

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

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 PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
9-28-507 Amend
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. § 36-2932(P)
Implementing statute: A.R.S. §§ 36-2932(E)(3) and 36-2943
3. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Cheri Tomlinson
Address: AHCCCS
Office of Policy Analysis and Coordination
801 East Jefferson Street, MD4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756
4. **An explanation of the rule, including the agency's reason for initiating the rule:**
These proposed rules result from a 5-year review report which identified nonsubstantive revisions that would make the language more clear, concise, and understandable. In addition, these proposed rules reflect an administrative policy change that requires the contractors, effective October 1, 1997, to be responsible for medically necessary services provided to members back to the date of eligibility according to A.A.C. R9-22-705.
5. **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.
6. **The preliminary summary of the economic, small business, and consumer impact:**
Changes are proposed to R9-28-507 that deal with Program Contractor General Requirements. The proposed changes are:
 - Enhance the clarity and conciseness of existing language through minor changes to wording and grammar.
 - Add a cross reference in R9-28-507(I) to ensure program contractors understand their responsibilities for providing services during the retroactive period coverage. Also, this language will be consistent with other proposed rule language in 9 A.A.C. 22, Article 7. Effective October 1, 1997, contractors will be responsible for medically necessary services provided to members back to the date of eligibility. Coverage for these services will be included in capitation rates paid to Program Contractors. Current rule language states that Program Contractors are responsible for providing services beginning 2 days after the receipt of notification of enrollment by the Administration.

Minimal operational changes will be required for the assignment of retroactive coverage responsibilities to contractors. The small business community will be unaffected by the change, and AHCCCS will collaborate with ALTCS program contractors and ALTCS providers (some of whom could be considered small businesses) to assure that bills for medically necessary covered services provided during this retroactive period are properly sent to the contractor that is financially responsible rather

Arizona Administrative Register
Notices of Proposed Rulemaking

than to AHCCCS. Over the long term, this should benefit all involved parties by streamlining the processing of services provided to AHCCCS members.

7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement is:**

Name: Cheri Tomlinson
Address: AHCCCS
Office of Policy Analysis and Coordination
801 East Jefferson Street, MD4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756

8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: May 23, 1997
Time: 9:00 a.m.
Location: AHCCCS
Third Floor, Gold Conference Room
701 East Jefferson Street
Phoenix, Arizona 85034
Nature: Public hearing on proposed rules to receive oral and written comments.

9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None.

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

11. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER
STANDARDS**

Section

R9-28-507. Program Contractor General Requirements Program contractor general requirements

**ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER
STANDARDS**

R9-28-507. Program Contractor General Requirements Program contractor general requirements

- A. ALTCS program contractors shall ensure that providers of service meet the requirements of this Article.
- B. Each ALTCS program contractor shall maintain member service records. These shall include, at a minimum, the case management plan, medical records, encounter data, grievances, complaints and service information for each ALTCS member. The program contractor shall ensure that all member service records are retained for 5 years. ALTCS member service records or copies of member service records shall be provided to the Administration upon request.
- C. ALTCS program contractors shall produce and distribute information materials to each enrolled ALTCS member or designated representative within 10 days after receipt of notification of enrollment from the Administration. The information shall include: a
1. A description of all available services; and
 2. An explanation of service limitations and exclusions; The information shall also contain an

3. An explanation of the procedure for obtaining services, including a notice stating that the program contractor is liable only for those services authorized by an ALTCS member's case manager; ~~The information shall contain procedures~~

4. ~~Procedures~~ procedures for obtaining emergency services; and

5. ~~Procedures~~ for filing a grievance or complaint; and -

6. All information shall be approved by the Administration prior to distribution.

- D. The ALTCS program contractor shall submit encounter reports on services rendered to each enrolled member within 120 days after the month of service, except for services with Medicare coverage, which shall be submitted within 180 days after the month of service.
- E. ALTCS program contractors shall collect the member share of cost and report the amount collected to the Administration.
- F. ALTCS program contractors shall monitor trust fund accounts for institutionalized ALTCS members to verify that expenditures from a member's trust fund are in compliance with federal regulations.
- G. Institutionalized ALTCS members who are transferred to an acute care facility for services shall whenever possible be returned to the original institution upon completion of acute care.
- H. Institutionalized ALTCS members who are granted therapeutic leave shall be returned to the same bed in their original institution upon completion of a therapeutic leave.

Arizona Administrative Register
Notices of Proposed Rulemaking

- I. Program contractors are responsible for providing services according to A.A.C. R9-22-705(A)(1) to eligible individuals beginning two days after the receipt of notification of enrollment by the Administration.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1. **Sections Affected**

R20-5-601 R20-5-602	<u>Rulemaking Action</u> Amend Amend
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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. § 23-405(4)
Implementing statute: A.R.S. § 23-410

3. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Cathy Neville, Assistant Director
Address:	Industrial Commission of Arizona Division of Occupational Safety and Health 800 West Washington Street Phoenix, Arizona 85007
Telephone:	(602) 542-1695
Fax:	(602) 542-1614

4. **An explanation of the rule, including the agency's reason for initiating the rule:**

R20-5-601 requires change to incorporate an amendment pertaining to occupational exposure to 1,3-butadiene of the construction standards as published in 61 FR 56746-56856, November 4, 1996; amendments for corrections and partial stay to the safety standards for scaffolds used in the construction industry as published in 61 FR 59831-59832, November 25, 1996; and amendments to the occupational exposure to methylene chloride standards as published in 62 FR 1494-1619, January 10, 1997.

R20-5-602 requires change to incorporate an amendment pertaining to occupational exposure to 1,3-butadiene of the general industry standards as published in 61 FR 56746-56856, November 4, 1996; and amendments to the occupational exposure to methylene chloride standard as published in 62 FR 1494-1619, January 10, 1997.

Under its approved state program enforcing the Occupational Safety and Health Act, the state must adopt standards that are at least as effective as those adopted by the U.S. Department of Labor. Therefore, the Industrial Commission updates its occupational safety and health standards by adopting by reference the most current and applicable federal occupational safety and health standards for the construction and general industry.

5. **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.

6. **The preliminary summary of the economic, small business, and consumer impact:**

The federal Occupational Safety and Health Administration has determined that these amendments will have minimal to modest impact for most affected industry groups and has determined the amendments to be economically feasible for all industries including small business. Cost and benefit analysis of these amendments is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 West Washington Street, Phoenix, Arizona 85007.

7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement is:**

Name:	Cathy Neville, Assistant Director
Address:	Industrial Commission of Arizona Division of Occupational Safety and Health 800 West Washington Street Phoenix, Arizona 85007
Telephone:	(602) 542-1695
Fax:	(602) 542-1614

Arizona Administrative Register
Notices of Proposed Rulemaking

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: June 5, 1997
Time: 9:30 a.m.
Location: Industrial Commission of Arizona
Third Floor Conference Room
800 West Washington Street
Phoenix, Arizona 85007
Nature: Oral Proceeding

Written comments may be submitted on or before 9:30 a.m., June 5, 1997.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.

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

29 CFR 1926, Federal Occupational Safety and Health Standards for the Construction Industry, with amendments as of January 10, 1997. This incorporation by reference will appear in A.A.C. R20-5-601.

29 CFR 1910, Federal Occupational Safety and Health Standards for General Industry, with amendments as of January 10, 1997. This incorporation by reference will appear in A.A.C. R20-5-602.

11. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH
CONSTRUCTION STANDARDS**

Section

- R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926
R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH
CONSTRUCTION STANDARDS**

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

Each employer shall comply with the standards enumerated in the federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of January 10, 1997 August 30, 1996, incorporated by reference and on file with the Office of the Secretary of State. Copies of these referenced material are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after January 10, 1997 August 30, 1996.

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

- A. Each employer shall comply with the standards in Subparts C through Z inclusive of the federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of January 10, 1997 August 23, 1996, incorporated by reference and on file with the Office of Secretary of State. Copies of these reference materials are

available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after January 10, 1997 August 23, 1996.

- B. "The State Fire Marshal's office shall develop and make available, through the Arizona State Fire School Program, classes which provide the training necessary to meet the requirements for interior structural brigades".
C. The State Fire Marshal's office shall also establish requirements for fire brigade instructors which shall require, at a minimum, that each instructor have at least three years experience in fire suppression; training in hose lays, ladders, ventilation, salvage, overhaul, fire prevention, use and operation of self-contained breathing apparatus, rescue and planning in a program approved by the State Fire Marshal's office, or a program approved by an organized fire department of a city or town, or a program approved by an organized fire department of a volunteer fire district; and knowledge in the operation of fire extinguishers, stand pipe systems, sprinkler and Halon systems obtained either through experience in fire suppression or training in a program approved by the State Fire Marshal's office, or approved by an organized fire department or city or town, or approved by an organized fire department of a volunteer fire district.
D. These standards shall apply to all conditions and practices by all employers, both public and private, in the state of Arizona; provided that this rule shall not apply to those conditions and practices which are the subject of rule R20-5-601.