

NOTICES OF FINAL RULEMAKING

Unless exempted by A.R.S. § 41-01995, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.) an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS, AND OCCUPATIONS

CHAPTER 19. STATE BOARD OF NURSING

PREAMBLE

- | | |
|---|--|
| <u>1. Sections Affected</u>
R4-19-101 | <u>Rulemaking Action</u>
Amend |
|---|--|
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1606(A)
Implementing statutes: A.R.S. §§ 32-1601(10), 32-1606(B)(12), and 32-1921(A)(1)
- 3. The effective date of the rules:**
December 22, 1995
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Proposed Rulemaking:
1 A.A.R. 1543, September 8, 1995
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Audrey Rath, R.N. Nurse Practitioner Consultant
Address:	State Board of Nursing 1651 East Morten, Suite 150 Phoenix, Arizona 85020
Telephone:	(602) 255-5092
Fax:	(602) 255-5130
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

This amendment to the definitions of R4-19-101 is being promulgated for the purpose of adding several definitions which were inadvertently repealed during the promulgation of the recently effective and new Articles 1 through 4 of 4 A.A.C. 19. It had been originally planned that simultaneous with or immediately subsequent to the rule package which promulgated those new Articles there was to have been a rule package promulgating new Articles 5, 6, and 7, which would have included the repealed definitions, together with several new ones. However, this 2nd rule package has been delayed and, therefore, this rule amendment is necessary to restore several necessary definitions, including "active practice", "collaborate", "pharmacology", "prepackaged labeled drug", and "unit-of-use packaging".
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
- 8. The summary of the economic, small business, and consumer impact:**
In view of the fact that this proposed rule package merely restores 5 definitions which have been in effect since 1984, and there are no changes made to these definitions or in the manner in which they are applied through other rules already in effect. There is no economic, small business, or consumer impact expected in this effort to merely maintain status quo. Practices did not change when these definitions were inadvertently left out of the earlier rule package.
- 9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
No changes were made.

10. A summary of the principal comments and the agency response to them:

No public comments were received.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. STATE BOARD OF NURSING

ARTICLE 1. DEFINITIONS

Section

R4-19-101. Definitions

ARTICLE 1. DEFINITIONS

R4-19-101. Definitions

In this Chapter, unless the context otherwise requires:

1. "Active practice" means a minimum of 1000 hours per year of working in a clinical area with direct patient contact excluding the generic nurse practitioner program. Faculty who teach within a nurse practitioner program must spend 400 hours a year in a clinical area with direct patient contact, excluding the generic nurse practitioner program.
- 1-2. "Administrator" means the nurse educator with the administrative responsibility and authority for the direction of a nursing program.
- 2-3. "Approved national nursing accrediting agency" means the National League of Nursing or the National Association for Practical Nurse Education and Service.
- 3-4. "A.R.S." means Arizona Revised Statutes.
- 4-5. "Board" means the State Board of Nursing.
- 5-6. "Certificate or a Diploma in Practical Nursing" means the document which is awarded to a graduate of an educational program in practical nursing.
7. "Collaborate" means to establish a relationship for consultation or referral with 1 or more physicians who have an active, unrestricted license and each collaborating physician's license status is confirmed in writing by the physician's licensing board.
- 6-8. "Contact hour" means an equivalent of 50 minutes of participation in regular or continuing education activities relating to nursing practice.
- 7-9. "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.
- 8-10. "Endorsement" means the procedure for granting of licensure to an applicant who is already licensed as a nurse in another state of the United States.
- 9-11. "Full approval" means the status granted in writing by the Board when a nursing program, upon graduation of its first class, has demonstrated ability to provide and maintain its program in accordance with the standards set forth in the law and these rules.
- 10-12. "Good standing" means that a license for a nurse, either practical or professional, is current and valid, and the nurse is not presently subject to any disciplinary action, consent order or settlement agreement, nor is any such

action, order or agreement pending against the nurse.

- 11-13. "Initial approval" means the permission, granted in writing by the Board, 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.
- 12-14. "Mediated instruction" means teaching transmitted through intermediate mechanisms such as audio or video tape, and telephonic transmission.
- 13-15. "NCLEX" means the National Council Licensure Examination.
- 14-16. "Nursing process" means the problem-solving techniques of assessment, planning, implementing and evaluating a plan of care which requires technical and scientific knowledge and judgmental and decision-making skills.
- 15-7. "Nursing program" means a formal course of instruction that is preparing its graduates for licensure as professional or practical nurses.
- 16-18. "Parent institution" means an educational institution in which a nursing program is conducted.
19. "Pharmacology" is the science which deals with the study of drugs in all its aspects.
- 17-20. "Physician" means a practitioner licensed pursuant to A.R.S., Title 32, who may lawfully use the title.
21. "Prepackaged labeled drug" means a drug packaged in a unit-of-use package by a pharmacist or manufacturer in quantities ordinarily prescribed by the nurse practitioner and properly labeled for storage for subsequent dispensing by the registered nurse practitioner.
- 18-22. "PRN" means to give as needed.
- 19-23. "Reentry update program" means a formal course of instruction which provides a basic review and update of nursing theory and practice specifically designed for professional or practical nurses preparing to re-enter nursing practice.
- 20-24. "Regionally accredited" means that 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.
- 21-25. "SBTPE" means the State Board Test Pool Examination.
- 22-26. "Self-study" means a written self-evaluation conducted by a nursing program which addresses the standards set forth in R4-19-201 through R4-19-206.
- 23-27. "School of practical nursing" means a nursing program that is preparing its graduates for practical nursing.
- 24-28. "School of professional nursing" means a nursing pro-

Notices of Final Rulemaking

gram that is preparing its graduates for professional nursing.
25-29. "Supervision" means the initial direction and periodic consultation and assessment provided by a professional nurse to a person to whom a nursing task or activity

regarding patient care has been delegated, after initial assessment of the patient by the professional nurse,
30. "Unit-of-use packaging" means prescription drugs pre-packaged in dispensing-size container.

NOTICE OF FINAL RULEMAKING

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR
COMMUNITY COLLEGES OF ARIZONA

PREAMBLE

1. Sections Affected
R7-1-702
R7-1-702
- Rulemaking Action
Repeal
New Section
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. § 15-1425(1) and (6)
Implementing statute: A.R.S. § 15-1425(1) and (6)
3. The effective date of the rules:
December 11, 1995
4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening:
1 A.A.R. 122, February 24, 1995
Notice of Proposed Rulemaking:
1 A.A.R. 119, February 24, 1995
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Thomas J. Saad
Address: State Board of Directors for Community Colleges
3225 North Central Avenue, Suite 1220
Phoenix, Arizona
Telephone: (602) 255-4037
Fax: (602) 279-3464
6. An explanation of the rule, including the agency's reasons for initiating the rule:
The new Section provides a clearer understanding of the process to be followed in submitting curriculum to the State Board for approval and is designed to identify and resolve potential conflicts between community college districts in situations where there may be competing interests.
Reasons for initiating the rule: A.R.S. § 15-1425(6) authorizes the State Board to ...*establish curriculum and designate courses at the several institutions...* The rule clarifies the process and requires that proposed curriculum meet identified needs, have no adverse impact on existing programs and services in other districts, be designed to meet the expectation of employers concerning job skills, and meet lower-division general education requirements of Arizona universities to facilitate transfer of credits.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
The rule will not diminish the authority of state community colleges. Effectively, the rule increases local boards authority.
8. The summary of the economic, small business, and consumer impact:
The information can be summarized as follows: The new Section will have no adverse economic impact on small businesses or consumers.
9. A description of the changes between the proposed rules, including supplemental notices, and final rules:
Various changes in the language of the rule were made to enhance clarity and were not substantive.
10. A summary of principal comments and the agency response to them:
No comments were received.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.

Arizona Administrative Register
Notices of Final Rulemaking

12. Incorporations by reference and their location in the rules:

None.

13. Was the rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR
COMMUNITY COLLEGES OF ARIZONA

ARTICLE 7. INSTRUCTION, FACULTY, AND STAFF

~~R7-1-702. Procedure for Submitting Curriculum Approval to State Board~~

R7-1-702. Procedure for Submitting Curriculum to State Board for Approval

ARTICLE 7. INSTRUCTION, FACULTY, AND STAFF

~~R7-1-702. Procedure for Submitting Curriculum Approval to State Board~~

~~A. Program proposals shall be submitted according to the procedures and format prescribed by the State Board. Any change or addition to the curricular program of any community college affecting the members of full-time student equivalents eligible for state funding shall be subject to the approval of the State Boards.~~

~~B. Each college shall submit all curricula to the State Board for approval. Curricula are programs containing a planned sequence of courses leading to an educational goal (i.e., degree or certificate). University parallel curricula shall be approved by major. Once the curricula have been approved, the colleges may modify them by adding and deleting courses and changing credit hours, titles, etc. All such changes are to be filed with the State Office in which they occur between college catalogue publications. Each curriculum may be reviewed following its adoption. Approval of curriculum will be based upon:~~

- ~~1. A statement of need (i.e., student, community employment, etc.);~~
- ~~2. A description of the program, including objectives;~~
- ~~3. Implication for articulation and coordination between other programs within the college and other institutions within the state;~~
- ~~4. The faculty, facility, and financial needs;~~
- ~~5. The involvement with the State Department of Vocational Education and/or other agencies;~~
- ~~6. The solution to the above;~~
- ~~7. A tentative calendar of events for planning and implementation;~~

~~C. The approval process is to submit the proposed curriculum to the State Board at one of its regular meetings. Normally the State Board's Curriculum Committee and the State Office will review the proposal and act on it at the next regular meeting following the meeting at which the proposal was submitted. There may be times when a district needs to have action taken before the month has transpired. Such a request should be known by the State Officer prior to the submittal to the State Board, and a plan of action can be developed by the State Board to reduce the normal study, review, and action time.~~

R7-1-702. Procedure for Submitting Curriculum to State Board for Approval

A. The following definitions apply to the terms used in this Section:

1. "Curriculum" means a program of study containing a planned sequence of courses leading to a degree or certificate.
 2. "Baccalaureate Parallel Curriculum" means a program of study designed to transfer to a 4-year college or university.
 3. "General Studies Curriculum" means a program of study designed to address student needs other than those included in the baccalaureate parallel curriculum or occupationally oriented curriculum.
 4. "Occupationally Oriented Curriculum" means a program of study designed to prepare a student for employment or advancement in the program field.
 5. "State Board" means the State Board of Directors for Community Colleges of Arizona.
 6. "Adverse Impact" means an undesirable effect of a proposed curriculum on a viable existing program or service of another Arizona community college district that, in the judgment of the State Board, is unacceptable when weighed against the expected benefit of the proposed curriculum. Such undesirable effects may include effects on the enrollment of an established program, placement of graduates of an established program, funding of an established program or service, or other similar considerations.
- B. Each degree or certificate curriculum offered by a community college district shall have been approved by the State Board as required by A.R.S. § 15-1425(6). The best interest of the state shall be determined by the application of the following 3 primary criteria:
1. The curriculum shall meet an identified community, state, regional, or national need defined by the local district curriculum review process;
 2. The curriculum shall have been developed and approved at the community college district level following a procedure that meets at least the minimum standards specified in subsection (C);
 3. The curriculum will not have an adverse impact on the existing programs and services of another Arizona community college district.
- C. In its request for curriculum approval, the district shall demonstrate that it has used a curriculum review process that includes, as a minimum, the following elements:
1. An analysis shall have been conducted that establishes the need for the curriculum;
 2. For occupationally oriented curricula, the program design shall be based upon the knowledge and skills required for employment or advancement in the program field as determined by a systematic study involving potential employers and others expert in the field;
 3. For baccalaureate parallel curricula, the program shall be designed to enable a graduate of the program to satisfy Arizona public university, lower-division, general education requirements and to transfer to a public Arizona uni-

Notices of Final Rulemaking

- versity with upper-division status;
4. A resource study shall have been conducted that demonstrates the community college district will have the financial resources, physical facilities, and qualified faculty to establish and sustain the curriculum;
 5. A review within the community college district shall have been conducted to assure that all affected entities within the district have been provided an opportunity to comment, following the district's normal internal approval procedure.
 6. An analysis of the impact of the curriculum upon other districts and the attempts made by the district to resolve any concerns expressed by the staff of the State Board or other districts.
 7. The district governing board shall have approved the curriculum and recommend its approval by the State Board.
- D. At the conclusion of the analysis described in subsection (C)(1) above, the community college district shall notify the other community districts and the staff of the State Board of its intent to consider the development of a new curriculum. The State Board and community college districts shall notify the proposing district of any concerns within 60 days of such notice.
- E. The State Board approval process shall consist of the following steps:
1. Upon receipt of a curriculum approval request, the State Board shall notify all other Arizona community college districts of the pending request. This notice shall be made at least 30 days before the date of the State Board meeting at which the request will be considered.
 2. Any district that has notified the State Board and the initiating district of a concern, in accordance with subsection (E)(1), shall be provided an opportunity to comment on its concern in an open meeting of the State Board. The initiating district shall have an opportunity for rebuttal prior to a final decision by the State Board.
 3. The State Board staff review the curriculum approval request and submit to the State Board a recommendation that the Board find that the curriculum review criteria described in subsection (C) have been satisfied.
 4. The State Board shall consider the request for curriculum approval in terms of the satisfactory application of its curriculum review criteria and the impact of the program on other Arizona community college districts.
- F. Notwithstanding the procedures described previously in this Section, the State Board may grant temporary interim approval for initiation of a curriculum under the following conditions:
1. The curriculum meets each of the following criteria:
 - a. The currcuital is in support of economic development or job training for a new or established Arizona employer or employers.
 - b. The curriculum is no more than 40 semester credit hours in length.
 - c. The State Board has determined that it is unlikely that the curriculum will have an adverse impact on another Arizona community college district during the limited-approval period.
 2. The temporary interim approval shall be for no more than 1 year, during which time the full curriculum approval process must have been completed if the curriculum is to be continued.
 3. Temporary interim approval shall not be a justification for regular curriculum approval.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 2. DEPARTMENT OF HEALTH SERVICES
TOBACCO TAX-FUNDED PROGRAMS**

PREAMBLE

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <u>Sections Affected</u>
Article 1
R9-2-101 | <p><u>Rulemaking Action</u>
New Article
New Section</p> |
|---|--|
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-104(3) and 36-136(F)
Implementing statute: A.R.S. § 36-2907.06
 3. **The effective date of the rules:**
December 18, 1995
 4. **A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening:
1 A.A.R. 1276, August 4, 1995

Notice of Proposed Rulemaking:
1 A.A.R. 1314, August 11, 1995

Notices of Final Rulemaking

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Phil Lopes, Assistant Director
Address: ADHS, Health Systems Development
1740 West Adams, Room 301
Phoenix, Arizona 85007
Telephone: (602) 542-1219
Fax: (602)542-1244

6. An explanation of the rule, including the agency's reasons for initiating the rule:

In 1995, the Arizona Legislature enacted A.R.S. § 36-2907.06, which authorized the Department of Health Services (ADHS) to issue a Request for Proposals to contract for primary care services for Arizona residents who are uninsured and below 200% of the Federal Poverty Level Guidelines. The statute requires that a sliding-fee scale be used with all program participants and that a contractor's sliding-fee scale be approved by the ADHS.

The proposed rule describes the parameters for approving sliding-fee scales and are essential to the implementation of the program.

The ADHS believes that adoption of these rules will benefit the public health and safety by establishing clear standards for approval of sliding-fee scales to be applied to uninsured persons seeking tobacco tax-funded primary care services in order to facilitate access to services.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

The primary impact of these rules will be on clients (recipients of tobacco tax-funded primary care services), and service providers. Since the client is to be seen first by the physician before having the client's eligibility determined by the provider's staff, the discussion of the client's payment based on the sliding-fee scale should not be a barrier to care. Persons unable to pay are not refused service on subsequent visits, and there are no collection procedures to be used for persons unable to pay. Somewhere between 10,000 to 15,000 persons are expected to participate in this program. It is estimated that these participants will pay for approximately 15% of their services. \$5 million has been allocated to the A.R.S. § 36-2907.06 primary care program. An additional \$750,000 will be paid by program participants.

Service providers include private doctor offices, clinics, county health departments, and community health centers. Collecting fees based on a sliding-fee scale is an important source of revenue for community health centers, amounting to approximately \$1,600,000 per year. These funds serve to expand services. It is estimated that an additional \$750,000 may be generated by the sliding-fee scale for participants in the Tobacco Tax Primary Care Program. Determining a client's eligibility for the program, including the payment amount, based on a sliding-fee scale, is done by the service provider's staff in a quick 15-minute interview; so the amount of staff time spent in assessing the payment amount and in collecting it is minimal.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The changes include:

1. **R9-2-101(A).** This subsection is relettered to (B) and replaced with a relettered subsection (D) with changes and the new subsection (A) reads as follows: "For purposes of this Section, sliding-fee schedule means a document that sets forth the relationship between an individual's income and family size and states the percentage of the charges for health care services provided pursuant to A.R.S. § 36-2907.06 for which the individual will be responsible."
2. **R9-2-101(B).** This subsection is moved to subsections (D) and (F) and is replaced with a relettered word and amended subsection (A), which reads, "At least 30 days before the implementation of the sliding-fee schedule, a qualifying community health center shall submit an application for approval of a sliding-fee schedule to the Department of Health Services that contains:
 1. The qualifying community health center's name and street address including city, state, and zip code;
 2. The qualifying community health center's telephone number; and
 3. The name of the qualifying community health center's administrator.
3. **R9-2-101(C).** The existing subsection (C) is relettered to subsection (G) with minor changes and the new subsection (C) reads as follows: "The Department of Health Services shall notify the qualifying community health center in writing of approval or disapproval within 20 days of submission of application."
4. **R9-2-101(D)** is relettered from subsection (B) with changes as follows: "The sliding-fee schedule shall cover income levels from 0 to at least 200% of the federal poverty level."
5. **R9-201-101(E).** A new subsection (E) is added which reads, "A qualifying community health center shall not deny health care services to an individual eligible for health care services pursuant to A.R.S. § 36-2907.06 because the individual is unable to pay for the health care services."

6. **R9-2-101(F)** is relettered from subsection (B) and changed to read: "A qualifying community health care center shall apply a 100% discount for an eligible individual with an income at or below 100% of the federal poverty level but may establish a minimum fee for administrative processing costs. A qualifying community health care center shall charge the greater of either the administrative fee or the amount of charges for services for which an eligible individual is determined to be responsible according to the sliding-fee schedule."
7. **R9-2-101(G)** is relettered from subsection (C) and reads: "The charges for services for which an individual who requests a discounted fee shall be responsible shall not exceed the amount which would be charged by applying the sliding-fee schedule to the lowest service charges for which the qualifying community health care center contracts to provide health care services for any other payor that the qualifying community health care center has in effect at the time the health care services are provided."
8. **R9-2-101(H)**. A new subsection (H) is added which reads, "At or near the main entrance and in each waiting room of the qualifying community health care center, the qualifying community health care center shall post a clearly visible sign that includes both an English and Spanish description of this rule and a phone number for voicing concerns."

10. A summary of the principal comments and the agency response to them:

A. General Comments

The ADHS received 7 verbal comments at the 2 public hearings and 7 written comments. The major issue in both the verbal and written comments was whether clients who are between 0 and 100% of the federal poverty level should have to pay a mandatory administrative fee.

From the public hearing 4 comments supported the initial rule in not allowing an administrative fee for this group, and 3 comments supported the concept of a mandatory fee. The written comments showed the same ratio of 4 to 3, between those favoring no mandatory fee and those desiring a mandatory fee.

Those supporting the imposition of a mandatory fee were representatives of the Arizona Association of Community Health Centers, who indicated that their members currently used a sliding-fee scale with a mandatory fee. Doing away with the mandatory fee would result in a loss of revenue of approximately \$1.6 million, which could result in curtailing services or a reduction of staff in some situations. Another option explored by the community health centers was to use 2 separate sliding-fee scales; 1 for non-tobacco tax-funded persons, and the other scale for tobacco tax-funded persons. They indicated that it would be difficult to operate 2 such sliding-fee scales.

In addition to the verbal and written comments, the Director of the ADHS received 1 letter from a member of the Arizona Legislature, who indicated that it was not the intent of the State Legislature in passing HB 2275 (Tobacco Tax Primary Care) to do away with existing administrative or nominal fees for those between 0 and 100% of poverty.

RESPONSE: Neither those opposing an administrative fee, nor those favoring such a fee produced research data to support their position that such a fee would or would not create a barrier to persons seeking medical care. Since abolishing the administrative fees for agencies currently dependent on them for income might create a hardship for the service provider, it was felt that an administrative fee might be allowed providing:

1. Collecting a administrative fee was consistent with the overall goals of the agency to have all participants pay some amount;
2. Clients were made aware of their right to express a concern about their assessed fee, by means of a notice posted in the main entrance and the waiting room of facilities; and
3. No one is denied services because of inability to pay for needed health services.

B. Issues Raised by the Public During the Rulemaking Process

R9-2-101(F)

ISSUE: Does an administrative fee for those persons whose income is between 0 and 100% of the federal poverty level constitute a barrier to seeking care?

EVALUATION: First, there was no research presented to substantiate either position. Second, the abolishing of existing administrative fees may cause a financial hardship on such service providers. Third, no one would be denied service because of an inability to pay for needed health services (R9-2-101(E)). Fourth, if clients have the right to protest the fee assessed by the qualifying community health care center, then this provides some recourse for those who might be adversely affected by an administrative fee (R9-2-101(H)). Due to the above reasons, the rule was changed to allow for administrative minimum fees.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

12. Incorporations by reference and their location in the rules:
None.

13. Was this rule previously adopted as an emergency rule?
No.

Arizona Administrative Register
Notices of Final Rulemaking

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 2. DEPARTMENT OF HEALTH SERVICES
TOBACCO TAX-FUNDED PROGRAMS**

ARTICLE 1. SLIDING-FEE SCHEDULE

Section

R9-2-101. Approval of Sliding-fee Schedule

ARTICLE 1. SLIDING-FEE SCHEDULE

R9-2-101. Approval of Sliding-fee Schedule

- A.** For purposes of this Section, "sliding-fee schedule" means a document that sets for the relationship between an individual's income and family size and states the percentage of the charges for health care services provided pursuant to A.R.S. § 36-2907.06 for which the individual will be responsible.
- B.** At least 30 calendar days before the implementation of the sliding-fee schedule, a qualifying community health center shall submit an application for approval of the schedule to the Department of Health Services. Submission occurs at the time the Department receives a correctly completed application. The application shall contain:
1. The qualifying community health center's name and street address including city, state, and zip code;
 2. The qualifying community health center's telephone number; and
 3. The name of the qualifying community health center's administrator.
- C.** The Department of Health Services shall notify the qualifying community health center in writing of approval or disapproval within 20 calendar days of submission of application. A sliding-fee schedule shall not be implemented without approval. If an application is disapproved, the Department shall set forth the reasons for the disapproval in the written notice. Within 15 calendar days of receiving a written disapproval, a qualifying community health center may file a written request for a hearing with the Department to appeal the disapproval.
- D.** The sliding-fee schedule shall cover income levels from 0 to at least 200% of the federal poverty level.
- E.** A qualifying community health care center shall not deny health care services to an individual eligible for health care services pursuant to A.R.S. § 36-2097.06 because the individual is unable to pay for the health care services.
- F.** A qualifying community health center shall apply a 100% discount for an eligible individual with an income at or below 100% of the federal poverty level. A qualifying community health center may establish a minimum fee for administrative processing costs for all eligible individuals without regard to income level. A qualifying community health center shall

charge the greater of either the administrative fee or the amount of the charges for services for which an eligible individual is determined to be responsible according to the sliding-fee schedule.

- G.** An individual covered by a sliding-fee schedule shall not be responsible for an amount greater than the amount determined by applying the sliding-fee schedule to the lowest contracted charge for each service received. The lowest contracted charge for a service is determined by reference to contracts covering that service, in effect at the time that the service is rendered, between the qualifying community health center and any payor, subject to limitations of federal and state laws and regulations.
- H.** The qualifying community health center shall post a notice at or near the main entrance and in each waiting room. The notice shall be in both English and Spanish and shall contain the following information:
1. The qualifying community health center provides primary care services to uninsured Arizona residents with family incomes of 200% or less of the federal poverty guidelines and who meet the eligibility requirements of the Tobacco Tax Primary Care Program, A.R.S. § 36-2907.06;
 2. The name of the individual or unit within the qualifying community health center that interested persons may contact to have an eligibility determination interview for the Tobacco Tax Primary Care program;
 3. The qualifying community health center's use of an Arizona Department of Health Services-approved sliding-fee schedule to determine the payment responsibility or eligible persons.
 4. The name and phone number of the qualifying community health center's staff member responsible for receiving and hearing any complaints from eligible persons regarding their payment responsibility for Tobacco Tax Primary Care program services.
- I.** The qualifying community health center shall keep a log of all complaints dealing with payment responsibility under the sliding-fee schedule. The log and file shall indicate the name and address of the eligible person, the nature of the complaint, the date the complaint was received, the date the decision was rendered, and the date the decision letter was sent to the eligible person. The qualifying community health center shall retain the log and file for 12 months after the decision letter is sent.