a copy of either the examination results or certificate.

**C.** The examination results or certificate shall be provided to the Board as soon as possible.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-204. Application Based on Foreign Training**
If an application for a license is based on a diploma from a respiratory therapy school located outside the United States, the applicant shall cause the school from which the diploma was issued to deliver to the Board certified copies of course transcripts and other information concerning the applicant's course of study sufficient to enable the Board to determine whether the course of study is equivalent to the Board's minimum standards.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-205. Application Based on Licensure By Another State**

**A.** If an application for a license is based on licensure by another state, the applicant shall cause the state that issued the license to deliver to the Board a certified copy of the license and a Verification of License regarding the status of applicant's license in that state.

**B.** An applicant shall cause the state in which the applicant is licensed to deliver to the Board either a copy of the results of the NBRC examination or a copy of an other examination administered to the applicant, the results of the other examination, and any information necessary to enable the Board to determine whether the other examination is equivalent to the NBRC examination.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-206. Licensure Based on Organizational Registration or Certification**
The Board shall issue a license to an applicant without examination if the applicant:
1. Is qualified pursuant to A.R.S. § 32-3523,
2. Files an application for licensure,
3. Satisfies the requirements prescribed in A.R.S. § 32-3524, and
4. Is registered as a respiratory therapist or certified as a respiratory therapy technician by the NBRC.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-207. Renewal**

**A.** A respiratory care practitioner's 1st license expires on the licensee's 2nd birthday following issuance of the license. Thereafter, a respiratory care practitioner's license expires every other year on the licensee's birthday. To apply for renewal of a license, a licensee shall complete a license renewal application form and:
1. Pay the renewal fee prescribed in R4-45-102(A)(4), and
2. Complete the required continuing education units.

**B.** The Board shall notify a licensee by mail at the licensee's address of record of:
1. Need to renew the licensee's license, and
2. Expiration of the licensee's license.

**C.** If an expired license is not renewed before 2 years from the date of expiration, an individual may obtain a new license only by applying as a new applicant.

**D.** Misrepresentation of information on the renewal application or of compliance in acquiring CEUs constitutes grounds for disciplinary action.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-208. Continuing Education Requirements**
Continuing education is required as a condition of licensure renewal.
1. A respiratory care practitioner shall acquire 20 CEUs during every 2-year licensure period. To renew a license, a respiratory care practitioner shall report compliance with the continuing education requirements. Documentation

showing evidence of compliance shall be submitted only if requested by the Board.

2. During the 1st licensure period, a licensee shall use the licensure issuance date as the beginning of the period in which the licensee is required to acquire CEUs. Licensees shall acquire 20 hours of CEUs before expiration of the 1st licensure period. Subsequent continuing education periods coincide with subsequent licensure periods.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-209. Approved Continuing Education Programs**

**A.** The Board shall accept for CEUs a course or program meeting the criteria set forth in R4-45-210. The Board shall have the authority to audit programs offering CEUs for compliance with the criteria.

**B.** Any course or program approved by the American Association for Respiratory Care or the Arizona Society for Respiratory Care shall be accepted by the Board for CEUs.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-210. Criteria for Approved Continuing Education Courses and Programs**

**A.** Approved continuing education courses and programs shall meet the following criteria:
1. The content of the course or program is relevant to the scope of practice of respiratory care as defined in A.R.S. § 32-3501(5), and
2. At least 2/3 of the course or program hours relate to clinical practice.

**B.** The nonclinical course or program hours may cover:
1. Activities relevant to specialized aspects of respiratory care, such as education, supervision, and management;
2. Health care cost containment or cost management;
3. Preventative health services and health promotion;
4. Required abuse reporting; and
5. Other subject matter required by statute or rule to be included in continuing education for licensed healing arts practitioners.

**C.** The faculty who provide the continuing education shall be knowledgeable in the course or program subject matter as evidenced by:
1. A degree from an accredited college or university and verifiable experience in the subject matter, or
2. Teaching and clinical experience in the same or similar subject matter.

**D.** A provider of continuing education that wishes to grant CEUs shall apply for approval. The application for approval shall include:
1. List of educational objectives;
2. Description of the teaching methods, for example: lecture, seminar, audio visual materials, or simulation;
3. Description of the manner in which participants will be involved in the learning activities; and
4. Names and qualifications of all faculty.

**E.** Course or program providers shall maintain a record of who attended each course or program for 3 years.

**F.** All course or program providers shall provide documentation to each participant that includes: participant's name and respiratory care practitioner license number, course or program title, number of CEUs, date or dates, and name and address of provider.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-211. Audit and Sanctions for Noncompliance**

**A.** The Board shall audit a random sample of licensees for compliance with the continuing education requirements. If documentation of compliance is incomplete, the licensee shall correct the deficiency. If the audit is conducted in conjunction with the license renewal, the licensee shall provide documentation proving compliance within 60 days of expiration of the licensee's license. If a licensee fails to submit documentation of compliance within this time, the Board shall revoke the licensee's renewed license and cause the renewal fee to be forfeited. The Board may audit all late renewals for compliance with continuing education requirements.

**B.** Licensees shall make documentation of compliance with the continuing education requirements available to the Board upon request.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-212. Waiver of Requirements**

At the time of making application for renewal of a license, a licensee may request a waiver from completion of the continuing education requirements. The Board shall grant a waiver only if the licensee verifies in writing that during the period immediately before expiration of the license, the licensee:
1. Resided in a country outside the United States for at least 1 year, reasonably preventing completion of continuing education requirements;
2. Was absent from Arizona for at least 1 year, reasonably preventing completion of the continuing education requirements; or
3. Was prevented from completing the continuing education requirements for reasons of health or other good cause including:
   a. Physical or mental disability of the licensee for at least 1 year, reasonably preventing completion of continuing education requirements; or
   b. Physical or mental disability of a member of the licensee's family for at least 1 year and the licensee had responsibility for the family member's care, preventing completion of the continuing education requirements.
4. A disability claimed under subsection (3) shall be verified in writing by a licensed physician or surgeon.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-213. Temporary Licensure**

**A.** The Board shall issue a temporary license, valid for 8 months, to an applicant only after a complete application, including all necessary documents and fees, is reviewed by the Board's Executive Director and the applicant is determined to be eligible to apply for a license pursuant to A.R.S. § 32-3523. An applicant who is issued a temporary license shall perform respiratory care services only under direct supervision. The temporary license may be renewed for an additional 120 days. An individual may receive only 1 8-month temporary license and 1 120-day temporary license renewal.

**B.** A temporary licensee who seeks renewal of a temporary license shall submit a request for renewal to the Board on a form prescribed by the Board.

**C.** The request for a renewed temporary license shall:
1. Include an address of record,
2. Be typed or written in black ink,
3. Be signed by the applicant, and
4. Be accompanied by the following:
   a. The service cost prescribed in R4-45-102(A)(5), and

b. A statement under oath that the temporary license has not expired and the temporary licensee is registered to take the next scheduled NBRC examination.

**D.** A temporary licensee who is unable to submit the statement described in subsection (C)(4)(b) may request an opportunity to explain this inability to the Board.

**E.** The Board shall administratively close an application if the applicant fails to apply for renewal of a temporary license within 60 days before expiration of the temporary license. An individual who wishes to be considered for licensure after the individual's file has been administratively closed shall reapply.

**F.** Reapplication does not qualify an individual for a 2nd temporary license. No individual shall receive more than 1 temporary license.

**G.** A temporary licensee is subject to disciplinary action by the Board pursuant to A.R.S. § 32-3553.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-214. Standards of Professional Conduct**
Conduct or practice that is contrary to recognized standards of ethics of the respiratory therapy profession, as used in A.R.S. § 32-3501(10)(i), includes the following:

1. Engaging in the practice of respiratory care in a manner that harms or may harm a patient or that the Board determines falls below the community standard;
2. Procuring or attempting by fraud or misrepresentation to procure a license or renewal of a license to practice respiratory care;
3. Violating a formal order, condition of probation, or stipulation issued by the Board;
4. Obtaining a fee by fraud, deceit, or misrepresentation;
5. Falsely claiming attendance at a continuing education course or program to meet license renewal requirements;
6. Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so;
7. Engaging in sexual intimacies with a patient;
8. Committing an act of sexual abuse, misconduct, harassment, or exploitation;
9. Acting in a manner that the Board determines, based on community standards, constitutes incompetence, gross negligence, repeated negligence, or negligence that results in harm or death of a patient;
10. Abandoning or neglecting a patient, including failing to report for or leaving a respiratory therapy assignment before properly advising appropriate personnel;
11. Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location;
l2. Impersonating another licensed practitioner;
13. Knowingly employing, directing, or supervising an individual in the performance of respiratory care who is not authorized to practice respiratory care;
14. Violating the confidentiality of information concerning a patient;
15. Inaccurately recording, falsifying, or altering a patient record, including patient charts or medication administration records;
16. Misrepresenting or omitting facts on an application for employment as a respiratory care practitioner;
17. Retaliating against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any practitioner;
18. Using, removing, or possessing property belonging to an individual or entity without authorization;
19. Threatening the physical health or safety of a Board, or Board staff, member; and
20. Knowingly exceeding the scope of practice for a respiratory care practitioner at any health care location as the scope of practice is defined by that health care entity.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).
Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

**R4-45-215. Procedures for Processing Initial License Applications; Time-frames**

**A.** Within 14 days of receiving an initial license application package, the Board shall notify an applicant that the package is either complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

**B.** An applicant with an incomplete package shall supply the missing information within 210 days from the date of the notice. If the applicant fails to do so, the Board may close the file. An applicant whose file has been closed, and who later wishes to become licensed, shall apply anew.

**C.** Upon receipt of all missing information, the Board shall notify the applicant that the package is complete. The Board shall not send a separate notice of completeness if the Board grants or denies application within the administrative completeness review in subsection (F)(1).

**D.** An application for initial licensure is not complete until the Board receives the results of the state and federal criminal background check required at A.R.S. § 32-3504(A)(6), and the applicant fully complies with the requirements of R4-45-201, the applicable provisions of R4-45-202 through R4-45-206, and submits the fee prescribed in R4-45-102(A)(3).

**E.** The Board shall grant or deny a license no later than 90 days from the postmark date of the notice advising the applicant that the package is complete.

**F.** For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time-frames for an initial license application:

1. Administrative completeness review time-frame: 15 days;
2. Substantive review time-frame: 90 days;
3. Overall time-frame: 105 days.

**G.** If the Board denies a license, the Board shall send the applicant a written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time periods for appealing the denial.

**Historical Note**
New Section adopted by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

**R4-45-216. Procedures for Issuing License Renewal Applications; Time-frames**

**A.** Within 7 days of receiving a license renewal application, the Executive Director shall notify an applicant that the license application package is complete or incomplete. If the package is incomplete, the Board's notice shall specify the missing information.

**B.** The Board shall not send a notice of completeness if the Board renews the license within the administrative completeness time-frame in subsection (F)(1).

**C.** An application for license renewal is not complete until the applicant fully complies with R4-45-207 and R4-45-208.

**D.** The Board shall grant or deny a license renewal within 60 days from the postmark date of the completion notice (the substantive review time-frame) as follows:

1. For a license renewal applicant who submits an application package prior to the expiration date of the applicant's existing license:
   a. If the application package is complete, the Executive Director shall renew the license; or
   b. If the application package is incomplete and the applicant supplies the missing information prior to the date of expiration of the existing license, the Executive Director shall renew the license;
2. For an applicant with an incomplete application package who supplies the missing information within 7 days after the date of expiration of a license, or an applicant who submits a complete application package within 7 days after the date that the applicant's license expired, the Executive Director shall review the applicant's compliance with A.R.S. § 32-3556. The Board shall notify the applicant of the Board requirement for a signed statement that the applicant has or has not violated A.R.S. § 32-3556. The applicant shall have 7 days from the postmark date of the Board's notice of the required statement to submit the statement. Upon receipt of a complete license renewal application package and the signed statement:
   a. For an applicant who has not knowingly violated A.R.S. § 32-3556, the Executive Director shall renew the license and issue a letter of concern conditioned upon Board ratification within the substantive review time-frame;
   b. For an applicant who has knowingly violated A.R.S. § 32-3556, the Board shall deny the renewal unless the applicant can demonstrate to the Board that:
      i. No person has been harmed by the violation, and
      ii. The applicant understands the nature and consequences of the applicant's actions.
      iii. The Board may grant a conditional renewal based upon its assessment of the evidence presented by the applicant under this subsection;
   c. For an applicant with an incomplete application package who supplies the missing information more than 7 days after the date of expiration of a license, or for an applicant who submits an application package more than 7 days but less than 2 years after the date that the applicant's license expired, the Executive Director shall review the applicant's compliance with A.R.S. § 32-3556. The Board shall notify the applicant of the Board requirement for a signed statement that the applicant has or has not violated A.R.S. § 32-3556. The applicant shall have 7 days from the postmark date of the Board's notice of the required statement to submit the statement. Upon receipt of the signed statement, the Board shall deny the renewal unless the applicant can demonstrate to the Board that:
      i. No person has been harmed by the violation, and
      ii. The applicant understands the nature and consequences of the applicant's actions.
      iii. The Board may grant a conditional renewal based upon its assessment of the evidence presented by the applicant under this subsection;

**E.** An applicant who submits an application package more than 2 years after the date that the previously held license expired shall apply as a new license applicant.

**F.** For the purposes of A.R.S. § 41-1073, the Board establishes the following licensing time-frames for renewal of a license:

1. Administrative completeness review time-frame: 7 days;
2. Substantive review time-frame: 60 days;
3. Overall time-frame: 67 days.

**G.** If the Board denies a license renewal, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time periods for appealing the denial.

**Historical Note**
New Section adopted by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

**R4-45-217. Appeal from Denial**

**A.** If the Board denies an application, an applicant may make a written request for a hearing to review the denial. The applicant shall file the request with the Board within 15 days following service of notice of the denial. The request shall state specifically the reasons why the Board should review its decision. The Board shall schedule the hearing at its next meeting or at the 1st meeting that is convenient for all parties. The Board shall conduct the hearing in accordance with A.R.S. § 41-1092 et seq.

**B**. If an applicant whose application is denied does not request a hearing to review the denial or if the denial is affirmed, the Board shall administratively close the applicant's file. An individual who wishes to be considered for licensure after the individual's file has been administratively closed shall reapply.

**Historical Note**
New Section adopted by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

## ARTICLE 3. HEARINGS

**R4-45-301. Hearing Procedures**

The following procedures are applicable to all hearings conducted pursuant to A.R.S. § 32-3553(I):

1. A complaint and notice of hearing shall be served upon all parties at least 20 days before the date set for hearing.
2. A licensee served with a complaint and notice of hearing shall file an answer within 10 days of service of the complaint, admitting or denying each allegation of the complaint.
3. Before the hearing, a complaint and notice of hearing may be amended to add new or additional grounds. The licensee shall file an amended answer to the amended complaint within 10 days of being served.
4. If a party fails to appear, the hearing may be held in the party's absence.
5. The chairperson of the Board or the designated presiding officer may continue, reschedule, or extend a hearing for good cause or for the performance of acts required by law or the Board.
6. Hearings conducted by the Board shall be open to the public.
7. The designated presiding officer shall conduct the proceedings and rule on the admissibility of evidence.
8. All hearings shall be mechanically or stenographically recorded. The Board is not required to transcribe the record of a hearing unless there is an appeal to the supe-

rior court. Upon written request, the Board shall either transcribe the record or allow the individual requesting the record to have it transcribed. In either case, the individual requesting the record shall pay to have it transcribed.

9. In all cases determined by hearing, the Board shall issue a decision and order in accordance with A.R.S. Title 41, Chapter 6.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

**R4-45-302. Rehearing or Review of Decision**

**A.** Except as provided in subsection (G), any party who is aggrieved by a decision of the Board may file with the Board, not later than 15 days after service of notice of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for a rehearing or review.

**B.** A party may amend a motion for rehearing or review at any time before the motion is ruled upon by the Board. Any party may file a response within 10 days after service of a motion or amended motion. The Board may require the filing of written briefs addressing the issues raised in the motion and may provide for oral argument.

**C.** A motion for rehearing or review of the decision may be granted based on a contention that the decision was:

1. Founded on or contained errors of law including errors of construction or application of relevant rule,
2. Unsupported by any competent evidence as disclosed by the entire record,
3. Materially affected by unlawful procedures,
4. Based on a violation of any constitutional provision, or
5. Arbitrary or capricious.

**D.** The Board may affirm or modify the decision or grant a rehearing or review to all or some of the parties and on all or some of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.

**E.** Not later than 15 days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. The order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may serve opposing affidavits within 10 days after service of the motion. This period may be extended by the Board for an additional period not exceeding 20 days for good cause shown or upon written stipulation of the parties. Reply affidavits may be permitted.

**G.** If, in a particular decision, the Board makes specific findings that the immediate effectiveness of the decision is necessary for preservation of the public health, safety or welfare, the decision may be issued as a final decision without an opportunity for rehearing or review. If an application for judicial review of the decision is made, it shall be made in accordance with A.R.S. § 12-901 et seq.

**Historical Note**
Adopted effective September 12, 1996 (Supp. 96-3).

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 46. BOARD OF APPRAISAL

*Title 4, Chapter 46, consisting of Article 1, Sections R4-46-101 through R4-46-105; Article 2, Sections R4-46-201 through R4-46-208; Article 3, Sections R4-46-301 through R4-46-306; Article 4, Section R4-46-401; Article 5, Sections R4-46-501 through R4-46-503; and Article 6, Section R4-46-601, adopted effective December 29, 1995 (Supp. 95-4).*

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### ARTICLE 6. PROPERTY TAX AGENTS

*Article 6, consisting of Section R4-46-601 and R4-46-602, adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).*

*Article 6, consisting of Section R4-46-601, repealed effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).*

Section
R4-46-601. Standards of Practice
R4-46-602. Disciplinary Proceedings; Board Action; Notice Requirements

### ARTICLE 1. GENERAL PROVISIONS

**R4-46-101. Definitions**

In these rules, unless the context otherwise requires:

"Arizona or State Certified General Appraiser" means the State Certified General Real Estate Appraiser classification set forth in A.R.S. § 32-3612(A)(1) and corresponds to the Certified General Real Property Appraiser classification of the Appraisal Foundation.

"Arizona or State Certified Residential Appraiser" means the State Certified Residential Real Estate Appraiser classification set forth in A.R.S. § 32-3612(A)(2) and corresponds to the Certified Residential Real Property Appraiser classification of the Appraisal Foundation.

"Arizona or State Licensed Appraiser" means the State Licensed Real Estate Appraiser classification set forth in A.R.S. § 32-3612(A)(3) and corresponds to the Licensed Real Property Appraiser classification of the Appraisal Foundation.

"Appraisal Foundation" means the educational organization, defined in A.R.S. § 32-3601(3), which is the parent organization of the Appraiser Qualifications Board and the Appraisal Standards Board. The Appraisal Foundation is located at 1029 Vermont Ave., N.W. Ste. 900, Washington, D.C. 20005.

"Appraiser" means an Arizona Licensed Appraiser, an Arizona Certified Residential Appraiser, or an Arizona Certified General Appraiser.

"Board" means the Arizona Board of Appraisal established by A.R.S. § 32-3604. For the purposes of Article 3, the term "Board" includes any administrative law judge used or contracted for by the Board.

"Course Provider" means any organization or individual offering prerequisite or continuing education courses.

"Formal Complaint" means notice of allegations issued by the Board pursuant to R4-46-302.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled to participate in any proceeding before the Board.

"Respondent" means Appraiser, Course Provider, Property Tax Agent, or any other party responding to a motion or a proceeding before the Board.

"Rules" means the requirements set forth in the Arizona Administrative Code, Title 4, Chapter 46.

"USPAP" means the Uniform Standards of Professional Appraisal Practice.

**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-102. Powers of Board**

The Board may appoint advisory committees as the Board deems appropriate. The committees shall make advisory recommendations to the Board. The Board, in its discretion, may accept, reject, or modify the advisory recommendations.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).

**R4-46-103. Board Records; Public Access; Copying Fees**

**A.** The Board shall keep all records reasonably necessary or appropriate to maintain an accurate knowledge of its official activities including, but not limited to: applications for an initial license or certificate; renewal applications; examination results; documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a license or certificate; investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.

**B.** A person shall not remove Board records from the office of the Board unless the records are in the custody and control of a Board member, a member of the Board's staff, or the Board's attorney. The Executive Director may designate a staff member to observe and monitor any examination of Board records.

**C.** The Board shall provide copies of all records available for public inspection and copying according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-104. Confidential Records**

Except as otherwise provided by law, the Board shall not disclose:

1. Questions contained in any examination administered by or for the Board or in any examination submitted to the Board for course approval;
2. Questions asked and the answers of individual examinees. However, the Board shall provide the grades of each examinee for public inspection and copying on and after the date set by the Board for the release of examination results;
3. Minutes of the Board's executive sessions; and
4. Appraisal reports or appraisal reviews and supporting documentation deemed confidential under USPAP and adopted by the Board.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-105. Meetings**

Pursuant to A.R.S. § 32-3604(F), the Board shall meet at least once each calendar quarter to conduct general business. Special meetings of the Board may be held at any time subject to the call of the chairman or a majority of the Board members.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).

**R4-46-106. Fees**

**A.** Except as provided in subsections (D) and (E), the Board shall charge and collect fees for the following:

| | | |
|---|---|---|
| 1. | Initial Application and First Biennial License | $400 |
| 2. | Examination | $100 |
| 3. | Reexamination | $100 |
| 4. | Biennial Renewal of a License or Certificate | $425 |
| 5. | Delinquent Renewal (in addition to the Renewal fee) | $25 |
| 6. | Biennial Federal Registry | $50 |
| 7. | Nonresident Temporary License or Certificate | $150 |
| 8. | Duplicate License or Certificate | $5 |
| 9. | Course Review: | |
| a. | Qualifying Education | |
| i. | Initial Review and Approval | $300 |
| ii. | Review of Course Previously Approved | $5 |
| b. | Continuing Education | |
| i. | Initial Review and Approval of: | |
| | 2-hour courses | $50 |
| | 3-and 4-hour courses | $100 |
| | Any course 5 hours or longer | $150 |
| ii. | Review of Course Previously Approved | $5 |

**B.** A person shall pay fees by cash, certified check, cashier's check, or money order payable to the Arizona Board of Appraisal.

**C.** A person making a public record request shall pay the Board the reasonable cost of reproduction consistent with A.R.S. Title 39, Chapter 1, Article 2. The person shall pay for the Board's cost of reproduction by cash, certified check, cashier's check, or money order.

**D.** The fee for an initial application filed after November 30, 1998, and before December 1, 2000, shall be $300.

**E.** The renewal application fee for a license or certificate expiring after November 30, 1998, and before December 1, 2000, shall be $225.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

## ARTICLE 2. LICENSING AND CERTIFICATION

**R4-46-201. Appraiser Qualification Criteria**

**A.** Except as provided in subsections (B) and (C), an applicant for the applicable classification of license or certificate should meet that classification's Appraiser Qualification Criteria, established by the Appraisal Foundation and dated February 16, 1994, which are incorporated by reference and on file with the Board and the Office of the Secretary of State. This incorporation by reference includes no future additions or amendments. A copy of the Appraiser Qualification Criteria may be obtained from the Board or the Appraisal Foundation.

**B.** The incorporation by reference in subsection (A) does not govern an Appraiser's scope of practice. The scope of practice for each classification of license or certificate is set forth in A.R.S. § 32-3612(A). The incorporation by reference in subsection (A) does not govern the minimum amount of experience, measured in hours or years, necessary for certification. The minimum experience required for certification is set forth in A.R.S. § 32-3615(A).

**C.** An applicant for any classification of a license or certificate shall complete at least 2 hours of course work covering A.R.S. Title 32, Chapter 36 and these rules.

**D.** Regardless of whether a transaction is federally related:

1. A State Licensed Residential Appraiser is limited to transactions involving 1 to 4 family residential real property having a value of less than 1 million dollars and not involving complex 1 to 4 family residential real property.
2. A State Certified Residential Appraiser is limited to the scope of practice set forth in A.R.S. § 32-3612(A)(2).

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-202. Application for License or Certificate**

**A.** An applicant for a state certificate or license shall submit a completed application accompanied by the appropriate application fee. Once the application has been filed, fees are nonrefundable.

**B.** To be eligible for a license or certificate, an applicant shall:

1. Meet the qualification criteria contained in A.R.S. Title 32, Chapter 36, Article 2 and these rules;
2. Achieve a passing score on the applicable examination required by R4-46-204(D), unless exempted under A.R.S. § 32-3626;
3. Pay all required application and examination fees;
4. Pay the biennial federal registry fee; and
5. Comply with the requirements of A.R.S. § 32-3611.

**C.** An applicant shall meet all requirements for a license or certificate within 1 year of filing the application or the applicant's file will be closed and the applicant shall reapply, meeting the requirements of R4-46-202(B). The Board shall notify an applicant whose application has been closed by certified mail or personal service at the applicant's last known address of record. Notice is complete upon deposit in the U.S. mail or by service as permitted under the Arizona Rules of Civil Procedure.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-203. Procedures for Processing Applications**

**A.** To comply with A.R.S. Title 41, Chapter 6, Article 7.1, the Board establishes the following time-frames for all licenses and certificates:
1. The Board shall notify the applicant within 45 days of receipt of the application that it is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
2. The Board shall not substantively review an application until the applicant has fully complied with the requirements of R4-46-202. The Board shall render a final decision not later than 45 days after the applicant successfully completes all requirements of R4-46-202.
3. Although the applicant may have up to 1 year to comply with requirements of R4-46-202, the overall time-frame for Board action is 90 days, 45 days for administrative completeness review and 45 days for substantive review.

**B.** If the Board denies a license, the Board shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a hearing to challenge the denial; and
3. The time periods for appealing the denial.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). Section R4-46-203 renumbered to R4-46-204; new Section R4-46-203 adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-204. Appraiser Examinations**

**A.** The Board shall not schedule an applicant for an examination until the applicant has completed all of the prerequisite education requirements.

**B.** If the test provider does not allow for a test on demand, an applicant shall file an application to take an examination at least 45 days prior to the examination date.

**C.** Rescheduling; excused absence; forfeiture
1. Except as provided in subsections (C)(2) and (3), the Board shall not provide an applicant scheduled for an examination date with a later examination date unless the applicant files a new application and pays a reexamination fee.
2. The Board may grant an excused absence from a scheduled examination if the applicant provides evidence satisfactory to the Board that the absence was the direct result of an emergency situation or condition which was beyond the applicant's control and which could not have been reasonably foreseen by the applicant. An applicant shall promptly make a request for an excused absence in writing and support the request with documentation verifying the reason for the absence. A request for an excused absence received more than 15 days after the examination date will be denied unless the applicant was unable to file a timely request due to the same circumstances that prevented the applicant from taking the examination.
3. An applicant may request that the applicants examination date be rescheduled if the request is made at least 15 days before the originally scheduled examination date.

**D.** Subject Matter. Each applicant shall take an examination for the applicable classification of license or certificate that covers the subject matter set forth in the National Uniform Examination Content Outline, dated November 4, 1993, which is incorporated by reference and on file with the Board and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments. A copy of the outline may be obtained from the Board or the Appraisal Foundation.

**E.** Reexamination. An applicant for a license or certificate who fails to pass an examination or fails to appear for a scheduled examination may schedule another examination by filing a new application and paying the reexamination fee.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). Former Section R4-46-204 renumbered to R4-46-205; new Section R4-46-204 renumbered from R4-46-203 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-205. Issuance of a License or Certificate**

An applicant who has met the appraiser qualification criteria prescribed in R4-46-202(B), achieved a passing score on the applicable examination, and paid the application and biennial federal registry fees shall be issued a license or certificate which entitles the applicant to practice as an Appraiser for the term of the license or certificate.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-205 renumbered to R4-46-206; new Section R4-46-205 renumbered from R4-46-204 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-206. Hearing on Denial of a License or Certificate**

Pursuant to A.R.S. § 41-1065, any applicant denied a license or certificate by the Board may file a written request for hearing, within 30 days after issuance of the notice of denial. Any hearing shall be conducted under the formal hearing procedures prescribed in Article 3 of these rules.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-206 renumbered to R4-46-207; new Section R4-46-206 renumbered from R4-46-205 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-207. Renewal of a License or Certificate**

**A.** No later than 30 days before expiration of an Appraiser's license or certificate, an Appraiser seeking to renew the license or certificate shall submit a completed application

accompanied by the appropriate renewal application fees. Once the application has been filed, fees are non-refundable. To be eligible for a renewal of a license or certificate, an applicant shall:

1. Meet the requirements of A.R.S. Title 32, Chapter 36, and these rules;
2. Meet the continuing education requirements set forth in the Appraiser Qualification Criteria incorporated by reference in R4-46-201(A);
3. Pay the renewal and biennial federal registry fees.

**B.** In addition to the requirements in subsection (A), effective October 1, 2000, a renewal applicant shall demonstrate completion of a minimum of 14 hours of course work in USPAP within 4 years prior to expiration of the license or certificate. Courses used to satisfy this requirement cannot be used to satisfy the requirements of subsection (A)(2) unless the course was completed within 2 years prior to the expiration of the license or certificate.

**C.** If the last day for filing falls on a Saturday, Sunday, or legal holiday, the Appraiser may file the renewal form on the next business day.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-207 renumbered to R4-46-209; new Section R4-46-207 renumbered from R4-46-206 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-208. Renewal of an Expired License or Certificate**

**A.** An Appraiser may renew a license or certificate which has expired within 90 days of expiration. If the last day falls on a Saturday, Sunday, or legal holiday, the Appraiser may file a renewal on the next business day.

**B.** To apply for renewal of an expired license within the 90 day period, an Appraiser shall comply with the requirements of R4-46-207 and submit the delinquent renewal fee prescribed by R4-46-207 and submit the delinquent renewal fee prescribed by R4-46-106. Once an application for renewal of an expired license or certificate has been filed, fees are non-refundable.

**C.** An Appraiser who fails to seek renewal within the time prescribed by this rule shall re-apply, meeting the requirements of R4-46-202(B).

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-208 renumbered to R4-46-210; new Section R4-46-208 adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-209. Replacement License or Certificate**

If an original license or certificate has been lost, damaged, or destroyed, or if the name of a licensee or certificate holder has been legally changed, the Appraiser may obtain a replacement license or certificate by filing the applicable form and paying a copying fee to the Board.

**Historical Note**
R4-46-209 renumbered from R4-46-207 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-210. Change of Address**

Appraisers and applicants for a license or certificate shall notify the Board in writing of any change in permanent business or residence address within 10 business days of the change.

**Historical Note**
R4-46-210 renumbered from R4-46-208 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

## ARTICLE 3. HEARINGS AND DISCIPLINARY PROCEEDINGS

**R4-46-301. Investigations; Informal Proceedings; Summary Suspensions**

**A.** The Board shall investigate a written complaint alleging violations of A.R.S. Title 32, Chapter 36, or any of these rules. Within 14 days after receipt of a complaint the Board shall notify the Respondent and provide the Respondent the opportunity to submit a written response within 21 days from the date of notice of the complaint. The notice shall include a copy of the complaint and request that the respondent address issues referred to in the complaint. The Respondent may request and the Board may grant a continuance not to exceed 30 days upon a showing of good cause.

**B.** Investigation

1. After receipt of the response or expiration of 21 days, as extended, whichever is earlier, the Board shall review the complaint to determine if further investigation is necessary. If the Board determines further investigation is necessary the Board may employ an investigator or investigators and shall notify the Respondent of the pending investigation.
2. When a Respondent's name appears on an agenda, the Respondent shall be notified according to A.R.S. Title 38, Chapter 3, Article 3.1.
3. If a matter is not resolved within 18 months of receipt of the response, it will be scheduled for review to determine if good cause exists to continue the investigation further. R4-46-301(B) is not retroactive. R4-46-301(B) only applies to investigations commenced after October 1, 1998. If, after completing its investigation, the Board finds that further action against the Respondent is not merited, the matter shall be dismissed.

**C.** Any time after a complaint has been filed against a Respondent, but not later than 15 days prior to a scheduled formal hearing, the matter may be resolved by a settlement in which the Respondent agrees to accept discipline by consent in lieu of a disciplinary order. Discipline may include, but is not limited to, surrender or suspension of a license or certificate, a requirement that the Respondent successfully complete education courses, a requirement that the Respondent limit his or her scope of practice, or a requirement that the Respondent submit work product for professional peer review. If the Board determines the proposed settlement will adequately protect the public, the Board may accept the offer, with or without admissions, and enter an order of discipline consented to by the Respondent, incorporating the proposed settlement. Statements made for the purpose of settlement are not admissible in a formal hearing.

**D.** If, after evaluation of the complaint and any written response, in the opinion of the Board, it appears the Respondent is or may be in violation of the Board's rules or statutes, the Board may request an informal hearing with the Respondent. The Board shall provide the Respondent with 20 days notice of the date and time of the informal hearing from the date notice is mailed via certified mail or otherwise served as provided in the Arizona Rules of Civil Procedure. The notice of informal hearing shall include a statement of the matters asserted and issues involved, the Respondent's right to appear with or without legal counsel; and the Respondent's right to a formal hearing, held pursuant to R4-46-302. The Respondent may request and

the Board may grant a continuance not to exceed 30 days upon a showing of good cause. During the informal hearing the Board shall swear witnesses, question the Respondent and witnesses, and deliberate. If the Board finds a violation of the rules or statutes, but the violation is not of sufficient seriousness to merit suspension or revocation, it may take any or all of the following actions:

1. Issue a decree of censure;
2. Set a time period and terms of probation sufficient to protect the public welfare and safety and to educate the Respondent concerned. The Board may require the Respondent to:
   a. Submit to an examination;
   b. Obtain training or education;
   c. Submit to supervision or peer review; or
   d. Accept restrictions on the nature and scope of the Respondent's practice.

**E.** If the Board finds that the public welfare or safety requires emergency action and incorporates a finding to that effect in its order, the Board may order a summary suspension pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the Respondent with a written notice of summary suspension and formal hearing, listing the charges against the Respondent and setting a formal hearing within 30 days.

**F.** A Respondent may refuse a request to appear at an informal hearing.

**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-302. Formal Hearing Procedures**

**A.** The Board shall issue a notice of hearing and formal complaint for formal disciplinary proceedings if:

1. The Respondent refuses an invitation to an informal hearing;
2. After an informal hearing, the Board determines suspension or revocation may be warranted;
3. The Respondent is aggrieved by the Board's decision in an informal hearing; or
4. After completing its investigation, the Board finds that suspension or revocation may be warranted.

**B.** Except as provided in R4-46-301(E), the Board shall provide notice of a formal hearing to a Respondent at least 30 days prior to the date set for the hearing. The Board shall notify the Respondent by certified mail or personal service at the Respondent's last known address of record. Unless otherwise specified, any notice provided for in these rules is complete upon deposit in the U.S. mail or by service as permitted under the Arizona Rules of Civil Procedure.

**C.** On its own motion or a motion of a party and a showing of good cause, the Board may hear a case or have the case heard by an administrative law judge. The Board shall not deny the motion without good cause. The Board may accept, reject or modify the administrative law judge's recommended decision and shall issue a final order.

**D.** Board Hearings:

1. The Board may conduct a hearing without adherence to the rules of evidence used in civil proceedings. The Board shall include the Respondent's application and disciplinary records as evidence in the hearing record.
2. In all hearings required or permitted by statute, order of the Board, or these rules, the Party seeking relief has the burden of proof and will present evidence 1st.

**E.** Failure to answer or appear:

1. Upon the motion of the State, the failure of a Respondent to answer within 20 days of notice of a formal complaint without good cause may be deemed an admission by the Respondent of the commission of the acts charged in the formal complaint. The Respondent shall answer and defend within 10 days of the filing of the motion to for default. In the absence of an answer or response the Board may grant the motion for default, vacate the formal hearing and impose any sanction provided by this Article.
2. The failure of a Party to appear for a formal hearing without good cause shall leave the Board free to act upon the evidence and other information at hand without further notice.

**F.** The Board shall make and keep record of a hearing and in the case of disciplinary hearings or where requested by a Party or ordered by the Board, a transcript shall be prepared and filed with the Board. If the transcript is prepared at the request of a Party, the cost of the transcript shall be paid by the Party making the request, unless the Board, for good cause shown waives assessment of this cost.

**G.** A Party may request and the Board may grant a continuance of a hearing date or any other deadline imposed by R4-46-302 upon a showing of good cause.

**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-302 repealed; new Section R4-46-302 renumbered from R4-46-303 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-303. Rehearing or Review of the Board's Decision**

**A.** Except as provided in subsection (H) of this Section, any Party in a contested case before the Board may file a motion for rehearing or review within 30 days after service of the final administrative decision. Service is complete upon personal service or 5 days after the date the decision is mailed to the Party's last known address. The Party shall attach a full supporting memorandum specifying the grounds for the motion. For the purposes of this subsection, a decision is deemed to have been served when personally delivered or mailed by certified mail to the Party's last known address of record.

**B.** The opposing Party may file a response within 15 days after service of the motion for rehearing or review, or by a date ordered by the Board, whichever is later. The Party shall support the response with a memorandum discussing legal and factual issues.

**C.** Either Party may request or the Board may order oral argument.

**D.** The Board may grant rehearing or review for any of the following causes materially affecting a Party's rights:

1. Irregularity in the administrative proceedings of the Board or any other abuse of discretion which deprived the moving Party of a fair hearing;
2. Misconduct of the Board or any Party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient sanction;
6. Error in the admission or rejection of evidence or other errors of law at the administrative hearing or during the progress of the proceedings or;
7. Unjustified decision based upon the evidence, or a decision that is contrary to law.

**E.** The Board may affirm or modify the decision or grant a rehearing to any Party on all or part of the issues for any of the reasons set forth in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order. The rehearing, if granted, shall be limited to matters specified by the Board.

**F.** Not later than 30 days after a decision is rendered, the Board may order a rehearing or review on its own initiative, for any reason which it might have granted relief on motion of a Party.

**G.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing Party may submit opposing affidavits with the response. Reply affidavits may be permitted.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-303 renumbered to R4-46-302; new Section R4-46-303 renumbered from R4-46-304 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-304. Conviction and Judgment Disclosure**

**A.** When an Appraiser, Property Tax Agent, or Course Provider is convicted of any act which is or would be punishable as a felony involving moral turpitude in this state, or any crime which is substantially related to the respective qualifications, functions, and duties of an Appraiser, Property Tax Agent, or Course Provider, the convicted person shall notify the Board within 20 days of entry of a plea of guilty or conviction.

**B.** When a civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal or mass appraisal is entered against an Appraiser, Property Tax Agent, or Course Provider, the person against whom the judgement is entered shall notify the Board within 20 days of entry of judgement.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-304 renumbered to R4-46-303; new Section R4-46-304 renumbered from R4-46-305 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-305. Terms and Conditions of Reapplication after Revocation**

**A.** An applicant who re-applies after revocation of a license, certificate, or course approval, shall submit an application for license, certificate, or course approval consistent with these rules. The applicant shall attach substantial evidence to the application that the issuance of a license, certificate, or course approval will no longer constitute a threat to the public welfare and safety.

**B.** The Board shall make a determination of each application that is consistent with the public safety and welfare.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-305 repealed; new Section R4-46-305 renumbered from R4-46-306 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-306. Renumbered**

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-306 renumbered to R4-46-305 effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

## ARTICLE 4. STANDARDS OF PRACTICE

**R4-46-401. Standards of Appraisal Practice**

Every state-licensed or certified Appraiser, in performing the acts and services of a state-licensed or certified Appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), 1998 Edition, published by the Appraisal Foundation, which are incorporated by reference and on file with the Board and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments. A copy of the USPAP may be obtained from the Appraisal Foundation.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). R4-46-401 amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

## ARTICLE 5. COURSE APPROVAL

**R4-46-501. Course Approval**

**A.** A Course Provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee.

**B.** The following requirements apply to courses submitted for approval:

1. The Course Provider shall follow education standards set forth in the Appraiser Qualification Criteria incorporated by reference in R4-46-201;
2. The Course Provider shall use an outline, and a text or other written materials. The Course Provider shall furnish the Board with the outline, text, or other written material at the time of application. Lack of documentation may result in the delay or denial of course approval;
3. If a course is required for a license or certificate, the Course Provider shall give a comprehensive examination pertinent to the topics addressed in the course.
4. The Course Provider shall conduct the course in a setting physically suitable to the educational activity of the program; and
5. The Course Provider shall submit proof of compliance with the following standards. The Course Provider shall:
   a. Apply the Appraiser Qualification Criteria set forth in subsection (B)(1);
   b. Provide a copy of an attendance certificate to the student after completion of the course, indicating the name of the Course Provider, the name of the student, the title of the course, the number of classroom hours completed in the course, the dates the course was taken, and whether the students successfully completed any final examination;
   c. Maintain a record of registration, attendance, and examination for each student, for 6 years following the student's attendance in the course, and provide a copy of the record at the request of the Board or the student;
   d. Deny course credit to any student who does not meet requirements of the Appraisal Qualification Board;
   e. Use instructors with 1 or more of the following qualifications:
      i. At least, a bachelor's degree in the field of instruction or in a closely related field of instruction, or
      ii. Five years of work experience in the subject taught, or
      iii. A combination of education and work experience which the Board determines is substantially equivalent to the requirements in subsections (i) and (ii).

**C.** Course approval lasts for a period of 1 year, expiring at the end of the month in which approval was granted, at which time the Course Provider shall re-apply for course approval of a course previously approved. No later than 30 days prior to the expiration date, a Course Provider may apply for review of a course previously approved on the form provided by the Board and pay the appropriate fee. Any substantive change in the materials to be addressed in the classroom, including but not limited to changes in the course outline, text, or other written material will require immediate re-application and approval by the Board.

**D.** The Board shall waive the course approval fee for a course offered outside of the state if the course was approved by the appraisal licensing or certifying authority in that state and the Board determines that the course meets the standards for course approval set forth in these rules.

**E.** The Board shall investigate and may deny, revoke, or suspend course approval for any of the following acts or omissions:

1. Failure to comply with the education requirements set forth in this Article.
2. Failure to operate as indicated in the application for course approval.
3. Failure to instruct in a manner consistent with the outline and materials previously approved by the Board.

**F.** If the Board finds that the public welfare or safety requires emergency action and incorporates a finding to that effect in its order, the Board shall order a summary suspension of course approval pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the Course Provider with a written notice of summary suspension and formal hearing, listing the charges against the Course Provider and setting a formal hearing within 30 days.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-502. Course Equivalency Approval**
An applicant for a license or certificate who wants to fulfill a course requirement with a course that has not been previously approved by the Board shall demonstrate that the course satisfies the requirements set forth in this Article.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-503. Hearing on Denial of Course Approval**
Any applicant or Course Provider denied course approval may file a written request for a hearing within 30 days after service of the notice of denial. The Board shall process all hearings and disciplinary matters involving course approval in a manner consistent with the formal hearing procedures prescribed in Article 3.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4).
Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

## ARTICLE 6. PROPERTY TAX AGENTS

**R4-46-601. Standards of Practice**
The Board may revoke or suspend an agent's registration or otherwise discipline a Property Tax Agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;
4. Violating the confidential nature of the Property Tax Agent-client relationship, except as required by law;
5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;
6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;
8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
10. Promoting a tax agent practice and soliciting assignments by using misleading or false advertising;
11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without prior analysis of the facts;
12. Performing an appraisal as defined by A.R.S. § 32-3601 unless licensed or certified by the Board as an appraiser.

**Historical Note**
Adopted effective December 29, 1995 (Supp. 95-4). Section repealed; new Section adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

**R4-46-602. Disciplinary Proceedings; Board Action; Notice Requirements**
The Board shall process all hearings and disciplinary matters involving Property Tax Agents in a manner consistent with the formal hearing procedures prescribed by Article 3 and consistent with A.R.S. § 32-3654.

**Historical Note**
Adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

Recodified

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 47. RECODIFIED

*Title 4, Chapter 47, the rules of the Department of Commerce, has been recodified to Title 20, Chapter 1 pursuant to A.A.C. R1-1-102 (Supp. 95-1).*

# TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

### ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

Section
R4-48-101. Definitions
R4-48-102. Arizona Uniform Plumbing Code
Table A. Size of Combustion Air Openings or Ducts for Gas- or Liquid-Burning Water Heaters
Table B. Plumbing Material Standards
Ill. A. Horizontal Rainwater Piping

### ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

**R4-48-101. Definitions**

The following definition applies in this Article:

"Person" has the meaning set forth in A.R.S. § 1-215.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 802, effective February 24, 1999 (Supp. 99-1).

**R4-48-102. Arizona Uniform Plumbing Code**

**A.** All persons shall comply with the International Association of Plumbing and Mechanical Officials' (I.A.P.M.O.) Uniform Plumbing Code (1994 Edition) which is incorporated by reference, including appendices A, B, C, D, E, F, and H, and installation standards, as the state plumbing code. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available from I.A.P.M.O. at 20001 Walnut Drive South, Walnut, CA, 91789-2825 and are on file with Arizona Uniform Plumbing Code Commission and the Office of the Secretary of State.

**B.** The Uniform Plumbing Code incorporated by subsection (A) is modified as follows:

1. Delete pages: "1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, after making the changes listed in subsection (B)."
2. Sec. 202.0. Modify the definition of "Insanitary" by replacing numbered paragraphs (2) and (3) with the following:
   "(2) Any opening in a drainage system, except where lawful, which is not provided with an approved liquid sealed trap.
   (3) Any plumbing fixture or other waste discharging receptacle or device, which is not supplied with water sufficient to flush it and maintain it in a clean condition except those specifically designed to function without water."
3. Move Sec 101.4.1.3 to a new Sec. 301.1.5.
4. Move Sec. 101.5.2 to a new Sec. 301.1.6.
5. Move Sec. 101.5.4 to a new Sec. 301.1.7.
6. Move Sec. 101.5.5 to a new Sec. 301.1.8.
7. Move Sec. 103.5 to a new Sec. 318.0.
8. Move Sec. 103.5.1 to a new Sec. 318.1.
9. Move Sec. 103.5.1.2 to a new Sec. 318.2.
10. Move Sec. 103.5.1.3 to a new Sec. 318.3.
11. Move Sec. 103.5.1.4 to a new Sec. 318.4.
12. Move Sec. 103.5.5 to a new Sec. 318.5.
13. Move Sec. 103.5.5.1 to a new Sec. 318.6.
14. Move Sec. 103.5.5.2 to a new Sec. 318.7.
15. Move Sec. 103.5.3 to a new Sec. 319.0.
16. Move Sec. 103.5.3.1 to a new Sec. 319.1.
17. Move Sec. 103.5.3.2 to a new Sec. 319.2.
18. Move Sec. 103.5.3.4 to a new Sec. 319.3.
19. Move Sec. 103.5.3.5 to a new Sec. 319.4.
20. Move Sec. 103.5.3.7 to a new Sec. 319.5.
21. Move Sec. 103.5.6.1 to a new Sec. 319.6.
22. Move Sec. 103.5.6.2 to a new Sec. 319.7.
23. Move Sec. 103.5.6.3 to a new Sec. 319.8.
24. Move Sec. 712.4 to a new Sec. 320.0.
25. Move Sec. 712.4.1 to a new Sec. 320.1.
26. Move Sec. 712.4.2 to a new Sec. 320.2.
27. Move Sec. 712.4.3 to a new Sec. 320.3.
28. Move Sec. 712.4.4 to a new Sec. 320.4.
29. Move Sec. 103.6 to a new Sec. 321.0.
30. Move Sec. 103.6.1 to a new Sec. 321.1.
31. Move Sec. 103.6.2 to a new Sec. 321.2.
32. Move Sec. 103.6.3 to a new Sec. 321.3.
33. Sec. 402.1 is modified to read: "The maximum flow rates and quantities for all plumbing fixtures and fixture fittings shall be consistent with A.R.S. Title 45, Chapter 1, Article 12."
34. Section 402.2 is deleted.
35. Sec. 501.0 is modified to read: "General. The regulations of this chapter shall govern the construction, location, and installation of all fuel-burning and other water heaters heating potable water, together with all chimneys, vents, and their connectors. All design, construction, and workmanship shall be in conformity with accepted engineering practices and shall be of such character as to secure the results sought to be obtained by this Code. No water heater shall be hereinafter installed which does not comply in all respects with the type and model of each size thereof approved by the Administrative Authority. A list of generally accepted gas equipment standards is included in Table 14-1. A water heater (boiler) which exceeds any of the following limitations shall not be placed in service until the vessel is separately inspected pursuant to A.R.S. Title 23, Chapter 2, Article 11.
   (a) 120-gallon (454.2L) nominal water capacity.
   (b) 160 PSI (1,103.2 kPa) operating pressure.
   (c) 210° F. (98.9° C.) operating temperature.
   (d) 200,000 btu/h (58,620W) heat input."
36. Sec. 507.2 is modified to read: "In new construction, all enclosed buildings shall be provided with combustion air obtained from outside. In existing buildings of ordinary tightness insofar as infiltration is concerned, all or a portion of the combustion air for fuel-burning water heaters may be obtained from infiltration if the enclosure volume equals at least 50 cubic feet per 1000 btu/h (4.831L/W) input of the water heater. Existing buildings of unusually tight construction shall also be provided with outside combustion air. No change in combustion air is required when an existing fuel-burning water heater is replaced with a new water heater having the same or smaller btu/h input capacity. When an existing fuel-burning water heater is replaced by a higher-capacity water heater, or when 1 or more additional fuel burning water heaters are installed in an existing building containing other fuel-burning appliances, the room or space shall be provided with combustion air as required for new construction."
37. Sec. 507.3.1. Add an exception to read: "Combustion air openings may be provided in an outside door provided:
   (a) The door is not less than 2 feet 0 inches in width and 6 feet 8 inches in height; and
   (b) The openings are spaced as far apart as possible or a full louvered door is provided; and
   (c) The equipment room ceiling is not more than 16 inches above the top of the door."

38. Sec. 507.6 is added to read: "Liquefied Petroleum Gas (LPG). All provisions of this chapter shall apply to combustion air for equipment using liquefied petroleum gas. Exceptions:
    (a) The bottom of the lower combustion air opening shall be located at or below the floor of the room containing LPG-fueled equipment.
    (b) The lower combustion air duct, when used, shall have the bottom installed level or with a downward slope, starting from a point at or below the equipment room floor and continuing to the outside of the structure. The duct shall terminate above the finish grade and shall be provided with wire mesh screen to cover the opening.
    (c) No pockets or trapped sections shall be permitted in any lower combustion air duct."
39. Table 5-1 is modified. Refer to Table A – Size of Combustion Air Openings or Ducts for Gas- or Liquid-Burning Water Heaters.
40. Sec. 517.6 is modified to read: "No venting system shall terminate less than 3 feet (0.9m) above any forced air inlet or evaporative cooler located within 10 feet (3.0m) or less than 4 feet (1.2m) from any property line except a public way."
41. Sec. 601.1. Add exception to read: "Potable running water is not required for waterless urinals that have been approved by the Administrative Authority."
42. Sec. 603.4 is added to read: "Secondary Backflow Protection. The following occupancies shall have Reduced Pressure Principle Backflow Prevention Assemblies installed as near as practical to the water service meter connection: Hospitals, surgical clinics, laboratories, morgues, mortuaries, veterinary hospitals, industrial occupancies, packing plants, slaughter houses, chemical plants, municipal waste treatment facilities, and construction water services. NOTE: Multiple water services which are interconnected onsite shall be provided with not less than a Double Check Valve Assembly at each service connection."
43. Sec. 608.5 is modified to read: "All relief valves shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC, PB, or listed relief valve drain tube with fittings which shall not reduce the internal bore of the pipe or tubing (straight lengths as opposed to coils) and shall extend from the valve to the outside of the building with the end of the pipe not more than 2 feet (0.61 m) nor less than 6 inches (152.4 mm) above the ground and pointing downward. Such drains may terminate at other approved locations. No part of such drain pipe shall be trapped and the terminal end of the drain pipe shall not be threaded."
44. Move Sec. 103.5.1.1 to a new Sec. 610.15.
45. Move Sec. 103.5.3.3 a new Sec. 610.16.
46. Sec. 707.4 is modified to read: "Each horizontal drainage pipe shall be provided with a cleanout at its upper terminal and each run of piping, which is more than 100 feet (30.4 m) in total developed length, shall be provided with a cleanout for each 100 feet (30.4 m), or fraction thereof, in length of such piping. Exceptions:
    a. Cleanouts may be omitted on a horizontal drain line less than 5 feet (1.5 m) in length unless such line is serving sinks or urinals.
    b. Cleanouts may be omitted on any horizontal drainage pipe installed on a slope of 72 degrees or less from the vertical angle (angle of 1/5 bend).
    c. An approved type of 2-way cleanout fitting, installed inside the building wall near the connection between the building drain and building sewer or installed outside of a building at the lower end of a building drain and extended to grade, may be substituted for an upper terminal cleanout."
47. Sec. 710.6, paragraph 1, is modified to read: "Backwater valves, gate valves, motors, compressors, air tanks, and other mechanical devices required by this section shall be located where they will be accessible for inspection and repair at all times."
48. Delete Sections 712.4, 712.4.1, 712.4.2, 712.4.3, 712.4.4.
49. Sec. 713.4 is modified to read: "The public sewer may be considered as not being available only when so determined by the Administrative Authority (local, county, or state)."
50. Sec. 723.0 is modified to read: "Building sewers shall be tested by plugging the end of the building sewer at its points of connection with the public sewer or private sewage disposal system and completely filling the building sewer with water from the lowest to the highest point thereof or by approved equivalent low pressure air test, or by such other test as may be prescribed by the Administrative Authority. The building sewer shall be watertight at all points. Exception: Sewer tests may be waived at the discretion of the Administrative Authority."
51. Sec. 807.4 is modified to read: "The discharge pipe of a domestic dishwashing machine may be directly connected to the tailpiece of a sink drain, or into the waste "boss" of a food waste disposer, without installation of an airgap fitting. The dishwasher discharge line shall be securely fastened as high as possible, but not lower than 2 inches (50.8 mm) below the flood rim of the sink."
52. Sec. 807.5 is added to read: "No dishwashing machine utilized for commercial purposes may be directly connected to a drainage system. Commercial dishwashers shall discharge into an approved receptor (floor sink) through an airgap of not less than 1 inch."
53. Sec. 1005.0 is modified to read: "Trap Seals. Each fixture trap shall have a liquid seal of not less than 2 inches (50.8mm) and not more than 4 inches (101.6mm) except where a deeper seal is found necessary by the Administrative Authority for special conditions. Traps shall be set true with respect to their liquid seals and, where necessary, they shall be protected from freezing."
54. Sec. 1007.0 is modified to read: "Trap Seal Protection. Floor drain or similar traps directly connected to the drainage system and subject to infrequent use shall be provided with an approved means of maintaining their water seals, except where not deemed necessary for safety or sanitation by the Administrative Authority. When automatic trap priming devices are installed, they shall be accessible for maintenance."
55. Sec. 1007.1 is added to read: "Approved Means of Maintaining Trap Seals. Approved means of maintaining trap seals include the following, but are not limited to the methods cited:
    (a) Listed Trap Seal Primer.
    (b) A hose bibb or bibbs within the room.
    (c) Drainage from untrapped lavatories discharging to the tailpiece of those fixture traps which require priming. All fixtures shall be in the same room and on the same floor level as the trap primer."
56. Sec. 1210.1 is modified to read: "All pipe used for the installation, extension, alteration, or repair of any gas piping shall be standard weight wrought iron or steel (galva-

nized or black) or yellow brass (containing not more than 75% copper) or listed corrugated stainless steel tubing systems for interior use only. Approved PE pipe may be used in exterior buried piping systems. Exception: CSST piping installed outside a building shall be sleeved or shall be installed with protection from mechanical damage equivalent of that required for CSST piping within the building. When installed underground, CSST shall be sleeved and shall have a minimum burial depth of 18 inches (457.2 mm)."

57. Table 14-1. Add standards in alphabetical order listed under appropriate sections. Refer to Table B – Plumbing Material Standards.
58. The 3rd paragraph of Appendix C is added to read: "Those jurisdictions that have not adopted a building code which stipulates minimum plumbing facilities shall utilize Appendix C of the 1994 UPC when establishing plumbing facility requirements."
59. Appendix D1.1(c) is modified to read: "Roof drains, overflow drains, and rainwater piping installed within the building shall be tested in conformity with the provisions of this Code for testing drain, waste, and vent systems."
60. Appendix D3.3 is modified to read: "Horizontal Rainwater Piping. Horizontal Rainwater Piping shall be sized in accordance with Table D-2. Exception: The potential head of water which may rise in the vertical drain pipe (tailpiece) may be used to reduce the horizontal pipe size and its slope if the head (rise) is sufficient when calculated as follows:
    (a) If the head ['h'] is equal to or greater than 3/8 inch for each foot (31.35 mm/m) of horizontal pipe length, the horizontal pipe may be pitched at 1/8 inch slope (10.45 mm/m), but sized according to the 1/2 inch slope (41.8 mm/m) table.
    (b) If the head ['h'] is equal to or greater than 1/8 inch for each foot (10.45 mm/m) of horizontal pipe length, the horizontal pipe may be pitched at 1/8 inch slope (10.45 mm/m), but sized according to the 1/4 inch slope (20.9 mm/m) table. (See Illustration A).

        EXAMPLE #1: Roof Area – 4800 Square Feet (445.9 $m^2$)
        Maximum Rainfall/Hour – 6 Inches (152.4 mm/h)
        Pipe Laid at 1/8 inch Slope (10.45 mm/m)
        Using the 1/2 inch slope (41.8 mm/m) table, the horizontal pipe size will be 6 inches. The available static head ['h'] needed to allow use of the 1/2 inch (41.8 mm/m) table is calculated as follows: 3/8 inch of head pressure per foot (31.35 mm/m) of horizontal pipe run becomes 3/8-inch x 100 feet = 300/8ths, or 'h' = 37 1/2 inches (952.5 mm). NOTE: Sizing from the 1/8 inch (10.45 mm per m) table would have required the horizontal pipe size to be 8 inches (203.2 mm), rather than the 6 inches (152.4 mm) made possible by use of the 1/2 inch (41.8 mm/m) slope table.
        EXAMPLE #2: Roof Area – 6000 Square Feet
        Maximum Rainfall/Hour – 6 Inches (152.4 mm)
        Pipe Laid at 1/8 inch Slope (10.45 mm/m)
        Using the 1/4 inch slope (20.9 mm/m) table, the horizontal pipe size will be 8 inches (203.3 mm). The available static head ['h'] needed to allow use of the 1/4 inch (20.9 mm/m) table is calculated as follows: 1/8 inch of head pressure per foot (10.45 mm per m) of horizontal pipe run becomes 1/8-inch x 100 feet = 100/8ths, or 'h' = 12½ inches (317.5 mm). NOTE: Sizing from 1/8 inch (10.45 mm per m) table would have required the horizontal pipe size to be 10 inches (254.0 mm), rather than the 8 inches (203.2 mm) made possible by use of the 1/4 inch slope (20.9 mm/m) table.
    (c) If the head ['h'] is equal to or greater than 10 feet (3.05 m) (for example, base of a stack), all horizontal pipe downstream of any such vertical section may be the same size as the vertical pipe to which it is connected."
61. Appendix F Medical Gas Systems. Current language is deleted and replaced with the following sections of NFPA #99, Health Care Facilities (1996 Edition) as amended by this section, which are incorporated by reference. The incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02169, and are on file with the Office of the Secretary of State:

    "F1 Scope
    (a) The provisions herein shall apply to the installation, testing, and certification of medical gas and vacuum piping for safe use in patient care hospitals, clinics, and other health care facilities.
    (b) The purpose of this appendix is to provide minimum requirements for the installation, testing, and certification of medical gas and medical vacuum systems, from the point of supply to the user outlets or inlets. These provisions do not cover portable systems or cylinder storage requirements.

    F2 All medical gas and vacuum piping systems are to be installed and inspected based upon applicable language found in the following chapters of NFPA #99, Health Care Facilities (1996 edition):
    Chapter 1. Introduction.
        1-1 Scope
        1-2 Application. (Use 1st paragraph; delete 2nd paragraph)
        1-3 Intended Use
        1-4 Discretionary Powers of Authority Having Jurisdiction
        1-5 Interpretations
        1-6 Organization of This Document (subsections 1-6.1, 1-6.2, and 1-6.3)
        1-7 Metric Units
        1-8 Effective Date
        1-9 Preface
        Add Sec. 1-10 to read: "Sections of NFPA 99, 1996 edition, which are not referenced are not mandated by the Arizona Uniform Plumbing Code."
    Chapter 2. Definitions.
        2-1 Official NFPA Definitions
        2-2 Definitions of Terms Used in the Standard
    Chapter 4. Gas and Vacuum Systems.
        4-3.1.1.2 Storage Requirements (Location, Construction, Arrangement)
        4-3.5 Administration - Level 1
        4-3.5.1 Responsibility of Governing Body

4-3.5.2 Gas System Policies - Level 1
4-3.5.2.1 Gases in Cylinders and Liquefied Gases in Containers - Level 1
4-3.5.2.2 Storage of Cylinders and Containers - Level 1
4-3.5.2.3 Patient Gas Systems - Level 1
4-3.5.3 Gas Systems Recordkeeping - Level 1
4-3.5.4 Gas Systems Information and Warning Signs - Level 1
4-3.5.4.1 (No Heading)
4-3.5.4.2 (No Heading)
4-3.5.4.3 (No Heading)
4-3.5.5 Gas System Transport and Delivery - Level 1
4-3.5.5.1 (No Heading)
4-3.5.5.2 (No Heading)
4-3.5.6 Vacuum Systems Policies – Level 1
4-3.5.6.1 Patient Vacuum Systems
4-3.5.7 Vacuum System Recordkeeping - Level 1
4-3.5.8 Vacuum System Information and Warning Signs - Level 1
4-3.5.8.1 Piping Distribution System
4-3.5.8.2 Gauge Identification
4-3.5.9 WAGD System Policies - Level 1
4-3.5.9.1 Maintenance
4-3.5.9.2 Performance Tests
4-4 Level 2 Piped Systems
4-4.1 Piped Gas Systems - Level 2
4-4.2 Piped Vacuum Systems - Level 2
4-4.3 Piped WAGD Systems - Level 2
4-4.4 Performance Criteria and Testing - Level 2
4-4.5 Administration - Level 2
4-5.5 Administration - Level 3
4-5.5.1 Responsibility of Governing Body
4-5.5.2 Gas System Policies - Level 3
4-5.5.2.1 (No Heading)
4-5.5.2.2 (No Heading)
4-5.5.2.3 Patient Gas Systems – Level 3
4-5.5.3 Gas System Recordkeeping - Level 3
4-5.5.4 Gas System Information and Warning Signs - Level 3
4-5.5.5 Gas System Transport and Delivery - Level 3
4-5.5.6 Vacuum System Policies - Level 3
4-5.5.7 Vacuum System Recordkeeping - Level 3
4-5.5.8 Vacuum System Information and Warning Signs - Level 3
4-5.5.9 WAGD System Policies - Level 3
4-6.5 Administration - Level 4
Chapter 12. Hospital Requirements.
12-1 Scope
12-3.4 Gas and Vacuum System Requirements
12-3.4.1 (No Heading)
12-3.4.2 (No Heading)
12-3.4.3 (No Heading)
12-3.4.4 (No Heading)
12-3.4.5 (No Heading)
Chapter 13. Ambulatory Health Care Center Requirements.
13-1 Scope
13-3.4 Gas and Vacuum System Requirements
13-3.4.1 (No Heading)
13-3.4.2 (No Heading)
13-3.4.3 (No Heading)
13-3.4.4 (No Heading)
13-3.4.5 (No Heading)
Chapter 14. Clinic Requirements.
14-1 Scope
14-3.4 Gas and Vacuum System Requirements
14-3.4.1 (No Heading)
14-3.4.2 (No Heading)
14-3.4.3 (No Heading)
14-3.4.4 (No Heading)
14-3.4.5 (No Heading)
Chapter 15. Medical and Dental Office Requirements.
15-1 General
15-1.1 Scope
15-1.2 Applicability
15-3.4 Gas and Vacuum System Requirements
15.3.4.1 (No Heading)
15.3.4.2 (No Heading)
15.3.4.3 (No Heading)
15.3.4.4 (No Heading)
15.3.4.5 (No Heading)
15.3.4.6 (No Heading)
15.3.4.7 (No Heading)
15.3.4.8 (No Heading)
15.3.4.9 (No Heading)
Chapter 16. Nursing Home Requirements.
16-1 Scope
16-3.4 Gas and Vacuum System Requirements
16-3.4.1 (No Heading)
16-3.4.2 (No Heading)
Chapter 17. Limited Care Facility Requirements.
17-1 Scope
17-3.4 Gas and Vacuum System Requirements
17.3.4.1 (No Heading)
17.3.4.2 (No Heading)
Chapter 19. Hyperbaric Facilities.
19-1 Introduction and Scope
19-3.3.3 (No Heading)
19-3.3.5 (No Heading)"

62. Appendix H 2 (a) is modified to read: "Interceptors shall be constructed in accordance with the design approved by the Administrative Authority and shall have a minimum of 2 compartments with fittings designed for grease retention. Grease interceptors shall be constructed of solid durable materials, not subject to excessive corrosion or decay, and shall be watertight."

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 802, effective February 24, 1999 (Supp. 99-1).

**Table A. Size of Combustion Air Openings or Ducts for Gas-or Liquid-Burning Water Heaters**

| Column 1 Existing Buildings of Ordinary Tightness | | Column 2 New Buildings and Unusually Tight Construction | |
|---|---|---|---|
| **Condition** | **Size of Opening or Duct** | **Condition** | **Size of Opening or Duct** |
| Appliance in unconfined[2] space. | May rely on infiltration alone. | Appliance in unconfined[2] space: Obtain combustion air from outdoors or from space freely communicating with outdoors. | Provide 2 openings, minimum 50 sq. in. each opening.[3] |
| Appliance in confined[4] space 1. All air from inside building. | Provide 2 openings into enclosure each having 1 sq. in. (645mm$^2$) per 1000 btu/h input freely communicating with other unconfined interior spaces.[3] Minimum 100 sq. in. (0.06m$^2$) each opening. | Appliance in confined[4] space: Obtain combustion air from outdoors or from space freely communicating with outdoors. | Provide 2 openings into enclosure, minimum 50 sq. in. each opening.[3] |
| 2. All air from outdoors: Obtain from outdoors or from space freely communicating with outdoors. | Use the methods listed for confined space as indicated in Column 2. | | |

1 For location of opening, see Section 507.3.

2 As defined in Chapter 2.

3 When the total btu/h input rating of all enclosed appliances/equipment exceeds 100,000 btu/h, the combined net free area of all combustion air openings shall be increased by not less than 1 additional square inch (645mm) for each 1000 btu/h in excess of 100,000 btu/h.

4 As defined in Section 202.0.

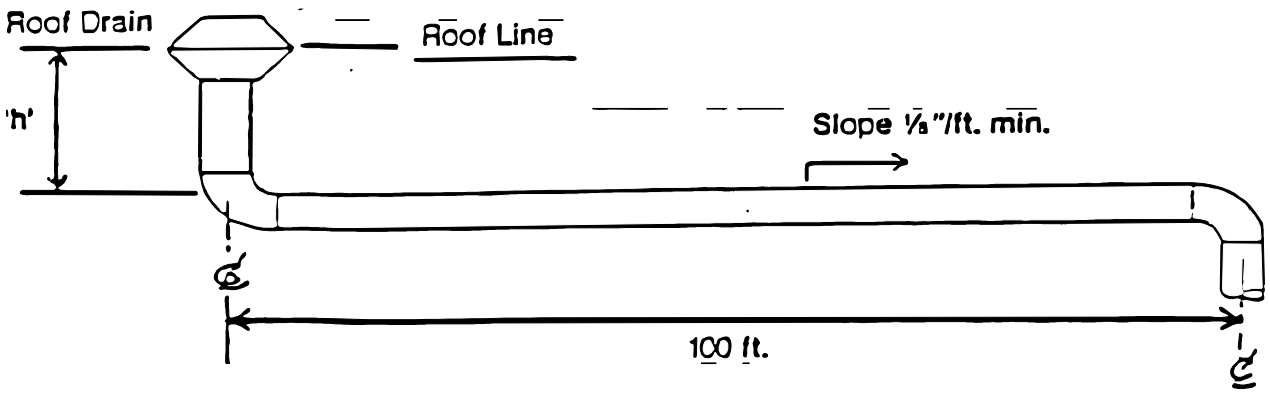
**Historical Note**
New Table A adopted by final rulemaking at 5 A.A.R. 802, effective February 24, 1999 (Supp. 99-1).

**Table B. Plumbing Material Standards**

| Materials and Products | ANSI | ASTM | FS | IAPMO | Other Standards | Footnote Remarks |
|---|---|---|---|---|---|---|
| PLUMBING FIXTURES: Waterless Urinals | Z124.9 | | | C-3346 | | |

**Historical Note**
New Table B adopted by final rulemaking at 5 A.A.R. 802, effective February 24, 1999 (Supp. 99-1).

**Illustration A. Horizontal Rainwater Piping**



**Historical Note**
New Illustration A adopted by final rulemaking at 5 A.A.R. 802, effective February 24, 1999 (Supp. 99-1).