

Notices of Supplemental Proposed Rulemaking

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the preliminary economic, small business and consumer impact statement.
 Name: Ruth R. Lee
 Executive Director
 Address: Board of Accountancy
 3877 North 7th Street, Suite 106
 Phoenix, Arizona 85014
 Telephone: (602) 255-3648, ext. 18
 Fax: (602) 255-1283
10. 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: July 7, 1997
 Time: 1:30 p.m.
 Location: Board of Accountancy
 3877 North 7th Street, Suite 106
 Phoenix, Arizona 85014
 Nature: Oral proceeding
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. The full text of the changes follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 3. CERTIFICATION AND REGISTRATION
 PROVISIONS

Section

- R4-1-341. CPA Certificates; by Examination
 R4-1-341.01. CPA Certificates; by Non-Arizona Examinee
 R4-1-342. CPA Certificates; by Reciprocity

ARTICLE 3. CERTIFICATION AND REGISTRATION
 PROVISIONS

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 application form is incorporated by reference and is on file with the Office of the Secretary of State and may be obtained from the office of the Board. 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 requirements have been completed; employer or employers name, address, and telephone number; authorization for investigation; and affirmation of truthfulness.~~
- B. Application fee: ~~No fee is required with applications filed under this Section. The application fee for a certificate by examination is \$100.~~

- C. Examination: Each applicant for a certificate of certified public accountant shall ~~be required to~~ 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 as 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 applicant package is complete.~~

Notices of Supplemental Proposed Rulemaking

4. The name and address of agency personnel with whom persons may communicate regarding this rule:

Name: Patrice A. Pritzl
Executive Director

Address: Board of Chiropractic Examiners
5060 North 19th Avenue, Suite 416
Phoenix, Arizona 85015

Telephone: (602) 255-1444

Fax: (602) 255-4289

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

R4-7-902 will clearly define the statutory term "unprofessional and dishonorable conduct" that occurs in the list of actions for which a chiropractic physician's license may be sanctioned under A.R.S. § 32-924. In previous publications, rules under Articles 1 and 8 were identified as well. R4-7-902 has been split from those Articles for further publication.

6. An explanation of the substantial change which resulted in this supplemental notice:

Item 10, "Paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or other consideration having a value that exceeds \$25 annually, directly, or indirectly to attorneys, or other licensed health care providers for referring patients", has been deleted.

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 preliminary summary of the economic, small business, and consumer impact:

With adoption of this proposed rules, the impact on established Board procedures, compliance, and investigation related costs is minimal. The rule will define unprofessional conduct, thus allowing the Board to more clearly define and better utilize investigative and compliance proceedings. The estimated additional cost to the Secretary of State's Office is minimal and stems from Secretary of State's time publishing rules. There are no anticipated costs to licensees or the consumer public. The consumer public will benefit through standards clearly defined for the consumer public as well as the profession. Licensees will benefit in that defined and regulated standards within the profession enhance consumer confidence and encourage consumer utilization of services.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the preliminary economic, small business and consumer impact statement.

Name: Patrice A. Pritzl
Executive Director

Address: Board of Chiropractic Examiners
5060 North 19th Avenue, Suite 416
Phoenix, Arizona 85015

Telephone: (602) 255-1444

Fax: (602) 255-4289

10. 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 26, 1997

Time: 8:30 a.m. to 9:30 a.m.

Location: Board of Chiropractic Examiners
5060 North 19th Avenue, Suite 416
Phoenix, Arizona 85015

Nature: An oral proceeding to receive comment. Written comments may be submitted at any time on or before 5 p.m. on June 26, 1997, to the contact person listed above.

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. The full text of the changes follows:

Notices of Supplemental Proposed Rulemaking

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 9. UNPROFESSIONAL CONDUCT

R4-7-902. Unprofessional or Dishonorable Conduct Activities

ARTICLE 9. UNPROFESSIONAL CONDUCT

R4-7-902. Unprofessional or Dishonorable Conduct Activities

A. 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, or a patient, or a 3rd 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 date the patient was seen, the chiropractic physician's findings, all services rendered, and name or initials of the chiropractic physician who saw the patient and provided services.
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 record, diagnostic quality radiographic copy x-rays, or both to another licensed physician, the patient, or the authorized agent of the patient, within 10 working days of receiving a written request to do so, or failing to return original x-rays to a licensed physician within 10 working days of a written request to do so.

6. Representing that the licensee is certified by this Board is 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 1st notifying the Board in writing.
8. Suggesting, or having sexual contact as defined in A.R.S. § ~~13-140~~ ~~31-1401~~ with an individual in the course of patient treatment, ~~or intentionally viewing a completely or partially disrobed patient in the course of treatment, when viewing a completely or partially disrobed patient not necessary to the treatment according to the generally accepted professional standards of chiropractic.~~
9. Charging a fee for services not rendered.
10. ~~Paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or other consideration, having a value exceeding \$25 annually directly or indirectly to attorneys, or other licensed health care providers for referring patients.~~
- ~~11.~~10. Failing or allowing properly authorized Board personnel to have, on demand by subpoena, access to any documents, reports, or records maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities.
- ~~12.~~11. Failing to supervise properly a chiropractic assistant employed by the chiropractic physician.
- ~~13.~~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 requested, the Board shall not disclose the informant's name unless it is essential to the disciplinary proceedings conducted pursuant to this Section.
- ~~14.~~13. Violating any federal or state laws or rules and regulations applicable to the practice of chiropractic.

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 5. CORRECTIONS

CHAPTER 4. BOARD OF EXECUTIVE CLEMENCY

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:
3 A.A.R. 342, February 7, 1997
2. Sections Affected
R5-4-101
R5-4-301
R5-4-302

- Rulemaking Action
New Section
New Section
New Section

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3. The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. § 31-401 and 31-402

Implementing statutes: A.R.S. § 31-415, 31-442, 38-431.01, 41-1604.11(G), 41-1604.13(G)

4. The name and address of agency personnel with whom persons may communicate regarding this rule:

Name: Gail Kelsey
Address: Board of Executive Clemency
1645 West Jefferson, Room 326
Phoenix, Arizona 85007
Telephone: (602) 542-5656, ext. 237
Fax: (602) 542-5680

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

Since the Board does not conduct parole hearings on inmates who commits an offense after January 1, 1994, these rules explain the current operation of the Board. The implementation of these rules explains the affect on persons other than the inmate. There are rules that the Board will be repealing, since they are exempt pursuant to A.R.S. § 41-1005.7.

R5-4-101. Definitions. Defines all terms used throughout the rules.

R5-4-301. Rescission Hearings. This rule explains the Board's hearings process when a request has been submitted to the Board to rescind a previous decision made by the Board.

R5-4-302. Revocation Hearings. This rules explains the Board's hearing process when it has been alleged that an inmate has violated conditions of release.

6. An explanation of the substantial change which resulted in this supplemental notice:

Changes were made to the adopted rules beginning with R5-4-101 Definitions. Definition 10 "Street time" the words "work furlough" and "home arrest" were removed throughout this definition. Definition 11 "Warrant" the word "parole office" was deleted and the language "Board or any member thereof" was inserted. R5-4-301. Rescission Hearings subsection (A) delete the language "a Parole Officer" and insert the language "Board or any member thereof". R5-4-301(A)(4) this sentence was rewritten to read "Accurate or complete information was not available to the Board when release was granted. R5-4-302 Revocation Hearings subsection (A) delete the language "a Parole Office" and insert the language "Board or any member thereof". R5-4-302(D)(1) delete the language "the warrant of arrest be quashed." and the word "shall."

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 preliminary summary of the economic, small business, and consumer impact:

Persons who will be directly affected by the proposed rulemaking will be the officials and victims that request to be notified of the status of inmates and parolees. The agency, DPS, FBI, and any individual seeking an executive clemency action will bear some cost from the implementation of these rules. There will be no impact to small businesses, private or public employment business, agencies, or political subdivisions.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the preliminary economic, small business and consumer impact statement.

Name: Gail Kelsey
Address: Board of Executive Clemency
1645 West Jefferson, Room 326
Phoenix, Arizona 85007
Telephone: (602) 542-5656, ext. 237
Fax: (602) 542-5680

10. 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 26, 1997
Time: 9 a.m.
Location: Board of Executive Clemency
1645 West Jefferson, Room 326
Phoenix, Arizona 85507
Nature: Oral proceeding

Written comments on the proposed rules or preliminary summary of the economic, small business, and consumer impact statement must be received at the address shown above by 5 p.m. June 23, 1997.

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Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Board of Executive Clemency at (602) 542-5656. Requests should be made as early as possible to allow time to arrange the accommodations.

- 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: Not applicable.
13. The full text of the changes follows:

TITLE 5. CORRECTIONS

CHAPTER 4. BOARD OF EXECUTIVE CLEMENCY

ARTICLE 1. GENERAL PROVISIONS

Section R5-4-101. Definitions

ARTICLE 3. REVOCATIONS

Section R5-4-301. Rescission Hearings
R5-4-302. Revocation Hearings

ARTICLE 1. GENERAL PROVISIONS

R5-4-101. Definitions

In this Chapter, unless otherwise specified:

- 1. "Applicant" means an individual who asks the Governor to grant a pardon.
2. "Board" means the Board of Executive Clemency (formerly the Arizona Board of Pardons and Parole).
3. "Department" means the Department of Corrections.
4. "Inmate" means an individual who is in the custody of or under the jurisdiction of the Department, including individuals on parole, home arrest, work furlough, and community supervision.
5. "Pardon" means an action by the Governor that absolves an applicant of the legal consequences of the crime for which the applicant was convicted.
6. "Presiding Officer" means either the Chairpersons of the Board or the Chairperson of a Board panel assigned to conduct a hearing.
7. "Rescission" means to void a release decision that was previously granted by the Board.
8. "Request to rescind" means a document asking the Board to void a decision to grant an inmate a release.
9. "Revocation" means an act by the Board to terminate an inmate's release status.
10. "Street time" means from the time an inmate accepts parole, work furlough or home arrest until the time parole, work furlough, or home arrest is revoked or completed.
11. "Warrant" means a document of written allegations, initiated by the Department or parole officer Board or any member thereof on an inmate who is alleged to have violated condition or conditions of release, the law, or discipline rules of the Department.
12. "Work day" means Monday through Friday of each week except federal and state holidays.

ARTICLE 3. REVOCATIONS

R5-4-301. Rescission Hearings

- A. To initiate the rescission process, the Department or a Parole Officer Board or any member thereof shall submit a request to rescind to the Board. A request to rescind may be submitted for an alleged:
1. Violation of law.
2. Violation of discipline rules of the Department.
3. Failure to meet a condition of release.
4. Failure to provide Accurate or complete information was not available to the Board when parole release was granted.
B. In the warrant the Department shall provide to the Board and the inmate a list of all documents, items of evidence to be submitted, and witnesses who will be called to testify at the rescission hearing.
C. The rescission hearing shall be conducted by the Board. Before the start of the rescission hearing, at the request of the inmate the hearing may be continued for the following reasons:
1. To obtain legal representation;
2. Inadequate notification of the hearing;
3. Lack of opportunity to question adverse witnesses, supportive witnesses, or the parole office or Department officer who initiated the request to rescind;
4. Other reasons to be considered by the Board.
D. At the close of the rescission hearing the Board shall take 1 of the following actions:
1. Find that the allegations in the request to rescind are not true and dismiss the request to rescind. The Board's previous decision to grant release to the inmate will stand.
2. Find that 1 or more of the allegations in the request to rescind are true and void the Board's previous decision to grant release to the inmate. The inmate shall be held in the custody of the Department as provided by law.
3. Find that 1 or more of the allegations in the request to rescind are true, however, allow the Board's previous decision to grant release to the inmate to stand.

R5-4-302. Revocations Hearings

- A. The revocation process shall be initiated by issuance of a warrant by the Department or a Parole Officer Board or any member thereof for an alleged violation of a condition of release. The warrant of arrest is submitted to the Board.
B. In the warrant the Department shall provide to the Board and the inmate a list of all documents, items of evidence to be submitted, and witnesses who will be called to testify at the revocation hearing.

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- C. ~~The revocation hearing shall be conducted by the Board. Before the start of a revocation hearing, at the request of the inmate the hearing may be continued for the following reasons:~~
1. ~~To obtain legal representation;~~
 2. ~~Inadequate notification of the hearing;~~
 3. ~~Lack of opportunity to question adverse witnesses, supportive witnesses, or the parole officer who initiated the warrant of arrest; and~~
 4. ~~Other reasons to be considered by the Board.~~
- D. ~~At the close of the revocation hearing the Board shall take 1 of the following actions:~~
1. ~~Find that the allegations in the warrant are not true and direct, in writing, to the Department that the warrant of arrest be quashed. The inmate shall be returned to parole, home arrest, work furlough, or community supervision status.~~
 2. ~~In the case of an inmate on parole, find that 1 or more the allegations in the warrant are true and revoke the inmate's release status, but place the inmate on home arrest. The inmate shall be held by the Department pending release on home arrest.~~
 3. ~~In the case of an inmate on parole, work furlough, home arrest, or community supervision, find that 1 or more of the allegations in the warrant are true but reinstate the inmate's release status with or without additional conditions.~~
 4. ~~In the case of an inmate on parole, work furlough, home arrest, or community supervision, find that the allegations in the warrant of arrest are true and direct that the inmate's release status be revoked. The inmate shall revert immediately to secure custody and be held by the Department in that status as provided by law.~~