NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. 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* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

PREAMBLE

1. **Section Affected** — **Rulemaking Action**

Section Affected	Rulemaking Action
Article 1	Repeal
R2-12-101	Repeal
R2-12-102	Repeal
R2-12-103	Repeal
R2-12-104	Repeal
R2-12-105	Repeal
R2-12-106	Repeal
R2-12-107	Repeal
R2-12-108	Repeal
R2-12-109	Repeal
R2-12-110	Repeal
Article 2	Repeal
R2-12-201	Repeal
R2-12-202	Repeal
R2-12-203	Repeal
R2-12-204	Repeal
R2-12-205	Repeal
Article 3	Repeal
R2-12-301	Repeal
R2-12-303	Repeal
Article 4	Repeal
R2-12-401	Repeal

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statures the rules are implementing (specific):**

   Authorizing statute: A.R.S. § 41-1003

   Implementing statutes: Article 1 (lobbyists): A.R.S. § 41-1239(A)(1); Article 2 (voter registration and motor vehicle division): A.R.S. § 16-112(B); Article 3 (telemarketing): A.R.S. § 44-1281; and Article 4 (charitable organizations): A.R.S. § 44-6559.

3. **The effective date of the rules:**

   November 4, 1998

4. **A list of all previous notices appearing in the Register addressing the final rule:**

   Notice of Rulemaking Docket Opening; 3 A.A.R. 3744, December 26, 1997.
   Notice of Proposed Rulemaking: 4 A.A.R. 176, January 16, 1998.

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

   Name: Jessica Funkhouser, State Election Director (Articles 1 and 2)
   Laura Spannagel, Director, Business Services Division (Articles 3 and 4)

   Address: Office of the Secretary of State
   1700 W. Washington, 7th Floor
   Phoenix, Arizona 85007

   Telephone: (602) 542-4285

   Fax: (602) 542-6172

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
   Article 1 is repealed in its entirety, as statutory changes have made the rules and forms obsolete. Article 2 is repealed in its entirety as the National Voter Registration Act has made the rules and forms obsolete. Article 3, R2-12-301, R2-12-303, and Article 4 are repealed in their entirety as the rules are repetitive and the forms are obsolete.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain of review the study, all data underlying each study, any analysis of the study and other supporting material:**
   None.

8. **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.

9. **The summary of the economic, small business, and consumer impact:**
   There is no economic impact on small businesses or consumers.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
    The final rules retain Section R2-12-302, which the proposed rules had repealed.

11. **A summary of the principal comments and agency response to them:**
    The agency received no comments on the proposed repeal of these rules.

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

13. **Incorporations by reference and their location in the rules:**
    Not applicable.

14. **Was this rule previously published as an emergency rule?**
    This rule was not previously published as an emergency rule.

15. **The full text of the rules as follows:**

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

~~ARTICLE 1. REGISTRATION AND REGULATION OF LOBBYISTS~~ Repealed

Section

R2-12-101. ~~Definitions~~ Repealed
R2-12-102. ~~Registration~~ Repealed
R2-12-103. ~~Quarterly report~~ Repealed
R2-12-104. ~~Annual expenditure report~~ Repealed
R2-12-105. ~~Monthly expenditure report~~ Repealed
R2-12-106. ~~Identification list for firms~~ Repealed
R2-12-107. ~~Lobbyists register~~ Repealed
R2-12-108. ~~Revocation of registration~~ Repealed
R2-12-109. ~~Filing~~ Repealed
R2-12-110. ~~Availability of forms~~ Repealed

~~ARTICLE 2. VOTER REGISTRATION AT TIME OF APPLYING FOR DRIVER'S LICENSE~~ Repealed

R2-12-201. ~~Voter registration affidavit form~~ Repealed
R2-12-202. ~~Appointment of driver's license examiners~~ Repealed
R2-12-203. ~~Completed voter registration affidavits~~ Repealed
R2-12-204. ~~List of valid Arizona driver's licenses~~ Repealed
R2-12-205. ~~Voting information and qualifications~~ Repealed

~~ARTICLE 3. REGISTRATION OF TELEMARKETING SELLERS~~ Repealed

R2-12-301. ~~Registration~~ Repealed
R2-12-303. ~~Filing~~

~~ARTICLE 4. CHARITABLE ORGANIZATION REGISTRATION~~ Repealed

R2-12-401. ~~Registration~~

~~ARTICLE 1. REGISTRATION AND REGULATION OF LOBBYISTS~~ Repealed

R2-12-101. ~~Definitions~~

~~A. For the purpose of A.R.S. § 41-1232, expenditures which require reporting are "Expenditures for entertainment or other expenses incurred in the personal contact with any legislator, any state officer or member of any state agency, board, commission or council".~~

~~B. For the purpose of A.R.S. § 41-1232(C)(1), the term "state officer or member of any state agency, board, commission or council" means the incumbent of any office or head of any agency, his deputy or assistant exercising the powers and duties of the officer or agency head, and a member of any board, commission or council. This definition does not include any clerks or other such employees. (A.R.S. § 38-~~

~~101)~~

R2-12-102. ~~Registration~~

~~A person may register for the first time as a principal at any time during the year and must register again no later than five o'clock p.m. January 31 of each succeeding year thereafter, during which time he expects to employ lobbyists. The registration form (Form L-1) shall be filed in the Office of the Secretary of State under oath and shall contain the information required in A.R.S. § 41-1232.~~

R2-12-103. ~~Quarterly report~~

~~The Supplemental Quarterly Lobbyist Activity Report (Form L-2) required by A.R.S. § 41-1232 need not be filed for any calendar quarter during which no additional activities were entered into or lobbyists engaged or discharged by the principal. Supplemental Quarterly Lobbyist Activity Reports (Form L-2) shall be filed no later than five o'clock p.m. on the fortieth day following March 31, June 30, September 30, and December 31 each year.~~

R2-12-104. ~~Annual expenditure report~~

~~The Annual Lobbyist Expenditure Report required under the provisions of A.R.S. § 41-1232(C), shall be filed by the principal in the Office of the Secretary of State no later than five o'clock p.m. January 31 of each year. The report shall be filed on Form L-3 and shall be filed whether or not any expenditure has occurred during the reporting period.~~

R2-12-105. ~~Monthly expenditure report~~

~~The Monthly Lobbyist Expenditure Report required under the terms of A.R.S. § 41-1232(D), shall be filed in the Office of the Secretary of State no later than five o'clock p.m. on the tenth day of the month following the month covered by the report. The report shall be filed on Form L-4 but need not be filed for any month in which no such expenditure occurred.~~

R2-12-106. ~~Identification lists for firms~~

~~Any corporation, partnership, law firm or other type of business or professional organization which is or expects to be engaged as a lobbyist under the provisions of A.R.S. § 41-1232 may file with the Secretary of State an identification list and revisions thereof. Such list shall set forth the name, business address of each officer, partner, agent or employee authorized to act as a lobbyist on behalf of such firm or organization. Any such organization which has filed an identification list may be referred to in the registration of a principal by a firm name only and the name of all of that firm's designated officers, partners, agents or employees shall be deemed included by cross reference in the registration of the principal.~~

R2-12-107. ~~Lobbyist register~~

~~The Secretary of State shall maintain a register of the name and business address of each principal registered under the terms of Title 41, Chapter 7, Article 8.1, Arizona Revised Statutes, together with a register of each lobbyist employed by each principal, the business address of the lobbyist, and the name of the principal by whom the lobbyist is employed. The register shall be open to public inspection at all times during regular business hours.~~

R2-12-108. ~~Revocation of registration~~

~~A principal desiring to revoke his registration, or a lobbyist desiring to disassociate himself from a principal, may file Form L-6 as applicable in the Office of the Secretary of State. The revocation or disassociation shall be deemed effective upon filing.~~

R2-12-109. ~~Filing~~

~~A. If the final day for filing any report required under the provisions of the law or regulations falls on a Saturday or on a Sunday or legal holiday as defined by A.R.S. § 1-301, the report may be filed on the next succeeding business day prior to five o'clock p.m.~~

~~B. For purposes of this regulation, filing shall be accomplished either by delivery to the Office of the Secretary of State or by mailing through the United States Post Office under postmark dated on or before the filing deadline.~~

R2-12-110. ~~Availability of forms~~

~~All forms required to be filed under the provisions of the law or regulations are available without cost from the Office of the Secretary of State.~~

~~ARIZONA~~
~~LOBBYIST REGISTRATION FORM~~

~~In compliance with A.R.S. Section 41-1232(A), I submit the following~~

~~1. NAME OF PRINCIPAL~~

~~2. BUSINESS ADDRESS OF PRINCIPAL~~

~~(Street Address)~~

~~(City)~~ ~~(State)~~ ~~(Zip)(Business Phone)~~

~~3. STATUS OF PRINCIPAL: (CHECK ONE)~~ ~~INDIVIDUAL;PARTNERSHIP; ASSOCIATION;CORPORATION;~~ ~~COMMITTEE;~~ ~~OTHER~~

~~4. NAME, ADDRESS AND PHONE NUMBER OF EACH PERSON ENGAGED BY THE PRINCIPAL AS A LOBBYIST~~

~~a.~~ ~~(Name)~~ ~~(Address)~~ ~~(City)~~ ~~(State)~~ ~~(Zip)~~

~~b.~~ ~~(Name)~~ ~~(Address)~~ ~~(City)~~ ~~(State)~~ ~~(Zip)~~

~~(attach supplemental list if needed)~~

~~5. NAME, ADDRESS AND PHONE NUMBER OF EACH EMPLOYEE OF A LOBBYIST IS SUCH EMPLOYEE ACTS AS A LOBBYIST~~

~~a.~~ ~~(Name)~~ ~~(Address)~~ ~~(City)~~ ~~(State)~~ ~~(Zip)~~

~~b.~~ ~~(Name)~~ ~~(Address)~~ ~~(City)~~ ~~(State)~~ ~~(Zip)~~

~~(attach supplemental list if needed)~~

~~6. MAJOR TYPES OF ISSUES FOR WHICH PRINCIPAL ENGAGES ANY LOBBYIST~~

~~7. DURATION OF ENGAGEMENT OF ANY LOBBYIST~~ ~~FROM~~ ~~TO~~

~~8. DESCRIPTION OF EXPENSES FOR WHICH EACH LOBBYIST IS TO BE REIMBURSED BY THE PRINCIPAL~~

~~(PRINCIPAL)~~

~~State of~~)
~~County of~~) ~~SS.~~

~~(Please Print)~~

~~(Signature of Principal or Authorized Agent)~~

~~, being 1st duly sworn says that I am the Principal (or, of the Principal) in the foregoing Lobbyist Registration Form; that to the best of my knowledge and belief the matters therein are true and correct.~~

~~SUBSCRIBED AND SWORN TO before me this day of , 19 .~~

~~My Commission Expires~~

~~Notary Public~~

~~Form L-1 1/85 -- Secretary of State~~

~~ARIZONA~~
~~SUPPLEMENTAL QUARTERLY~~
~~LOBBYIST ACTIVITY REPORT~~

~~Supplemental report to be filed for each calendar quarter during which any additional activities have taken place or lobbyists have been engaged by the Principal. This report shall contain the information required by A.R.S. Section 41-1232(B) and shall be filed on or before the fortieth day following the last day of such calendar quarter.~~

~~1. NAME OF PRINCIPAL~~

~~2. BUSINESS ADDRESS OF PRINCIPAL~~

~~(Street Address)~~

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(Business Phone)~~

~~3. NAME AND ADDRESS OF EACH LOBBYIST (and each Employee of a Lobbyist if such Employee acts as a Lobbyist) ENGAGED SINCE FILING OF LAST REPORT~~

~~a.~~ ~~b.~~

~~(Name)~~ ~~(Name)~~

~~(Address)~~ ~~(Address)~~

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(City)~~ ~~(State)~~ ~~(Zip)~~

~~(attach supplemental list if needed)~~

~~4. CHANGE IN MAJOR TYPES OF ISSUES FOR WHICH EACH LOBBYIST IS ENGAGED~~

~~5. CHANGES IN DURATION OF ENGAGEMENT OF EACH LOBBYIST~~

~~6. CHANGES IN EXPENSES FOR WHICH EACH LOBBYIST IS TO BE REIMBURSED~~

~~State of _____)~~

~~County of _____) SS.~~

~~(Please Print)~~

~~(Signature of Principal or Authorized Agent)~~

~~_____, being 1st duly sworn says that I am the Principal (or, _____ of the Principal) in the foregoing Supplemental Quarterly Lobbyist Activity Report; that to the best of my knowledge and belief the matters therein are true and correct.~~

~~SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.~~

~~My Commission Expires_____~~

~~Notary Public~~

~~Form L-2 1/85--Secretary of State~~

~~ARIZONA~~
~~ANNUAL LOBBYIST~~
~~EXPENDITURE REPORT~~

~~1. NAME OF PRINCIPAL~~ _____

~~2. BUSINESS ADDRESS OF PRINCIPAL~~ _____

~~(Street Address)~~

_____ _____

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(Business Phone)~~

~~3. THE PRINCIPAL SHALL list the total of all expenditures incurred by or on behalf of the Principal in the course of attempting to influence the passage of any legislation or to influence the official action of any state officer, agency, board, commission or council. Expenditures such as those for personal sustenance, office expenses, filing fees, legal fees, employees, compensation to lobbyists, lodging and travel need not be reported. Expenditures for entertainment or other expenses incurred in the personal contact with any legislator, any state officer or member of any state agency, board, commission or council, shall be reported, provided such expenditures were made in the course of attempting to influence the passage or defeat of any legislation or in the course of attempting to influence the official action of any state office, state agency, board, commission or council. (See A.R.S. Section 41-1232(C)(1))~~

~~Total expenditures incurred by Principal during the calendar year ending December 31, 19 ____ $_____.~~

~~4. EACH SINGLE EXPENDITURE UNDER ITEM 3 OF THIS REPORT IN EXCESS OF $25.00 (SEE A.R.S. § 41-1232(C)(2)).~~

~~AMOUNT~~ ~~DATE~~	~~NAME OF PUBLIC OFFICIAL, OFFICE, OR EMPLOYEE~~
~~a. $~~_____	_____
~~b. $~~_____	_____

~~TOTAL AMOUNT OF SUCH EXPENDITURES: $_____.~~

~~5. EXPENDITURES FOR SPECIAL EVENTS FOR LEGISLATORS INCURRED DURING THE CALENDAR YEAR ENDING DECEMBER 31, 19 ____ (SEE A.R.S. § 41-1232(C)(3)).~~

~~AMOUNT~~	~~LOCATION OF EVENT~~	~~NAME OF LEGISLATIVE BODY INVITED~~	~~DATE~~
~~a. $~~_____	_____	_____	
~~b. $~~_____	_____	_____	

~~TOTAL AMOUNT OF SUCH EXPENDITURES: $_____.~~

~~(attach supplemental lists to 4 and 5 if needed)~~

~~State of~~ _____)
~~County of~~ _____) ~~SS.~~ _____

_____
~~(PRINCIPAL)~~

_____ ~~,being 1st duly sworn says that I am the Principal (or,~~ _____ ~~of the Principal) in the foregoing Annual Lobbyist Expenditure Report; that to the best of my knowledge and belief the matters therein are true and correct.~~

~~SUBSCRIBED AND SWORN TO before me this~~ _____ ~~day of~~ _____~~, 19~~ ____.

~~My Commission expires~~ _____ _____
~~Notary Public~~

~~Form L-3 1/85 - Secretary of State~~

~~ARIZONA~~
~~MONTHLY LOBBYING~~
~~EXPENDITURE REPORT~~

~~This report shall be filed monthly, on or before the 10th day of the following month, to list any single expenditure in excess of $25.00 occurring during the month and which must be reported pursuant to A.R.S. § 41-1232. THIS REPORT NEED NOT BE FILED FOR ANY MONTH DURING WHICH NO SUCH EXPENDITURE OCCURRED.~~

~~1. NAME OF PRINCIPAL~~ _____

~~2. BUSINESS ADDRESS OF PRINCIPAL~~ _____

~~(Street Address)~~

_____ _____

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(Business Phone)~~

~~3. MONTH COVERED BY REPORT~~ _____, ~~19~~ _____

~~4. LIST EACH SINGLE EXPENDITURE IN EXCESS OF $25.00 MADE DURING THE MONTH COVERED BY THIS REPORT. (SEE A.R.S. § 41-1232(C)(2))~~

	~~AMOUNT~~	~~NAME OF PUBLIC OFFICIAL~~	~~DATE~~
~~a.~~	~~$~~ _____	_____	_____
~~b.~~	~~$~~ _____	_____	_____

~~TOTAL AMOUNT OF SUCH EXPENDITURES:~~ ~~$~~ _____.

~~(attach supplemental list if needed)~~

~~5. LIST EXPENDITURES IN EXCESS OF $25.00 FOR EACH SPECIAL EVENT FOR LEGISLATORS INCURRED DURING THE~~

~~MONTH COVERED BY THIS REPORT (SEE A.R.S. § 41-1232).~~

	~~AMOUNT~~	~~LOCATION OF EVENT~~	~~NAME OF LEGISLATIVE BODY INVITED~~	~~DATE~~
~~a.~~	~~$~~ _____	_____	_____	
~~b.~~	~~$~~ _____	_____	_____	

~~TOTAL AMOUNT OF SUCH EXPENDITURES:$~~ _____.

~~(attach supplemental list if needed)~~

_____

~~(PRINCIPAL)~~

~~State of~~ _____)

~~County of~~ _____) ~~SS.~~

_____ ~~being 1st duly sworn says that I am the Principal (or,~~ _____ ~~of the Principal) in the foregoing Monthly Lobbyist Expenditure Report; that to the best of my knowledge and belief the matters therein are true and correct.~~

~~SUBSCRIBED AND SWORN TO before me this~~ _____ ~~day of~~ _____, ~~19~~ ____.

~~My Commission expires~~ _____

~~Notary Public~~

~~Form L-4 1/85 - Secretary of State~~

~~ARIZONA~~
~~REVOCATION OF LOBBYING~~
~~REGISTRATION~~

~~PRINCIPAL ONLY~~

~~1. NAME OF PRINCIPAL~~ _____

_____

~~2. BUSINESS ADDRESS OF PRINCIPAL~~

_____

~~(Street Address)~~

_____

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(Business Phone)~~

~~3. THE UNDERSIGNED IS A PRINCIPAL REGISTERED WITH THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 8.1, ARIZONA REVISED STATUTES. THE PRINCIPAL HEREBY TERMINATES THE ENGAGEMENT AND AUTHORITY OF ANY AND ALL LOBBYISTS NAMED IN THAT REGISTRATION. TERMINATION SHALL BE EFFECTIVE ON~~ _____, ~~19~~ _____.

→ ~~IMPORTANT -- Principal must notify the Lobbyist of this action.~~

_____

~~(PRINCIPAL)~~

~~State of~~ _____)

~~County of~~ _____) ~~SS.~~

_____, ~~being 1st duly sworn says that I am the Principal (or,~~ _____ ~~of the Principal) in the foregoing Principal's Revocation of Lobbying Registration Form; that to the best of my knowledge and belief the matters therein are true and correct.~~

~~SUBSCRIBED AND SWORN TO before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My Commission expires~~ _____

~~Notary Public~~

~~Form L5-5 1/85--Secretary of State~~

~~ARIZONA~~

~~REVOCATION OF LOBBYING~~

~~ENGAGEMENT~~

~~LOBBYIST ONLY~~

~~1. NAME OF LOBBYIST~~ _____

~~2. ADDRESS OF LOBBYIST~~

_____

~~(Street Address)~~

_____

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(Business Phone)~~

~~3. NAME OF PRINCIPAL ENGAGING LOBBYIST~~ _____

~~4. BUSINESS ADDRESS OF PRINCIPAL~~ _____

~~(Street Address)~~

_____

~~(City)~~ ~~(State)~~ ~~(Zip)~~ ~~(Business Phone)~~

~~5. THE UNDERSIGNED IS A LOBBYIST ENGAGED BY THE ABOVE-NAMED PRINCIPAL REGISTERED WITH THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 8.1, ARIZONA REVISED STATUTES. THE LOBBYIST UNDERSIGNED HEREBY TERMINATES THE ENGAGEMENT AND DECLARES TERMINATION TO BE EFFECTIVE ON~~ _____, ~~19~~ ____.

→ ~~IMPORTANT — Lobbyist must notify the Principal of this action.~~

_____

~~(LOBBYIST)~~

~~State of~~ _____)

~~County of~~ _____) ~~SS.~~

_____, ~~being 1st duly sworn says that I am the Lobbyist in the foregoing Revocation of Lobbying Engagement Form; that to the best of my knowledge and belief the matters therein are true and correct.~~

~~SUBSCRIBED AND SWORN TO before me this~~ _____ ~~day of~~ _____, ~~19~~ ____.

~~My Commission expires~~ _____

~~Notary Public~~

~~Form L-6 1/85 – Secretary of State~~

~~ARTICLE 2. VOTER REGISTRATION AT TIME OF APPLYING FOR DRIVER'S LICENSE~~

~~**R2-12-201. Voter registration affidavit form**~~

~~The voter registration affidavit form to be used by driver's license examiners is prescribed as follows:~~

~~1. Original (front)~~

~~TYPE or PRINT plainly with ink.~~
~~LAST, FIRST and MIDDLE NAME must be shown in full using CAPITALS. Place all information within the space allowed.~~

~~STATE OF ARIZONA~~
~~AFFIDAVIT OF REGISTRATION~~
~~_____ COUNTY~~

~~For Office Use Only~~

~~1. Full Name (CIRCLE ONE) Mr. Mrs. Ms. Miss.~~ _____ / _____ / _____ / _____
Last Name / First / Middle / Jr/Sr/III

~~2. Residence Address~~ _____ / _____ / _____ / _____ / _____ / _____ / _____
~~House Number / Direction (E,W,N,S) / Street Name / Type (St, Dr, Av, etc. / Apt., Sp. No. / Res. City / Zip Code~~

~~3. Mailing Address If Different~~ _____
~~(include post office address, city or town, zip code or other designation used for receiving mail, or describe exact location of residence on diagram provided on reverse side.)~~

~~4. Party Preference~~ [ ]

~~5. Telephone Number~~ _____ ~~(unless unlisted)~~

~~6. Place of Birth~~ _____ / _____
~~State / Foreign Country~~

~~Birth Date~~ _____ / _____ / _____
~~Mo. / Day / Year~~

~~7. Occupation~~ _____ ~~Indian Census No.~~ _____ ~~(Optional)~~

~~8. Currently registered in~~ _____ / _____ / _____
~~Country / State / Prec.~~

~~9. Father's Name~~ _____ / _____ / _____
~~Last / First / Middle~~

~~Precinct Name or Number~~ _____

~~Office Code~~ _____

~~10. Prior Registration Information~~

~~Former Address~~ _____

~~Former Party Preference~~ _____

~~Former Name~~ _____

~~State of Arizona)~~
~~) SS.~~
~~County of)~~

~~I, the undersigned registrant swear (or affirm) that I am a citizen of the United States and a resident of the State of Arizona and the County of _____; that before the next general election, I will be eighteen years of age or more; that I have not been convicted of treason or a felony (or if so, my civil rights have been restored); and that all statements on both sides of this care are true to the best of my knowledge and belief.~~

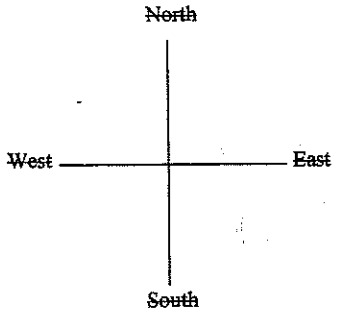
~~Subscribed and Sworn to before me on this date~~ ____ / ____ / ____

_____
~~Signature of Registration Officer – Title~~

~~11. X~~ _____
~~Signature of Applicant for Registration~~

~~2. Original (back)~~

~~Note: if the address given on this affidavit is on a Rural Route or Post Office Box Number give exact location of the residence on the diagram at left - INDICATE WITH AN "x".~~



~~Name of Street running North and South~~

~~Distance from Residence to Street running North and South~~

~~Name of Street running East and West~~

~~Distance from Residence to Street running East and West~~

~~NOTE: Be sure to indicate any Landmark on Diagram (Canals, Rivers, Railroad Tracks Etc.~~

~~Distance from Residence to Landmark running North and South~~

~~Distance from Residence to Landmark running East and West~~

~~TRANSFERRED TO NEW ADDRESS~~

~~Date~~	~~House No.~~	~~Name of Street, Avenue, Etc.~~	~~City or Town~~	~~NEW PRECINCT~~	~~Office Code~~

~~VOTING RECORD~~

~~Year~~	~~1984~~	~~1986~~	~~1988~~	~~1990~~	~~1992~~
~~GENERAL ELECTION~~					
~~VALID DRIVER'S LICENSE~~					

~~DATE REINSTATED~~

~~1985~~	~~1987~~	~~1989~~	~~1991~~	~~1993~~

~~3. Copy (Receipt front)~~

~~STATE OF ARIZONA~~

~~VOTER RECEIPT~~

~~_____ COUNTY~~

~~KEEP THIS COPY – YOUR PROOF OF REGISTRATION CARD WILL BE MAILED WITHIN 30 DAYS – IF NOT RECEIVED CALL YOUR COUNTY RECORDER~~

~~THIS IS NOT A CERTIFICATE OF REGISTRATION BUT CAN BE USED TO VOTE A QUESTIONED BALLOT IN YOUR PRECINCT OF REGISTRATION, IF YOUR NAME IS NOT ON THE PRECINCT REGISTER.~~

~~1. Full Name (CIRCLE ONE) Mr. Mrs. Ms. Miss.~~ _____ / _____ / _____ / _____
~~Last Name First Middle Jr/Sr/III~~

~~2. Residence Address~~ _____ / _____ / _____ / _____ / _____ / _____ / _____
~~House Number Direction (E,W,N,S) Street Name Type (St, Dr, Av, etc. Apt., Sp. No. Res. City Zip Code~~

~~3. Mailing Address If Different~~ _____
~~(include post office address, city or town, zip code or other designation used for receiving mail, or describe exact location of residence on diagram provided on reverse side.)~~

~~4. Party Preference~~ _____

~~5. Telephone Number~~ _____ ~~(unless unlisted)~~

~~6. Place of Birth~~ _____ / _____ ~~Birth Date~~ _____ / _____ / _____
~~State Foreign Country Mo. Day Year~~

~~7. Occupation~~ _____ ~~Indian Census No.~~ _____ ~~(Optional)~~

~~8. Currently registered in~~ _____ / _____ / _____
~~Country State Prec.~~

~~9. Father's Name~~ _____ / _____ / _____
~~Last First Middle~~

~~Precinct Name or Number~~ _____

~~Office Code~~ _____

~~10. Prior Registration Information~~

~~Former Address~~ _____

~~Former Party Preference~~ _____

~~Former Name~~ _____

~~State of Arizona)~~
~~) SS.~~
~~County of)~~

~~I, the undersigned registrant swear (or affirm) that I am a citizen of the United States and a resident of the State of Arizona and the County of _____; that before the next general election, I will be eighteen years of age or more; that I have not been convicted of treason or a felony (or if so, my civil rights have been restored); and that all statements on both sides of this care are true to the best of my knowledge and belief.~~

~~Subscribed and Sworn to before me on this date~~ _____ / _____ / _____

_____ ~~11. X~~ _____
~~Signature of Registration Officer – Title~~ ~~Signature of Applicant for Registration~~

~~4. Copy (Receipt back)~~

~~DEAR VOTER:~~

~~CONGRATULATIONS. YOU HAVE JUST TAKEN A MAJOR STEP TOWARD GOOD CITIZENSHIP. HERE IS SOME INFORMATION WHICH WILL HELP YOU TO EXERCISE YOUR RIGHT TO VOTE.~~

~~YOUR REGISTRATION WILL REMAIN ACTIVE IF:~~

~~(1) YOU VOTE IN EACH GENERAL ELECTION~~

~~(2) YOUR NAME, ADDRESS AND PARTY REMAIN THE SAME~~

~~(3) YOU MAINTAIN A VALID DRIVER'S LICENSE~~

~~THE LOCATIONS OF VOTING PLACES ARE PUBLISHED FOR YOUR CONVENIENCE BEFORE EACH ELECTION.~~

~~YOU MAY REQUEST AN ABSENTEE BALLOT FOR ANY OF THE FOLLOWING REASONS:~~

~~(1) YOU MAY BE ABSENT FROM YOUR PRECINCT ON ELECTION DAY.~~

~~(2) YOU ARE PHYSICALLY UNABLE TO GO TO THE POLLS.~~

~~(3) YOU ARE 65 YEARS OF AGE OR OLDER.~~

~~(4) YOUR PLACE OF RESIDENCE IS MORE THAN 15 ROAD MILES FROM THE POLLING PLACE.~~

~~(5) YOU CANNOT ATTEND THE POLLS ON ELECTION DAY BECAUSE OF THE TENETS OF YOUR RELIGION.~~

~~(6) YOU ARE BLIND.~~

~~Apache County Recorder~~	~~Cochise County Recorder~~	~~Coconino County Recorder~~	~~Gila County Recorder~~
~~337-4364~~	~~432-5703~~	~~779-6589~~	~~425-3231~~
~~Graham County Recorder~~	~~Greenlee County Recorder~~	~~La Paz County Recorder~~	~~Maricopa County Recorder~~
~~428-3560~~	~~865-2632~~	~~669-6131~~	~~262-1511~~
~~Mohave County Recorder~~	~~Navajo County Recorder~~	~~Pima County Recorder~~	~~Pinal County Recorder~~
~~753-9141~~	~~524-6161~~	~~792-8101~~	~~868-5801~~
~~Santa Cruz Recorder~~	~~Yavapai County Recorder~~	~~Yuma County Recorder~~	
~~287-4768~~	~~445-7450~~	~~782-4534~~	

R2-12-202. ~~Appointment of driver's license examiners~~ Repealed

~~Driver's license examiners are permitted to be appointed deputy registrars by the county recorder in the county where the examiner resides.~~

R2-12-203. ~~Completed voter registration affidavits~~ Repealed

~~Driver's license examiners shall forward completed voter registration affidavits or change of address information to the county recorder in the county where the examiner registers the voter.~~

R2-12-204. ~~List of valid Arizona driver's licenses~~ Repealed

~~The Department of Transportation shall provide to the county recorder by December 1 of the year of the general election, in a form they agree upon, a list of persons 18 years of age or older holding valid Arizona driver's license in that county on the day of the general election.~~

R2-12-205. ~~Voting information and qualifications~~ Repealed

~~The Secretary of State shall provide information to driver's license applicants which explains:~~

1. ~~The qualifications for registering to vote.~~
2. ~~The licensing as an operator of a motor vehicle is a function separate and apart from voter registration.~~
3. ~~The voting process in Arizona.~~

~~ARTICLE 3. REGISTRATION OF TELEMARKETING SELLERS~~ REPEALED

R2-12-301. ~~Registration~~ Repealed

~~A. Prior to soliciting prospective purchasers by telephone from locations in this state, Sellers, as defined in A.R.S. § 44-1271, shall register with the Secretary of State by filing on the following form.~~

~~Published by the Office of the Secretary of State~~

~~TELEPHONE SOLICITATION REGISTRATION FORM~~
~~A.R.S. Title 44, Chapter 9, Article 6~~
~~(Chapter 221, Session Laws 1989)~~

~~NOTE: A COPY OF THE BOND FILED WITH THE STATE TREASURER PURSUANT TO A.R.S. § 44-1274 (CHAPTER 221, SESSION LAWS 1989) MUST BE ATTACHED TO THIS FORM.~~

~~USE ADDITIONAL SHEETS WHEN NECESSARY~~

~~FOR OFFICE USE ONLY~~

~~Confirmation of Agent~~ _____

~~Fee Paid~~ _____

~~1.~~ _____
~~Name of Seller~~

~~2.~~ _____
~~Name under which Seller is doing business or intends to do business~~

~~3. A. Check appropriate box to indicate Seller's Business Form:~~

☐ ~~**Corporation.** If your business is a Corporation, you must attach a copy of your Articles of Incorporation, Bylaws and Amendments to the Bylaws to this form.~~

☐ ~~**Partnership.** If your business is a partnership, you must attach a copy of your Partnership Agreement.~~

☐ ~~**Fictitious Business Name.** If your business operates under a fictitious name, you must state the location where the fictitious business name has been registered:~~

_____
~~Name of agency where registered~~
_____
~~Street Address~~
_____
~~City~~ ~~State~~ ~~Zip~~

☐ ~~**Sole Proprietorship.**~~

~~3. B. State in which above business is organized:~~ _____

~~4. Physical location of Principal Place of Business:~~

_____
~~Complete street address~~
_____
~~City~~ ~~State~~ ~~Zip~~

~~5. List telephone numbers for all telephones at Principal Place of Business:~~

6. ~~Addresses of all other locations from which seller will be conducting business:~~

~~Location 1:~~

~~Complete street address~~

~~City~~ ~~State~~ ~~Zip~~

~~Location 2:~~

~~Complete street address~~

~~City~~ ~~State~~ ~~Zip~~

~~Location 3:~~

~~Complete street address~~

~~City~~ ~~State~~ ~~Zip~~

~~Location 4:~~

~~Complete street address~~

~~City~~ ~~State~~ ~~Zip~~

7. ~~Telephone numbers for all telephones at the locations given in item 6:~~

~~Location 1:~~

~~Location 2:~~

~~Location 3:~~

~~Location 4:~~

~~2~~

~~8. This section must be completed for each principal or manager.~~

	~~Have you been convicted or pleaded no contest to a felony or misdemeanor involving moral turpitude or a violation of A.R.S. Title 44, Chapter 9, Article 6 (Telephone Solicitations)?~~		~~Have you been held liable, either by final judgement or by entry of a stipulated judgement in a civil action alleging fraud, embezzlement, racketeering, fraudulent conversion or misappropriation of property or a violation of A.R.S. Title 44, Chapter 9, Article 6 (Telephone Solicitations) or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful or deceptive business practices?~~		~~Are you subject to a currently effective injunction or restrictive order relative to a business activity as a result of an action brought by a public agency or department, including an action affecting a vocational license?~~		~~If you answered yes in Column 1, 2, or 3, you must provide the required information in the space provided on the reverse side of this page (page 4).~~
~~Principal or Manager's Full Name~~	~~Yes~~	~~No~~	~~Yes~~	~~No~~	~~Yes~~	~~No~~	

~~-3-~~

~~9. This section must be completed by each principal or manager who answered yes in Column 1, 2, or 3 on page 3.~~

~~Enter the corresponding line number and last name of principal or manager who answered yes in Column 1, 2, or 3 on page 3.~~	~~Name of the Court~~	~~Date of the Conviction, Judgement, Order or Injunction~~	~~Name of the Governmental Agency that filed the Action (if applicable)~~

~~10. Provide the following information for the Seller's Agent in Arizona who is authorized to receive Service of Process in this State:~~

~~Name~~

~~Complete street address~~

~~City~~ ~~State~~ ~~Zip~~

~~Telephone Number~~ _____

~~-4-~~

~~11. Provide the information below for each Principal, Manager, and Solicitor~~

~~( ) Principal ( ) Manager ( ) Solicitor~~

~~Name~~ _____

~~Residence Address~~ _____

_____

~~City~~ ~~State~~ ~~Zip~~

~~Telephone Number~~ _____ ~~Date of Birth~~ _____

~~Current Driver's License Number~~ _____

~~State in which Driver's License was issued~~ _____

~~( ) Principal ( ) Manager ( ) Solicitor~~

~~Name~~ _____

~~Residence Address~~ _____

_____

~~City~~ ~~State~~ ~~Zip~~

~~Telephone Number~~ _____ ~~Date of Birth~~ _____

~~Current Driver's License Number~~ _____

~~State in which Driver's License was issued~~ _____

~~( ) Principal ( ) Manager ( ) Solicitor~~

~~Name~~ _____

~~Residence Address~~ _____

_____

~~City~~ ~~State~~ ~~Zip~~

~~Telephone Number~~ _____ ~~Date of Birth~~ _____

~~Current Driver's License Number~~ _____

~~State in which Driver's License was issued~~ _____

~~I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.~~

_____
_____
_____
_____

~~Printed Name of Seller~~ ~~Signature of Seller~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission Expires:~~
_____
_____
_____
_____

~~Notary Public~~

~~I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.~~

_____
_____
_____
_____

~~Printed Name of Seller~~ ~~Signature of Seller~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission Expires:~~
_____
_____
_____
_____

~~Notary Public~~

~~I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.~~

_____
_____
_____
_____

~~Printed Name of Seller~~ ~~Signature of Seller~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission Expires:~~
_____
_____
_____
_____

~~Notary Public~~

~~I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.~~

_____
_____
_____

~~Printed Name of Seller~~ ~~Signature of Seller~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission Expires:~~
_____
_____
_____

~~Notary Public~~

~~I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.~~

_____
_____
_____

~~Printed Name of Seller~~ ~~Signature of Seller~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission Expires:~~
_____
_____
_____

~~Notary Public~~

~~I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.~~

_____
_____
_____

~~Printed Name of Seller~~ ~~Signature of Seller~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission Expires:~~
_____
_____
_____

~~Notary Public~~

~~B. The signature of the Seller or, if the seller is other than a natural person, the signature of the Designated Agent of the Seller shall be notarized. All signatures of Principals as defined in A.R.S. § 44-1271 shall be notarized.~~

R2-12-302. No change.

A. No change.

B. No change.

R2-12-303. ~~Filing~~ Repealed

~~Filing will be considered complete when the form prescribed in R2-12-301 has been completed in full, the appropriate filing fees have been paid and assurance has been received from the Office of the State Treasurer that a $25,000 surety bond or its cash equivalent has been posted with the Treasurer.~~

ARTICLE 4. ~~CHARITABLE ORGANIZATION REGISTRATION~~ REPEALED

R2-12-401. ~~Registration~~ Repealed

~~All charitable organization registration statements, including supplemental statements reflecting changes or new information, filed with the Secretary of State pursuant to A.R.S. § 44-6552 shall be on the following form.~~

~~Published by the Office of the Secretary of State~~

~~CHARITABLE ORGANIZATION REGISTRATION FORM~~

~~A.R.S. Title 44, Chapter 19, Article 1~~
~~Chapter 277, Session Laws 1989)~~

~~Phone:~~ _____
~~(Optional)~~

~~Use Additional Sheets if Necessary~~

~~Circle One:~~ ~~INITIAL REGISTRATION~~ ~~SUPPLEMENTAL REGISTRATION~~

~~1.~~ ~~Name of Charitable Organization~~ _____

~~Business Address~~ _____

_____
~~City~~ ~~State~~ ~~Zip~~

~~2.~~ ~~Officers and Directors:~~

~~A.~~ _____
~~Name~~
_____
~~Business Address~~
_____
~~City~~ ~~State~~ ~~Zip~~

_____

~~B.~~ _____
~~Name~~
_____
~~Business Address~~
_____
~~City~~ ~~State~~ ~~Zip~~

_____

~~C.~~ _____
~~Name~~
_____
~~Business Address~~
_____
~~City~~ ~~State~~ ~~Zip~~

~~-1-~~

~~3. Person primarily responsible for fund raising:~~

~~Name~~

~~Business Address~~

~~City~~ ~~State~~ ~~Zip~~

~~4. Independent Contractor engaged for remuneration to make solicitations on behalf of the organization:~~

~~Name~~

~~Business Address~~

~~City~~ ~~State~~ ~~Zip~~

~~5. Give a general description of the methods, locations, types and amounts of solicitations that the charitable organization, or any of its solicitors, will use to solicit contributions.~~

~~A.~~

~~Methods/Types of Solicitation:~~	~~Amounts of Solicitations (number – not dollar figure)~~

~~B. Locations Used for Solicitation:~~

~~6. Duration of Solicitation Period:~~

~~7.~~ ~~A.~~ ~~For initial registration statements filed after June 30:~~

~~The total of all charitable contributions received January 1 to June 30 of this year:~~

~~$~~ _____

~~B.~~ ~~For any initial registration statement filed prior to June 30 and for any non-initial registration statement:~~

~~Total dollar amount of all charitable contributions received during the preceding calendar year:~~

~~$~~ _____

~~Statement of all expenditures relating to solicitation during the preceding calendar year:~~ _____

~~8.~~ ~~If any person primarily responsible for fund raising, any officer or director has a criminal conviction, state the following:~~

_____
~~Name~~

~~Date of Conviction~~ _____

~~Place of Conviction~~ _____

~~Nature of Criminal Offense~~ _____

_____
~~Name~~

~~Date of Conviction~~ _____

~~Place of Conviction~~ _____

~~Nature of Criminal Offense~~ _____

~~9.~~ ~~Describe any solicitation activity by your organization during the preceding year in any other state:~~

_____

_____

_____

_____

_____

~~10. Describe purpose(s) of your charity (Optional):~~

_____

_____

_____

_____

_____

~~I, the undersigned, being duly sworn depose (affirm) and say that this Charitable Organization Registration Statement is complete, true and correct.~~

_____

_____

~~Printed Name of Chairman~~ ~~Signature of Chairman~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission expires:~~

_____

_____

~~Notary Public~~

~~I, the undersigned, being duly sworn depose (affirm) and say that this Charitable Organization Registration Statement is complete, true and correct.~~

_____

_____

~~Printed Name of Financial Officer~~ ~~Signature of Financial Officer~~

~~Subscribed and sworn to (affirmed) before me this~~ _____ ~~day of~~ _____, ~~19~~ _____.

~~My commission expires:~~

_____

_____

~~Notary Public~~

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**
   R4-6-604 — 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. § 32-3253

   Implementing statute: A.R.S. §§ 32-3253, 32-3311, 32-3313

3. **The effective date of the rules:**
   November 5, 1998

4. **A list of all previous notices appearing in the Register addressing the adopted rule.**
   Notice of Rulemaking Docket Opening: 4 A.A.R. 1627, July 6, 1998.
   Notice of Proposed Rulemaking: 4 A.A.R. 2209, August 14, 1998.

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

Name:	Celia Patrick, Office Manager
Address:	Board of Behavioral Health Examiners 1400 West Washington, Suite 350 Phoenix, Arizona 85007
Telephone:	(602) 542-1893
Fax:	(602) 542-1830

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
   This rule is updated for clarity and correction of an error promulgated in a previous rulemaking. The number of admissible hours for group supervision is changed from 50 hours to 100 hours.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.**
   None.

8. **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.

9. **The summary of the economic, small business, and consumer impact:**
   The original intent of this Section was to clarify statute requirements for obtaining a Marriage and Family Therapy certification. A.R.S. § 32-3311(C) requires that to obtain a Marriage and Family Therapy certification, *one hundred hours of individual supervision be applied toward the combination of two hundred hours of group or individual supervision in the provision of marriage and family therapy.* This requirement leaves 100 hours remaining in the 200-hour combination which may be applied toward a certified therapist's group supervision requirement. The current rule allowing that 50 hours of group supervision be applied toward the total 200 required hours for direct supervision is in error. This rulemaking changes the number of admissible hours for group supervision from 50 hours to 100 hours.

   A. *Estimated Costs and Benefits to the Board of Behavioral Health Examiners.*

   This rulemaking clarifies the requirements for Marriage and Family Therapy certification. By ensuring understanding of persons reading this rule, there is a potential for cost savings by reduction in time by personnel attempting to answer questions pertaining to the number of hours actually required for group certification. No additional costs will be incurred by the Board.

   B. *Estimated Costs and Benefits to Political Subdivisions.*

   Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

   C. *Businesses Directly Affected By the Rulemaking.*

   By changing the 50 hours of group supervision to 100 hours it *appears* to afford an applicant an opportunity to obtain more group supervision hours towards the 200 required hours of group or direct supervision. An increase in the number of hours allowed for group supervision should allow more people to be certified as Marriage and Family Therapists and shorten the time-

frame for certification. However, this change is simply correcting a rulemaking error. The statutory requirement of 100 hours for group supervision invalidates the 50-hour rule requirement. This current rulemaking provides an applicant with clear understanding of the requirements of the program. This rulemaking has no reducible impact on small businesses or consumers.

D. *Estimated Costs and Benefits to Private and Public Employment.*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Estimated Costs and Benefits to Consumers and the Public.*

Changing the number of group supervision allowed hours will not affect consumers or the public because the statute requirement that 100 hours of direct supervision be applied toward the required 200 hours of group or direct supervision. This rulemaking has no reducible impact on small businesses or consumers.

F. *Estimated Costs and Benefits to State Revenues.*

State revenues are not directly affected by the implementation and enforcement of this rulemaking.

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

Grammatical and clarification changes were made at the request of G.R.R.C. staff. No substantive changes were made.

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

None.

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

None.

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

None.

14. Was this rule previously adopted as an emergency rule:

No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARTICLE 6. MARRIAGE AND FAMILY THERAPY

Section
R4-6-604. Professional Supervision for Marriage and Family Therapy Certification

ARTICLE 6. MARRIAGE AND FAMILY THERAPY

R4-6-604. Professional Supervision for Marriage and Family Therapy Certification

An applicant for certification as a Marriage and Family Therapist shall receive ~~a minimum of~~ at least 200 hours of direct supervision ~~on~~ of 1,000 client-contact hours during the 2 years of professionally supervised work experience ~~referenced~~ prescribed in R4-6-603.

1. An applicant ~~shall be permitted to~~ may apply ~~a maximum of~~ no more than 30 hours of direct supervision and 300 client-contact hours obtained during the internship ~~referenced~~ prescribed in R4-6-601(B) towards the direct supervision requirement.
2. An applicant ~~shall be permitted to~~ may meet the direct supervision requirement by receiving both individual and group supervision. Group supervision shall ~~be~~ consist of no more than ~~50~~ 100 of the 200 required hours of direct supervision during the 2 years of professionally supervised work experience.
3. Supervision of an applicant ~~for certification as a Marriage and Family Therapist~~ shall be provided by ~~a~~ an Arizona Certified Marriage and Family Therapist.
4. An applicant who completed the professional supervision requirement before December 31, 1991, ~~may have been~~ was supervised by ~~an individual who was~~ 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 supervision 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 ~~(C)~~ (3). The ~~Marriage and Family Therapy Credentialing~~ Committee shall review the request ~~for exemption~~ to determine whether the proposed supervisor has the ~~necessary~~ education, training, and experience to provide the supervision ~~acceptable for a Marriage and Family Therapist certification~~. If the proposed supervisor ~~has the necessary education, training, and experience~~ is qualified, the ~~Marriage and Family Therapy Credentialing~~ Committee shall grant the request for an exemption.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 21. BOARD OF OPTOMETRY

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**

Sections Affected	Rulemaking Action
R4-21-101	Amend
R4-21-102	Amend
R4-21-103	Amend
R4-21-201	Amend
R4-21-202	Repeal
R4-21-202	Renumber
R4-21-202	Amend
R4-21-203	Repeal
R4-12-203	New Section
Table 1	New Table
R4-21-204	Renumber
R4-21-204	New Section
R4-21-205	Renumber
R4-21-205	New Section
R4-21-206	New Section
R4-21-207	Renumber
R4-21-207	Amend
R4-21-208	Renumber
R4-21-208	Amend
R4-21-209	Renumber
R4-21-209	Amend
R4-21-301	Amend
R4-21-302	Amend
R4-21-303	Amend
R4-21-304	Amend
R4-21-305	Amend
R4-21-306	Renumber
R4-21-306	New Section
R4-21-307	Renumber
R4-21-307	Amend
R4-21-308	Renumber
R4-21-308	Amend
Article 4	New Article
R4-21-401	New Section
R4-21-402	New Section
R4-21-403	New Section
R4-21-404	New Section
R4-21-405	New Section
R4-21-406	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. § 32-1704

   Implementing statute: A.R.S. § 32-1722, 32-1723, 32-1724, 32-1725, 32-1726, 32-1727, 32-1728, 32-1729, 32-1743, 32-1773, 41-1003, 41-1062(B), and 41-1072 et seq.

3. **The effective date of the rules:**

   November 5, 1998

4. **A list of all previous notices appearing in the Register, addressing the final rule:**

   Notice of Rulemaking Docket Opening: 4 A.A.R. 720, March 13, 1998.
   Notice of Proposed Rulemaking: 4 A.A.R. 1666, July 10, 1998.
   Notice of Supplemental Proposed Rulemaking: 4 A.A.R. 1859, July 17, 1998.

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

   Name: Ms. Alexis Kjellstrom

Address: Board of Optometry
1400 West Washington, Room 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

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

The current rules regarding the practice of optometry are being amended and expanded to ensure conformity with current optometry statutes and rulewriting standards. The rules are being updated to reflect the statutory amendments enacted in 1993 that expanded the optometric scope of practice. Definitions used in the optometry rules are being clarified and additional definitions are being added. Fees for licensing and biennial license renewal are being raised. In addition, new fees are being added for the registration and biennial registration renewal for nonresident dispensers who wish to fill prescriptions for replacement soft contact lenses. These new fees are in a rule package that was approved by GRRC at its September meeting but are included to reflect the rule, R4-21-103, as it will be when made effective by the filing with the Secretary of State. Licensing time-frames are being established for all licensing activities of the Board as required by A.R.S. § 41-1072 et seq. Application requirements are being clarified and made more specific. The approval of courses of study is being revised and the issuance of topical pharmaceutical agent certificates is being added. The standards of care for conducting eye examinations are being clarified and detailed. A new Article 4 is also being added to prescribe the public participation procedures which are observed by the Board and required by A.R.S. § 41-1003.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

8. **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.

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

Cost impacts for the Board will be minimal and include the cost of the rule consultant assisting with this rule promulgation. There is also a remote possibility of additional cost to the Board in the event that it fails to meet the licensing time-frames and must refund licensing fees. These rules essentially codify the current Board practices. Cost impacts on currently licensed optometrists, or their employers, as well as applicants for licensure will be affected as both the initial licensure fee as well as the biennial licensure renewal fee are being raised from $150 to $200, and $300 to $400, respectively. The fee increase is necessitated by a projected budget shortfall beginning in fiscal 1999 of $17,800. Additional revenues to be generated during each 2-year budget cycle are expected to be about $33,000. The result of the fee increase then is to generate additional revenues for the Board, thereby increasing state revenues, to meet this shortfall. It is not anticipated that changes to the continuing education rule provisions will increase costs to licensed optometrists as the number of required hours is not being changed. Benefits of these rules are, for the most part, undefinable in economic terms, as they primarily clarify the practice of optometry in Arizona. However, the single greatest economic benefit of these rules for optometrists and applicants for licensure is the opportunity to practice optometry and derive income from that practice.

The cost of promulgating these rules will also have a minimal impact on the Governor's Regulatory Review Council and the Secretary of State's Office. No impacts are expected for any other agencies or political subdivisions of the state. The cost impact on individual optometrists as a result of this rule package is so minimal that there is no cost impact anticipated for consumers.

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

Some minor changes were made to the rules in response to comments provided by the Office of the Secretary of State following the filing of the Notice of Proposed Rulemaking. Several other typographical errors were brought to the Board's attention and corrected.

At A.A.C. R4-21-305(A)(1), and the expiration date of the prescription was added after the word examination to clarify a labeling requirement.

At R4-21-203(B)(3) and (C)(4), the following sentence is added to clarify the nonrefundable nature of fees: Fees are nonrefundable in accordance with A.R.S. § 32-1727(B).

At R4-21-203, the time-frame for an applicant to respond to a deficiency notice or request for additional information is lengthened to 20 days for all licenses, certificates, and approvals to permit applicants additional time to comply and avoid having an application deemed withdrawn.

R4-21-302(C) is revised to read as follows: 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.

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

A. General Comments

One written comment was received during the formal comment period. No oral comments were received at the public hearing for the proposed rules. The Office of the Secretary of State noted some typographical errors in the proposed rule package that were corrected.

B. Issues Raised by the Public During the Rulemaking Process

1. R4-21-203

ISSUE: In the 1 written comment received, it was suggested that the time-frames in R4-21-203 for an applicant to respond to a deficiency notice in the administrative completeness process and to respond to a request for additional information in the substantive review process in the initial license, renewal license, or TPA certification procedures do not allow for a valid justification for a failure to respond. It was suggested that a good cause exception be added.

EVALUATION: The Board believes that the requirements of the application process are sufficiently clear and simple that additional extensions should not be needed. However, to permit some additional time because such materials usually are transmitted by mail, the time-frames for an applicant to respond to both the administrative completeness and substantive review deficiency or information request for all licenses, certifications or approvals is changed to 20 days.

2. R4-21-203(B)(3) and (C)(4)

ISSUE: The commentor inquired what happened to the application fee when an application was deemed withdrawn. It was suggested that the Board include this information.

EVALUATION: Although A.R.S. § 32-1727(B) addresses this issue, the Board agreed to add the following sentence to each subsection: Fees are nonrefundable in accordance with A.R.S. § 32-1727(B).

3. R4-21-302(C)

ISSUE: A commentor suggested that the word considers is not clear in its legal significance. It was suggested that the following be added: "It shall be a rebuttable presumption that an optometrist whose name and address appears in an advertisement or directory has knowledge of the contents of the advertisement or directory."

EVALUATION: The Board believes that a licensed optometrist should be responsible for advertisements in which the optometrist's name appears. The Board believes that it is a matter of public health and safety to prevent misleading or deceptive advertising in any form. For clarification, the Board is amending R4-21-302(C) as follows: "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."

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

Not applicable.

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

The following incorporations are made at R4-21-304(A):

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.

14. Was this rule previously adopted as an emergency rule?
Not applicable

15. The full text of the rules follows:

4. PROFESSIONS AND OCCUPATIONS

CHAPTER 21. BOARD OF OPTOMETRY

ARTICLE 1. GENERAL PROVISIONS

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~~R4-21-204~~R4-21-202.License Examination and Appeal ~~examination~~
~~R4-21-203. Course of study in clinical pharmacology~~
R4-21-203. Time-frames for Licensure, Renewal of License, TPA Certification, and Approval of Course of Study
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ARTICLE 3. REGULATORY PROVISIONS

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R4-21-303. Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacements Agreements ~~disclosures in advertising and practice~~
R4-21-304. Vision Examination Standards; Records ~~Minimum vision examination standards; records~~
R4-21-305. Prescription Standards; Release to Patients ~~Minimum prescription standards; release to patients~~
R4-21-306. Low Vision Rehabilitation and Vision Therapy
~~R4-21-306~~R4-21-307.Subpoenas
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ARTICLE 4. PUBLIC PARTICIPATION PROCEDURES

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 ~~the context~~ otherwise specified ~~requires~~, the following ~~definitions of~~ terms mean ~~shall apply~~:

~~1. Approved course of study in clinical pharmacology means a course or group of courses which contain the subjects described in R4-21-203.~~
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.
~~2~~3. Board means the Arizona State Board of Optometry.
~~3~~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.

R4-21-102. Meetings

The Board shall conduct meetings ~~will be held~~ at least 6 ~~six~~ times each year at times and places designated by the Board or the Governor.

R4-21-103. Fees

A. In addition to fees established by A.R.S. § 32-1727, the Board shall charge license fees as follows ~~fees relating to licenses are~~:
   1. License issuance fee: $200~~$150.00~~ in even-numbered years and $400~~$300.00~~ in odd-numbered years.
   2. Biennial license renewal fee: $400~~$300.00~~.

B. A person requesting public records shall pay ~~The Board will charge~~ the following fees for searches and copies of Board ~~its~~ records under ~~made pursuant to~~ 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.~~00~~ per hour, ~~after first 15 minutes,~~ with a minimum charge of $10 (this fee shall be waived for other government agencies); and
   ~~C.~~4. Pamphlets containing optometry statutes and rules: $5.~~00~~.

C. An applicant for registration or biennial registration renewal as a nonresident dispenser shall pay to the Board a fee of $500.

ARTICLE 2. LICENSING PROVISIONS

R4-21-201. Licensure ~~Application for licensure~~

~~A. Application must be made on forms obtained from the Board. There are two types of applications: application for license by examination and application for license by reciprocity.~~
   ~~1. Application for license by examination must be filed at least 30 days prior to the date of the licensing examination.~~
   ~~2. Application for license by reciprocity must be filed at least 60 days prior to the date of the licensing examination.~~

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 paragraphs 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 inches by 3 inches.

B. In addition to the requirements of subsection (A), an applicant for licensure by examination shall submit or arrange to have submitted ~~An application will be considered complete when it includes~~:
   ~~1. Completed application form.~~
   ~~2~~1. A completed ~~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.
   ~~3~~2. The filing ~~Filing~~ fee pursuant to A.R.S. § 32-1727.
   ~~4~~3. Evidence of the successful completion of an approved course of study ~~in clinical pharmacology~~ 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.

~~5~~4. An official transcript directly from the accredited institution from which the applicant graduated with a degree in optometry. ~~A copy of all optometry college transcripts as specified by R4-21-202.~~ The transcript ~~transcripts~~ need not be filed with the application, but shall ~~must~~ be filed with the Board at least 10 ~~ten~~ days prior to the examination date.

~~6~~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 ~~If for licensure by reciprocity,~~ the following additional materials:

~~a~~1. ~~Completion of the~~ 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 ~~The form, when completed, must~~:

~~i~~a. Confirmation ~~Confirm~~ that the state accords similar reciprocity privileges to optometrists licensed in Arizona;

~~ii~~b. Confirmation ~~Confirm~~ that the applicant has been engaged in the practice of optometry in or under the authority of that state for at least 4 ~~four~~ of the 5 ~~five~~ years preceding the date of the ~~this~~ application;

~~iii~~c. Explanation of ~~State~~ the basis for and result of any disciplinary action taken against the applicant within the preceding 10 ~~ten~~ years, including censure, probation, suspension, or revocation of the applicant's license;

~~iv~~d. Description of ~~Describe~~ any pending investigations or complaints regarding the applicant;

~~v~~e. Statement ~~State~~ that the applicant is in good standing to practice optometry in that state; and

~~vi~~f. Statement ~~State~~ whether the applicant is known to have been licensed to practice optometry in any other state and, if so, the name~~(s)~~ of that state~~; and~~.

~~vii. State whether the applicant is authorized to use diagnostic pharmaceuticals.~~

~~b~~2. The applicant's sworn and notarized statement on a form provided by the Board that affirms ~~to the effect~~ that the applicant satisfies each of the requirements of A.R.S. § 32-1723(A)(3), (4), and (6).

~~C~~D. The Board shall permit only those applicants ~~Applicants~~ who ~~fail to~~ complete an ~~the~~ application and ~~to~~ file ~~the~~ transcripts prior to the deadlines ~~may not~~ to take an ~~the~~ examination.

~~D. If an applicant for licensure by examination has been notified of his eligibility to take an examination but is unable to do so because of a verifiable emergency, he may take the next following examination upon submitting a new application but need not pay an additional examination fee.~~

~~**R4-21-202. Educational qualifications for licensure**~~

~~An applicant shall submit to the Board official transcripts as evidence of graduation with a degree in optometry from a university or college which was accredited at the time of graduation. The Board will recognize as accredited those institutions that have been accredited by the American Optometric Association Council on Optometric Education on the date this Section was last amended. Institutions accredited by the American Optometric Association Council on Optometric Education after the date this Section was last amended may also be approved by the Board upon a majority vote of its members. In addition, the Board may approve institutions accredited by other nationally accepted accrediting bodies, provided that the standards for accreditation are equivalent to those of the American Optometric Association Council on Optometric Education.~~

~~**R4-21-203. Course of study in clinical pharmacology**~~

~~A. An applicant for licensure shall submit proof of satisfactory completion of a course of study in clinical pharmacology having a particular emphasis on the clinical application of diagnostic pharmaceutical agents for the purpose of examination of the human eye and analysis of ocular functions. This requirement shall also apply to optometrists licensed in Arizona prior to January 1, 1982, if such optometrists wish to utilize diagnostic pharmaceutical agents in the practice of optometry. Licensed optometrists who do not satisfactorily complete an approved course of study in clinical pharmacology shall not utilize diagnostic pharmaceutical agents.~~

~~B. The course of study in clinical pharmacology must meet the following criteria:~~

~~1. The course shall contain a minimum of 40 clock hours of instruction.~~

~~2. The course of study must contain the following topics:~~

~~a. Basic principles of pharmacology — minimum of six hours: factors governing drug disposition (including drug absorption, distribution, metabolism, and excretion); pharmacokinetic variables of drug action; mechanisms of drug action (including actions at receptors, dose-response relationships, and graded drug responses); and mechanisms of chemical toxicity.~~

~~b. Anatomy, physiology, and pharmacology of the autonomic nervous system — minimum of six hours: anatomical organization of the autonomic nervous system; neurotransmission processes; recognized neurotransmitter substances in the autonomic nervous system and their receptors; and physiological responses to receptor activation or blockade.~~

~~c. Autonomic control of iris and ciliary smooth muscle — minimum of one hour: light reflex and physiological responses to drugs which activate or block cholinergic and adrenergic receptors in the eye.~~

~~d. Mechanisms of local anesthesia — minimum of two hours: physiology of nerve conduction; mechanisms of action of topical anesthetics; and pharmacological and toxicological consequences of local anesthesia.~~

~~e. Basic pharmacology of cycloplegics, mydriatics, and topical anesthetics — minimum of two hours: disposition, pharmacokinetics, pharmacological actions, side effects, and contraindications for use of these agents.~~

~~f. Prescription drugs, over-the-counter drugs, and other remedies which may affect ocular function — minimum of two hours: drugs prescribed for local or systemic diseases; over-the-counter systemic drugs and other remedies; and effects of self-medication with topical agents.~~

~~g. Beneficial and adverse drug interactions — minimum of two hours: mechanisms of beneficial and adverse interactions; and specific interactions of cycloplegics, mydriatics, and local anesthetic drugs.~~

~~h. Systemic reactions to topically applied drugs — minimum of one hour.~~

~~i. Diagnosis of specific diseases of the fundus of the eye and angle closure glaucoma, and the effect of topical drugs on these diseases -- minimum of two hours: angle closure glaucoma; corneal abrasions, and uveitis.~~

~~j. Hazards of misuse of topical drugs -- minimum of one hour.~~

~~k. Ocular diseases or conditions requiring referral to physicians -- minimum of one hour: diagnosis of specific diseases or conditions requiring referral.~~

~~3. Faculty for the course must include instructors with expertise in basic pharmacology and clinical pharmacology as applied to the examination of the human eye.~~

~~C. The Board will not approve a course of study in clinical pharmacology unless the faculty of such course conditions passing the course on the successful completion of an examination for competency in clinical pharmacology. The faculty of a course of study in clinical pharmacology shall prepare, conduct, and grade the examination.~~

~~D. The Board will review the course of study submitted by applicants for licensure or optometrists licensed prior to January 1, 1982, and will determine whether such course meets the criteria for an approvable course of study in clinical pharmacology. Persons planning to enroll in a course of study in clinical pharmacology for the purposes of A.R.S. §§ 32-1722 or 32-1723 may submit to the Board for review prior to enrollment an outline of the course or courses, name of the sponsoring institution, and names and qualifications of faculty or instructors.~~

~~E. A person will be deemed to have satisfactorily completed a course of study when he submits to the Board:~~

~~1. An outline of the course or courses, and names and qualifications of instructors if these were not submitted to the Board prior to enrollment.~~

~~2. An official transcript showing that he has passed the course or courses.~~

~~3. A certificate of completion issued by the sponsoring institution specifying the subject matter and hours completed.~~

~~F. Optometrists licensed before January 1, 1982 who have satisfactorily completed a course of study in clinical pharmacology since January 1, 1977 will be issued a diagnostic pharmaceutical agent certificate.~~

~~R4-21-204~~R4-21-202.License Examination and Appeal ~~examination~~

A. An applicant for licensure shall take a written and practical ~~The licensing~~ examination ~~will include a practical examination and could include a written examination on subjects currently taught in accredited schools of optometry.~~

~~a~~1. No later than the 1st ~~first~~ Board meeting of a calendar year, the Board shall ~~will determine~~ announce for that calendar year that the Board shall either:,

a. Under ~~pursuant to~~ A.R.S. § 32-1724, ~~whether to~~ administer a ~~offer~~ ~~an Arizona~~ written examination to applicants, or ~~and, if so, whether to~~

b. Accept ~~accept in lieu thereof,~~ documentation that an applicant has passed Board-designated parts of the written examination administered by the ~~of passing the~~ National Board and designate the parts of the exam that must be passed ~~of Examiners in Optometry examination~~.

~~b~~2. ~~While a written examination is in progress, an examinee shall not leave the room nor communicate with any person other than a proctor of the Board without the proctor's permission. The time allotted to complete each subject of the examination will be indicated by written instructions. Each~~ If the Board administers a written examination, the Board shall grade each written examination subject ~~will be graded~~ separately, and calculate an overall average of the subjects ~~will be calculated from the individual scores~~ separately from ~~independently of~~ any practical exam score ~~scores~~. All written questions remain the property of the Board and applicants shall return them ~~must be returned~~ to the Board at the end of the examination.

~~2~~3. An applicant ~~All applicants~~ for licensure shall complete a ~~the~~ practical examination. The practical examination may include clinical procedures and ~~The practical examination will require~~ written responses to questions about ~~on~~ slides of eye conditions ~~and an examination on clinical procedures~~. The Board may require an applicant to examine ~~which may include an examination of~~ a patient as part of the practical examination. An applicant ~~Examinees~~ shall supply any hand-held instruments or equipment needed for use in the patient examination.

~~4~~B. An applicant who fails either the written or practical portion of the examination and applies for re-examination in a subsequent year ~~re-examination~~ shall retake the entire examination given in the re-examination ~~re-examination~~ year. An applicant for re-examination shall pay the regular ~~Any re-examination will require payment of a full~~ 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.

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.

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.

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.

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.

~~R4-21-205~~R4-21-207.Submission of Fee; ~~Notice of grades;~~ Issuance and Display of License; Surrender of License

~~A. After the applicants have been notified by mail of their examination results, applicants may inspect their examination answers during the regular office hours of the Board.~~

~~B~~A. An applicant shall submit to the Board the license issuance fee under A.R.S. § 32-1727 within ~~Within~~ 60 days following notification by the Board that an applicant has met the qualifications for licensure~~, the applicant shall submit to the Board the license issuance fee pursuant to A.R.S. 32-1727~~. The Board shall ~~will~~ issue a license within 60 days following receipt of payment.

B~~C~~. An optometrist shall conspicuously display an ~~The~~ optometry license or a Board-issued duplicate ~~shall be conspicuously displayed~~ 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 ~~diagnostic~~ 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.

~~R4-21-207~~R4-21-208.Continuing Education Requirements: Program Criteria and Procedures ~~education requirements; program criteria and procedures~~

A. An optometrist applying ~~Each application~~ for biennial license renewal shall include with the application ~~be accompanied by~~ 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 ~~Any~~ materially false statement in the ~~this~~ affirmation shall ~~will~~ be subject to ~~grounds for~~ 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:
      ~~B~~a. The program shall ~~must~~ have optometric application and shall ~~must~~ be available to all optometrists and students of optometry. All program instructors shall ~~must~~ have expertise in the field in which they ~~are~~ instruct ~~instructing~~.
         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.
      ~~C~~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 ~~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 ~~must be submitted to the Board for approval 45 days prior to the date the course is offered~~.

~~D~~C. The Board shall limit continuing education credit for correspondence courses, including computer, on-line education courses, to no ~~No~~ more than 6 ~~six~~ hours ~~of continuing education credit shall be in correspondence type courses.~~ The Board shall limit continuing education credit for practice management or administration to no ~~No~~ more than 4 ~~four~~ hours ~~of continuing education credit shall be in practice management or administration~~.

~~E~~D. An optometrist shall not carry-over hours ~~Hours~~ accumulated in any 1 ~~one~~ biennial license period ~~shall not be carried forward~~ to a subsequent license period.

~~F~~E. An optometrist shall ~~must~~ submit evidence of ~~his approved hours of~~ continuing education hours with the optometrist's ~~his~~ biennial license renewal.

~~R4-21-208~~R4-21-209.Discretionary Exemption ~~exemption~~

A. In emergency situations or circumstances involving extreme hardship to an optometrist, the Board may, at its discretion and ~~may,~~ for good cause shown, reduce the number ~~amount~~ 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.

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

ARTICLE 3. REGULATORY PROVISIONS

R4-21-301. Styles of Optometric Practice; Staff Responsibility ~~optometric practice~~

A. An optometrist shall ~~may~~ practice the profession of optometry only as a sole practitioner, ~~as~~ 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 ~~an~~ as an independent contractor and shall ~~may~~ 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.

R4-21-302. False Advertising ~~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 ~~not~~ advertise as a specialist if the optometrist ~~unless he~~ 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 ~~Any~~ optometrist may advertise that the optometrist has a practice limited ~~he limits his practice~~ in some way, provided that the optometrist shall not use the term specialist or any derivative of that term ~~is not used~~.

C. An optometrist shall ~~whose name and address appears in an any advertisement or directory is deemed to~~ have knowledge of and be professionally responsible for the contents of any ~~that~~ advertisement or directory that includes the name and address of the optometrist.

R4-21-303. Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacement Agreements ~~disclosures in advertising and practice~~

A. An ~~Any~~ 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 ~~in the context of~~ the advertisement:
   1. If for spectacle lenses or contact lenses are offered, 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, ~~or~~ a contact lens accessory kit, and, if an accessory kit is included, the specific features of the kit;
5. Whether ~~any~~ restrictions are imposed upon delivery, if delivery time is advertised;
6. The applicable ~~Applicable~~ refund policy if refunds are advertised~~.~~; and
7. If applicable, a statement that other restrictions apply.

B. An optometrist ~~who prescribes treatment for a patient~~ shall inform a ~~the~~ patient of the optometrist's ~~his~~ fee policy prior to providing ~~such~~ 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 ~~make that fact known to~~ 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.

R4-21-304. Vision Examination Standards; Records ~~Minimum vision examination standards; records~~

~~A. The minimum standards for a professional eye examination are:~~
~~1. Complete case history;~~
~~2. Visual acuity of each eye: entering, uncorrected, and with best correction;~~
~~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.~~

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 ~~The~~ patient record reflects ~~record shall reflect~~ the name of the person who makes each entry and is ~~shall be~~ maintained ~~by the optometrist~~ for at least 5 ~~five~~ years after the last contact with a ~~the~~ 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;
~~1. The items required by subsection (A);~~
~~2~~7. The type and dosage of each use of a ~~diagnostic~~ pharmaceutical agent used;
~~3~~8. Any final prescription given; and
~~4~~9. Any ~~program of~~ corrective procedure program prescribed.

C. An optometrist who discontinues practice for any reason shall arrange for patient records to be available to a patient ~~the patients~~ for 5 ~~five~~ years and shall notify the Board of the permanent location of patient records from that practice prior to discontinuing ~~the~~ practice ~~being discontinued~~. An optometrist who acquires or succeeds to a ~~the~~ practice or patient records of an ~~another~~ optometrist who has discontinued practice shall maintain the records or make arrangements for the records to be available to a patient ~~the patients~~ for 5 ~~five~~ years after the practice was discontinued.

D. An optometrist shall, upon written request of a patient, transmit a copy of ~~any or all of~~ the patient's requested records to any designated person. The optometrist may charge a ~~A~~ fee ~~may be charged~~ to cover clerical and mailing costs. ~~and~~ The optometrist shall maintain a record ~~shall be maintained~~ of the transfer for 5 ~~five~~ years from the date of the transfer.

R4-21-305. Prescription Standards; Release to Patients ~~Minimum prescription standards; release to patients~~

A. An optometrist shall not charge a ~~the~~ patient a ~~any~~ fee in addition to the examination fee as a condition for release of the patient's prescription. An ~~The requirements for~~ optometric prescription shall include ~~prescriptions are~~:
1. For ophthalmic lenses other than contact lenses:
   a. The refractive power of the lenses~~;~~;

b. The interpupillary ~~inter-pupillary~~ 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 ~~final~~ 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, ~~and~~ 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;

~~3~~4. A ~~Any~~ prescription may include additional information ~~as~~ the optometrist considers ~~deems~~ necessary ~~or appropriate~~.

B. An optometrist who dispenses or directs the dispensing of ophthalmic materials shall ensure that prescriptions are filled accurately ~~and with quality workmanship~~.

C. An optometrist shall be ~~make his services~~ available to verify that a ~~his~~ 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.

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.

~~R4-21-306~~R4-21-307.Subpoenas

The Board shall approve all ~~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~~, shall be approved by the Board and issued by the Secretary of the Board or the Executive Director appointed by the Board.~~

~~R4-21-307~~R4-21-308.Rehearing or Review of Administrative Decision ~~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 ~~ten~~ days after service of the decision. The motion shall specify the particular grounds for the rehearing. For purposes of this subsection, a decision is ~~shall be deemed to have been~~ served when personally delivered or mailed by certified mail to a ~~the~~ party at the party's ~~his~~ last known residence or place or business.

B. A party may amend a ~~A~~ motion for rehearing under this Section ~~may be amended~~ at any time before it is ruled upon by the Board. A response may be filed within 10 ~~ten~~ days after service of the ~~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 permit ~~provide for~~ oral argument.

C. The Board may grant a ~~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~~ hearing officer, or ~~the~~ prevailing party, or ~~in~~ 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 that ~~which~~ could not have been prevented by ordinary prudence;
4. Material evidence, newly ~~Newly~~ discovered, ~~material evidence~~ that ~~which could not~~ 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 ~~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 30 ~~ten~~ days after the Board issues a decision ~~is rendered~~, 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 ~~such~~ 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 ~~they shall be served~~ with the motion. Within 10 days after service an ~~An~~ opposing party may ~~within ten days after such service~~ serve opposing affidavits.~~,~~ The Board may extend the 10-day period an additional 10 days, ~~which period may be extended for an additional period not exceeding 20 days by the Board~~ for good cause ~~shown~~ or upon ~~by~~ written stipulation of the parties. The Board may permit reply ~~Reply~~ affidavits ~~may be permitted~~.

G. If~~, in a particular decision,~~ 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 ~~may be issued~~ 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 ~~any application for~~ judicial review of the decision shall make application to the superior court ~~be made~~ 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.

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.

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.

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.

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.

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.

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.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. **Sections Affected**

Sections Affected	Rulemaking Action
R4-23-801	Repeal
R4-23-802	Repeal
R4-23-803	Repeal
R4-23-804	Repeal
R4-23-1002	Repeal
R4-23-1004	Repeal

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. § 32-1904(A)(1).

   Implementing statutes: A.R.S. §§ 32-1972(D), (E), and (F) and A.R.S. § 36-2522(D).

3. **The effective date of the rules:**

   November 4, 1998.

4. **A list of all previous notices appearing in the Register addressing the final rule:**

   Notice of Rulemaking Docket Opening: 4 A.A.R. 1289, June, 5, 1998.
   Notice of Proposed Rulemaking: 4 A.A.R. 2156, August 7, 1998.

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

   Name: Dean Wright, Compliance Officer

   Address: Board of Pharmacy
   5060 N. 19th Avenue, Suite 101
   Phoenix, Arizona 85015

   Telephone: (602) 255-5125, Ext. 131

   Fax: (602) 255-5740

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

   As part of the Board's 5-year rule review approved by the Governor's Regulatory Review Council on September 9, 1997, the Board identified sections of rule that should be repealed. This rulemaking will repeal those sections.

   Article 8, Poison or Hazardous Substances, is completely repealed because:

   1. Changing and expanding market conditions over time lead to nonenforcement of many parts of the rule; and
   2. The language in statute, A.R.S. § 32-1972, is sufficient to protect the public health and safety.

   Section R4-23-1002 is repealed because it not only lacks clarity, but proposes to legitimize the act of waiving federal regulation by a state agency. The Boards does not believe a state agency has the authority to waive federal regulation. It should also be noted that this Section has never been enforced.

   Section R4-23-1004 is repealed because the need for the rule no longer exists. The Section sets limits on the percentage of paregoric that may be present in products sold over-the-counter. Since there are no commercially available products containing paregoric, the rule should be repealed.

   The Board believes that repeal of these rules will benefit the public and the Board by eliminating unnecessary, unenforced, or unenforceable administrative language.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
   None.

8. **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.

9. **The summary of the economic, small business, and consumer impact:**
   The proposed rulemaking is exempt from writing an economic, small business, and consumer impact statement pursuant to A.R.S. § 41-1055(D)(3).

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
    There are no changes between the proposed rules and the final rules.

11. **A summary of the principal comments and the agency response to them:**
    No comments were received by the agency.

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

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

14. **Was this rule previously approved as an emergency rule?**
    No.

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

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

~~**ARTICLE 8. POISONS OR HAZARDOUS SUBSTANCES**~~

Section
R4-23-801. ~~General~~
R4-23-802. ~~Highly Toxic Substances~~
R4-23-803. ~~Miscellaneous~~
R4-23-804. ~~Glues that are Subject to Sniffing or Abuse~~

ARTICLE 10. UNIFORM CONTROLLED SUBSTANCES AND DRUG OFFENSES

R4-23-1002. ~~Waiver of Registration~~
R4-23-1004. ~~Limitation on Sale of Schedule V Over-the-counter Drugs~~

~~**ARTICLE 8. POISONS OR HAZARDOUS SUBSTANCES**~~

R4-23-801. ~~General~~

~~A. In general: Any substance intended or packaged in a form suitable for use in the household or by children, whose label bears, according to A.R.S. § 32-1972, as amended and effective August 11, 1970, any of the following signal words or symbols is a poison or hazardous substance: "Poison", "Danger", "Warning", "Caution", or the skull and crossbones symbol.~~

~~B. No sales under 16 years: No poison or hazardous substance may be sold to anyone under 16 years of age without the written order of an adult.~~

~~C. Seller must advise purchaser: The seller must ascertain that the buyer knows the substance is poisonous or hazardous and that it is going to be used for a lawful purpose.~~

R4-23-802. ~~Highly Toxic Substances~~

~~A. Labeling: Substances that are highly toxic are required to have on their label the signal words: "Poison" and "Danger", plus the skull and crossbones symbol.~~

~~B. Record of sales: Sales of highly toxic substances must be recorded in a bound book solely for that purpose with the following information:~~
~~1. The date and hour of delivery.~~
~~2. The name of the poison or hazardous substance.~~
~~3. The intended use.~~
~~4. The signature of purchaser.~~
~~5. The address of purchaser.~~
~~6. The signature of deliverer (seller). Initials will not suffice.~~

~~C. Form and keeping of the records: The book is required to be legible and feasibly available for inspection by Board of Pharmacy Inspectors and peace officers. The record of sale must be kept for three years.~~
~~Note: Highly toxic substances whose sales must be recorded can be identified by the label bearing all of these three items: The signal words "Poison", and "Danger", and the skull and crossbones symbol. They also must be substances "intended or packaged in a form suitable for use in the household or by children".~~

R4-23-803. ~~Miscellaneous~~

~~A. Reuse of certain containers prohibited: Poisons or hazardous substances shall not be packaged in a container formerly used for a food, drug or cosmetic; or in a container identifiable as a food, drug or cosmetic container. (Poison substances shall not be placed in soft drink bottles, milk bottles, or other containers that children, or even adults, might identify as a non-poisonous food, drug or cosmetic.)~~

~~B. Manufacturing, packaging or repackaging: Poisons or hazardous substances if repackaged by retailers for intended household use or use by children, shall be labeled according to statutory requirements of A.R.S. § 32-1972, as amended and effective August 11, 1970. (Retailers should be very~~

~~careful about "splitting" packages of these substances as it is very technical and laborious to include all the required information; however, the retailer may copy all of the manufacturer's label if he so desires.)~~

~~C. Manufacturers of poisons: Manufacturers of poisons and hazardous substances, including repackaging, in packages and containers intended for household use or use by children, shall comply with the statutory requirements of A.R.S. § 32-1972, as amended and effective August 11, 1970. Compliance with the labeling requirements of the federal Hazardous Substances Act shall be deemed compliance with the Arizona laws.~~

~~D. Violations and penalties: Violations of the poison or hazardous substances law is a misdemeanor subject to a fine of $500.00, confinement in a county jail for up to six months, or both. A.R.S. § 32-1996, as amended and effective August 11, 1970.~~

R4-23-804. ~~Glues that are Subject to Sniffing or Abuse~~

~~A. In general: In regards to glues that are subject to "sniffing" or "abuse", it is a misdemeanor:~~

~~1. To breathe such a glue for the purpose of inducing a condition of stimulative, depressive or hallucinogenic effect.~~

~~2. To sell to a person under the age of 18 years.~~

~~3. To sell without requiring identification, if not known.~~

~~4. To sell without recording the sale.~~

~~5. To sell by self-service; it must be by clerk-service.~~

~~6. To sell by an itinerant vendor. Sales must be by an employee or employer at a fixed location.~~

~~B. Types of glues restricted: Glues releasing vapors of any of the following substances are considered "toxic substances" and are so restricted: Acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenal, petroleum ether, or toluene. (This type of glue is often referred to as "model aeroplane glue". It usually has a sweet odor. The label on the glue should state whether it has any of the above ingredients. Some of the brand names of such glues are:~~

~~Glues by Type or Retail Outlets in Which They are Usually Found~~

~~Automotive Parts and Supply Stores:~~

~~Liquid Steel (Toluene and Methyl Ethyl Ketone)~~

~~Plastic Aluminum~~

~~Hardware and Household Department:~~

~~Duco Auto Body Solder~~

~~Duco Contact Cement~~

~~Duco Household Cement~~

~~Goodyear Pliobond~~

~~Magic Plastic Patch~~

~~Magic Wood~~

~~U.S. Plywood Weldwood Contact Cement~~

~~Wilhold China and Glass Glue~~

~~Wilhold Contact Cement~~

~~Wilhold Glue-on~~

~~Wilhold Jewelers Cement~~

~~Sewing Goods Department:~~

~~Liquid Cloth (Poly Vinyl Acetate)~~

~~Sporting Goods and Pool Supply Stores:~~

~~Bond-it~~

~~Vinyl Plastic and Rubber Cement~~

~~Stationery and Toy Department:~~

~~Duco Cement~~

~~Elmer's Heavy Grip Cement~~

~~Testor Cement for Plastic Models~~

~~Testor Cement for Wood Models~~

~~C. No self-service: Glues that are restricted cannot be stored or displayed whereby customers can wait on themselves. They must be stocked or stored in such a place as to require a clerk to obtain them and make the sale.~~

~~D. Identification is required: If buyer is not known, identification is required and to ascertain that the age of the buyer is 18 years or older.~~

~~E. Record of the sale shall show:~~

~~1. Date and hour of delivery.~~

~~2. Name of glue.~~

~~3. Intended use of the glue.~~

~~4. Age of purchaser.~~

~~5. Signature of purchaser.~~

~~6. Address of purchaser.~~

~~7. Signature of deliverer (seller). Initials will not suffice.~~

~~F. Form and keeping of the record: The record is not required to be kept in any prescribed manner as long as it is a bound book, legible and feasibly available for inspection by Board of Pharmacy Inspectors and peace officers. The record of sales must be kept for three years. The book may be the same as used for recording sales of highly toxic substances.~~

~~Note: For full information, consult A.R.S. § 32-1973, as amended and effective August 11, 1970.~~

ARTICLE 10. UNIFORM CONTROLLED SUBSTANCES AND DRUG OFFENSES

R4-23-1002. ~~Waiver of Registration~~

~~A notarized application for waiver of registration pursuant to A.R.S. § 36-2522(D) shall be made to the Board on a form furnished by the Board stating:~~

~~1. Name~~

~~2. Address~~

~~3. Federal Registration Number for Controlled Substances~~

~~4. Education~~

~~5. Experience in drug field~~

~~6. Object of research, teaching or chemical analysis~~

~~7. Classification of controlled substances and prescription only drugs expected to be used.~~

R4-23-1004. ~~Limitation on Sale of Schedule V Over-the-counter Drugs~~

~~The retail sale of paregoric, except in mixtures or preparations of one or more non-narcotic ingredients containing not more than 25% paregoric, is restricted to sale pursuant to prescription orders.~~

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

PREAMBLE

1. **Sections Affected** / **Rulemaking Action**

Sections Affected	Rulemaking Action
R4-39-108	Amend
R4-39-109	Repeal
R4-39-109	Renumber
R4-39-109	Amend
R4-39-110	Renumber
R4-39-110	Amend
R4-39-111	Renumber
R4-39-111	Amend
R4-39-112	Renumber

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. § 32-3003.

   Implementing Statute: A.R.S. §§ 32-3021, 32-3022, 32-3023, 32-3024, 32-3025, 32-3026, 32-3027, and 32-3051

3. **The effective date of the rules:**

   November 6, 1998

4. **A list of all previous notices appearing in the Register addressing the final rule:**

   Notice of Rulemaking Docket Opening: 4 A.A.R. 2975, October 24, 1997.
   Notice of Proposed Rulemaking: 4 A.A.R. 1721, July 10, 1998.

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

   Name: Teri Candelaria, Executive Director

   Address: Arizona State Board for Private Postsecondary Education
   1400 West Washington, Room 260
   Phoenix, Arizona 85007

   Telephone: (602) 542-5709

   Fax: (602) 542-1253

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

   The agency is amending 5 rules within Article 1. The existing rules within Article 1 regarding license renewals and changes to licensed programs, locations and ownership are being revised to clarify application content requirements, clarify requirements for continued licensure, to conform to current board policies and procedures and to conform to rule drafting style. The rule regarding a Change of Ownership is also amended to establish a deadline to submit the Change of Ownership application to the board.

7. **A reference to any study that the agency proposed to rely on it evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

   None.

8. **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.

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

   The institutions subject to licensure by the board are generally characterized as small business. The proposed rules are technical and administrative in nature and will not present additional costs to the board or the institutions licensed by the board.

   The proposed rulemaking is to clarify requirements for continued licensure and to conform to current board policies, procedures, and application materials. Additionally, the proposed rulemaking is to conform to current rule drafting style.

   The proposed rulemaking will make the rules more clear, concise, and understandable. The board and the institutions subject to licensure by the board will benefit from this change.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

The rules in the Final Rulemaking package have been changed from the text of the proposed rules in the Notice of Proposed Rulemaking as a result of comments made by the Secretary of State's Office and staff of the Governor's Regulatory Review Council.

The changes are primarily grammatical and to conform to current rule drafting style. The changes will make the rules more clear, concise, and understandable.

A change to R4-39-110(H) was made to reference the correct subsection.

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

The board did not receive any written or oral comments.

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

Not applicable.

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

Not applicable.

14. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency and the adoption of these final rules:

Not applicable.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

ARTICLE 1. DEFINITIONS, LICENSURE AND REPORTING

Section
R4-39-108. License Renewals
~~R4-39-109.~~ ~~Reports~~ Repealed
~~R4-39-110~~R4-39-109.~~Supplementary~~ Supplemental License Applications
~~R4-39-111~~R4-39-110.Change of Ownership
~~R4-39-112~~R4-39-111.Honorary Degrees

R4-39-108. License Renewals

~~Completed, verified renewal applications shall be submitted to the board no later than forty-five (45) days prior to the expiration of the license.~~

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 do so~~ to submit the annual license renewal application and required documents may result in disciplinary action. If Board staff ~~of the board~~ determines ~~that~~ there is cause to bring the question of license renewal to the Board, Board staff ~~may~~ 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~~, financial statements~~ or other relevant information and the personal appearance of representatives of the institution before the Board.

~~**R4-39-109. Reports**~~

~~A report containing the following information for the prior year shall be submitted to the board by all institutions who have operated in Arizona for at least one year by February 15 of each year:~~
   ~~1. Maximum enrollment.~~
   ~~2. Number of students graduated.~~
   ~~3. Number of students withdrawn or expelled.~~
   ~~4. Approximate market value of real estate, equipment and inventory.~~
   ~~5. Total number of employees, including staff, faculty, agents and representatives.~~
   ~~6. Total annual wages, salaries and commissions.~~
   ~~7. Total tuition contracted for.~~

~~R4-39-110.~~ R4-39-109. ~~Supplementary~~ Supplemental License Applications

A. ~~Every~~ A private vocational or degree-granting institution shall submit to the board ~~a supplementary application~~ 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 ~~forty-five (45)~~ 45 days ~~prior to the proposed change~~ 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.

~~R4-39-111~~ R4-39-110. Change of Ownership

~~A. A licensee must submit a new application upon a change of owners~~

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), (B)(3) and (B)(4) and R4-39-104(B)(5), (B)(6), (B)(9), (B)(11) and (B)(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 (B)(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.

~~B.~~F. Ownership of an institution shall be considered ~~to have~~ changed if
   1. In the case of ownership by a sole proprietor, ~~when~~ more than a 20% interest or a beneficial interest in an institution ~~has been~~ is sold or transferred;
   2. In the case of ownership by a partnership or a corporation, ~~when~~ more than 20% of the stock, interest, or beneficial interest ~~has been~~ is sold or transferred; or
   3. ~~When~~ If the Board of directors, officers, shareholders or controlling influence ~~has~~ changed~~s~~ to such an extent as to significantly alter the management and control of the institution.

~~C.~~G. ~~The holder of a license~~ A private vocational or degree-granting institution shall file a written notice of a change of ownership ~~letter~~ with the Board no later than ~~seven~~ 7 days after the change in ownership.

~~D.~~H. Notwithstanding subsection ~~(B)~~, (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 ~~licensed~~ private vocational or degree-granting institution ~~of more than 10% but less than 20% shall be reported to the board~~ within ~~seven~~ 7 days. ~~Such~~ The notice shall include a resume of each new owner or beneficial interest holder.

~~R4-39-112~~ R4-39-111. Honorary Degrees

A. Only currently licensed, accredited private degree-granting institutions may apply to award honorary degrees. ~~Each honorary degree shall prominently bear on its face the denotation that it is an honorary degree. Each such license shall include the authority 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.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

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

PREAMBLE

1. **Sections Affected**

Sections Affected	Rulemaking Action
R9-28-104	Amend
R9-28-107	Amend
R9-28-402	Repeal
R9-28-712	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. §§ 36-2932(K), 36-2932(M)

   Implementing statute: A.R.S. § 36-2932(G)

3. **The effective date of the rules:**

   November 4, 1998

4. **A list of all previous notices appearing in the Register addressing the final rule:**
   Notice of Rulemaking Docket Opening: 4 A.A.R. 1136, May 15, 1998.
   Notice of Rulemaking Docket Opening: 4 A.A.R. 1289, June 5, 1998.
   Notice of Proposed Rulemaking: 4 A.A.R. 1965, July 24, 1998.

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

Name:	Cheri Tomlinson
Address:	AHCCCS 801 East Jefferson, MD 4200 Phoenix, Arizona 85034
Telephoner:	(602) 417-4198
Fax:	(602) 256-6756

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
   R9-28-402 identifies the factors for determining an applicant's or a member's county of residence for the purposes of determining who is financially responsible for the care of the member. This Section has been modified to:

   - Implement changes based on a 5-Year-Review Report of the rule,
   - Provide clarification to rule language,
   - Separate payment issues from enrollment and eligibility issues, and
   - Add alternative home and community based service (HCBS) settings in the rule language.

   R9-28-712, *County of Fiscal Responsibility* has been established as a new Section in 9 A.A.C. 28, Article 7 - Standards for Payment. R9-28-402, *County Residency Requirements for ALTCS Enrollment*, has been stricken from 9 A.A.C 28, Article 4. The Section was removed from 9 A.A.C. 28, Article 4 because the Article discusses eligibility and enrollment issues, and 9 A.A.C. 28, Article 7 discusses standards for payment. In addition, the definition of county of fiscal responsibility was moved from R9-28-104 to R9-28-107 because R9-28-107 is the definition section for terms used in 9 A.A.C. 28, Article 7.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.**
   None

8. **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.

9. **The summary of the economic, small business, and consumer impact:**
   The ALTCS elderly and physically disabled population is approximately 15,700 members. This policy does not impact the developmentally disabled population which exceeds 9,100. Of these 15,700 members, 850 or approximately 5.4% resided in an alternative HCBS setting, for the month of August. (These numbers do not change dramatically throughout the year. For example, for the month of May, approximately 10% of the ALTCS elderly and physically disabled population resided in an alternative HCBS setting.) Therefore, a very small number of members could possibly be affected by the change in rule language. Although AHCCCS does not specifically track how many members reside in an alternative HCBS setting in 1 county and who move to another county to reside in an alternative HCBS setting, only 10 cases have been identified during the last 18 months. This number is significantly less than 1% of the total elderly and physically disabled ALTCS population. The remainder of this economic, small business, and consumer impact statement is based on the numerical information described above.

   It is anticipated that there may be a moderate impact to program contractors who may have to develop or expand their networks outside of their geographic service area. It is anticipated that the impact to Maricopa and Pima counties will be that other program contractors will continue to be financially liable for members who move from an alternative HCBS setting to another alternative HCBS setting in a different county. There may be a minimal impact on AHCCCS providers who may have an opportunity to expand their business due to a greater need for their services in different geographic service areas. There will be a minimal impact on AHCCCS members who may see an improvement in service because the roles and responsibilities of the program contractor are clearly defined. A nominal impact is anticipated for the counties and the AHCCCS Administration as a result of the changes. Other entities considered, but which will not be directly impacted by the change, include other governmental entities, political subdivisions, and the general public, including taxpayers.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
    The changes between the proposed rules and the final rules are minimal and include:

    - Adding the term elderly and physically disabled in R9-28-712(A)(1).
    - Adding cross-reference citations in R9-28-712(A)(2).

11. **A summary of the principal comments and the agency response to them:**
    The Administration received comments from 3 entities. Their comments and the Administration's responses are detailed below:

Rule Citation: R9-28-712(C)(1), (2), (3), (4), (5), (6)

Comment: The new language appears to indicate that the member may move to various settings in different counties but does not take into consideration the program contractor's established network.
Without this clarification, Cochise County could be fiscally responsible for members who decide to move anywhere in the State, even though the same service may be available in the local program contractor's network.

Response: The Administration agrees that the language could be more clear. To add clarity for program contractors, the Administration has cross-referenced those rules which specify when a program contractor may be liable for a service in R9-28-712(A)(2).

Rule Citation: R9-28-712

Comment: Unfamiliar with some of the acronyms and believe that the rules would be more user friendly if these terms were spelled out.

Response: All of the acronyms have been spelled out in 9 A.A.C. 28, Article 1 - Definitions.

Rule Citation: R9-28-712

Comment: Recommendation that a statement or Section with a reference to the applicant or recipient's appeal process be added.

Response: The recipient's appeal process is governed by both 9 A.A.C. 28, Article 8 and 9 A.A.C. 28, Article 12.

Rule Citation: R9-28-712(C)

Comment: The language used in subsection (C) may be misleading, and does not clearly specify the intent of the rule. The language implies that ALTCS members may move to any Assisted Living Facility within the State of Arizona and remain enrolled with the current program contractor.
Alternative Language: R9-28-712(C)(1), (2), (3), (4), (5), (6) after each statement add "with authorization from the current program contractor".

Response: The Administration agrees that the language could be more clear. To add clarity for program contractors, the Administration has cross-referenced those rules which specify when a program contractor may be liable for a service in R9-28-712(A)(2).

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

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

14. **Was this rule previously adopted as an emergency rule?**
No.

15. **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 (ALTCS)

ARTICLE 1. DEFINITIONS

Section
R9-28-104. Eligibility and Enrollment Related Definitions
R9-28-107. Standards for Payments Related Definitions

ARTICLE 4. ELIGIBILITY AND ENROLLMENT

~~R9-28-402. County Residency Requirements for ALTCS Enrollment~~ Repealed

ARTICLE 7. STANDARDS FOR PAYMENT

R9-28-712. County of Fiscal Responsibility

ARTICLE 1. DEFINITIONS

R9-28-104. Eligibility and Enrollment Related Definitions
Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. "Categorically Eligible" has the meaning in A.R.S. § 36-2934.
~~2. "County of fiscal responsibility" means the county that is financially responsible for the state's share of ALTCS funding.~~
~~3.~~2. "Designated representative" means an individual other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another individual.
~~4.~~3. "Institutionalized individual" as defined for the purpose of ALTCS eligibility, means an individual who is in a medical institution or NF and receives an appropriate level of care at the NF or at an ICF/MR or who receives or will receive HCBS.
~~5.~~4. "Medically eligible" means meeting the ALTCS medical eligibility criteria according to Article 3.
~~6.~~5. "Spouse" has the meaning in 9 A.A.C. 22, Article 1.

R9-28-107. Standards for Payments Related Definitions
Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. "Aggregate" is defined in 9 A.A.C. 22, Article 1.
2. "Billed charges" is defined in 9 A.A.C. 22, Article 1.
3. "Capped fee-for-service" is defined in 9 A.A.C. 22, Article 1.
4. "Clean claim" is defined in 9 A.A.C. 22, Article 1.
5. "CPT" is defined in 9 A.A.C. 22, Article 1.
6. "County of fiscal responsibility" means the county that is financially responsible for the state's share of ALTCS funding.
~~6.~~7. "Encounter" is defined in 9 A.A.C. 22, Article 1.
~~7.~~8. "Reinsurance" is defined in 9 A.A.C. 22, Article 1.

ARTICLE 4. ELIGIBILITY AND ENROLLMENT

~~**R9-28-402. County Residency Requirements for ALTCS Enrollment**~~

~~A. ALTCS eligible persons shall be enrolled with a program contractor in the county of fiscal responsibility unless:~~
~~1. The Administration elects to keep a special population fee-for-service; or~~
~~2. Two program contractors or, in a fee-for-service county, a program contractor and the Administration, agree to transfer a member from the county of fiscal responsibility to another county. The transfer only shall take place when the member wishes to move to another county or the member currently resides outside of the program contractor's service delivery area.~~

~~B. In the event there is no authorized program contractor within the ALTCS eligible person's county of fiscal responsibility, that person shall receive ALTCS covered services in accordance with the provisions of A.R.S. § 36-2945.~~

~~C. The county of fiscal responsibility shall be the first one of the following which is applicable to the person's circumstances on the date the ALTCS application is approved:~~
~~1. The county in which an applicant resides, if he is not residing in a nursing facility or a hospital; or~~
~~2. The county in which the nursing facility or hospital, in which the applicant resides, is located if all of the following apply:~~
~~a. Payment for care is provided by the applicant;~~
~~b. All legal ties have been severed to any county in which the applicant resided prior to his residence in the nursing facility or hospital; and~~
~~c. The applicant did not leave the county in which he resided prior to his residence in the nursing facility or hospital, because similar facilities or services were unavailable in that county; or~~
~~3. The county in which an applicant resided for 30 days immediately prior to entering a nursing facility or hospital; or~~
~~4. The county in which a nursing facility or hospital in which an applicant resides is located, if the applicant has resided in the state of Arizona for less than 30 days.~~

~~D. Subsequent to the approval of ALTCS benefits, the county of fiscal responsibility may be changed if all of the following apply:~~
~~1. The eligible person moves to another county;~~
~~2. The eligible person resides in the new county more than 50 percent of the time; and~~
~~3. The eligible person is to receive home and community-based services from the program contractor in the new county or, if the eligible person is a nondevelopmentally disabled, institutionalized person, a transfer can be made based on the agreement of both program contractors or by the direction of the Administration.~~

ARTICLE 7. STANDARDS FOR PAYMENT

R9-28-712. County of Fiscal Responsibility

A. General requirements.
1. The Administration shall determine the county of fiscal responsibility to determine which program contractor is responsible for an elderly or physically disabled applicant (applicant) or an elderly or physically disabled member (member).
2. A program contractor shall cover services and provisions specified in 9 A.A.C. 22, Articles 2 and 7.

B. Criteria for determining county of fiscal responsibility for an applicant.
1. The county of fiscal responsibility is the county where the applicant resides if:
a. The applicant resides in the applicant's own home as specified in R9-28-101(B)(16),
b. The applicant moved from another state within the last 30 days, or
c. The applicant has continuously resided in the current county 30 days immediately before entering:
i. An alternative HCBS setting as specified in R9-28-101(B)(3),
ii. A NF as specified in R9-22-101(B)(27), or
iii. An intermediate care facility for the mentally retarded as specified in R9-28-101(B)(18).
2. The county of fiscal responsibility is the county where the applicant resides, whether in an alternative HCBS setting, or a NF, or an intermediate care facility for the mentally retarded, 30 days immediately before moving to another county.

C. No change in the county of fiscal responsibility. The county of fiscal responsibility for a member shall remain the same if:
1. The member moves from a NF to another NF in a different county,
2. The member moves from a NF to an alternative HCBS setting in a different county,
3. The member moves from an alternative HCBS setting to another alternative HCBS setting in a different county,
4. The member moves from an alternative HCBS setting to a NF in a different county,
5. The member moves from the member's own home to an alternative HCBS setting in a different county, or
6. The member moves from the member's own home to a NF in a different county.

D. Change in the county of fiscal responsibility. If the member moves from 1 county to another, the county of fiscal of responsibility shall change to the new county if the member moves from:
1. An alternative HCBS setting to the member's own home in a different county,
2. A NF to the member's own home in a different county,
3. An intermediate care facility for the mentally retarded to the member's own home in a different county, or
4. The member's own home to the member's own home in a different county.

E. Transfers between program contractors. The Administration may transfer a member from 1 program contractor to a different program contractor if:
1. Both program contractors agree, or

2. The Administration determines it is in the best interest of the member.

E. No program contractor. If there is no authorized program contractor within the member's service area, the member shall receive services according to A.R.S. § 36-2945.

G. Arizona State Hospital (ASH). If the member moves from ASH to an approved ALTCS setting, the Administration shall assign the member to a program contractor in the county that the member resided in prior to admission in ASH. This subsection does not apply when a member moves from ASH to a member's own home.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**
   R20-6-206 — 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. §§ 20-143 and 20-230

   Implementing statutes: A.R.S. § 20-230

3. **The effective date of the rules:**
   November 5, 1998

4. **A list of all previous notices appearing in the Register addressing the final rule:**
   Notice of Rulemaking Docket Opening: 4 A.A.R. 1166, May 22, 1998.
   Notice of Proposed Rulemaking: 4 A.A.R. 1278, June 5, 1998.

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

Name:	Vista T. Brown
Address:	Arizona Department of Insurance 2910 N. 44th Street, Suite 210 Phoenix, Arizona 85018
Telephone:	(602) 912-8456
Fax:	(602) 912-8452

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
   The need for this rule arises from the Legislature's 1995 amendment of A.R.S. § 20-230. This statute permits the Director to adopt rules to address the manner in which retaliatory tax obligations and assessments will be calculated and collected. The Department made the judgment that the current rule fails to satisfactorily implement the provisions of the statute distinguishing between "Arizona life insurers" and "other Arizona insurers". Therefore, the Department has determined that the rule should be amended to revise the definitions and implementation of these terms and to make technical corrections and necessary clarifications.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**
   None.

8. **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.

9. **The summary of the economic, small business and consumer impact:**
   Arizona law requires an insurance company domiciled in another state or country that does business in Arizona to pay a retaliatory tax if the out-of-state or foreign insurance company's domiciliary jurisdiction requires, in the aggregate, higher taxes from Arizona insurance companies doing business in that jurisdiction. The assessment is of the same type and amount imposed upon similar insurers of the other state or foreign country doing business in Arizona.

   The rule implements the portion of the law that also requires retaliation to address inequities arising from taxes imposed by another state's political subdivisions. The policy decision behind the retaliatory tax rule is not to generate revenue for the state, but rather, to provide equal protection to Arizona insurers doing business in other states.

10. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):
The Department made 2 technical corrections pursuant to comments made by the Office of the Secretary of State, as well as changes proposed by the insurance industry, as discussed below.

11. A summary of the principal comments and the agency response to them:
The Department received public comments regarding R20-6-206. The comments clarify the wording of R20-6-206 to help insurance company tax return preparers comply with Arizona's local or regional retaliatory tax information law.

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

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

14. Was the rule previously adopted as an emergency rule?
No.

15. The full text of the rules in the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 2. TRANSACTION OF INSURANCE

Section
R20-6-206. Local or Regional Retaliatory Tax Information

ARTICLE 2. TRANSACTION OF INSURANCE

R20-6-206. Local or Regional Retaliatory Tax Information

~~A. This rule is adopted pursuant to A.R.S. §§ 20-143 and 20-230.~~

A.~~B.~~ Definitions.

1. "Addition to the rate of tax" means the ~~retaliatory~~ tax rate determined under subsection (E) to be applied under A.R.S. 20-230(A) and this Section to foreign or alien insurers domiciled in a foreign country or other state having local or regional taxes. ~~attributable to the local or regional taxes payable by domestic insurers as computed pursuant to A.R.S. § 20-230(A) and R20-6-206(E).~~
2. "Alien insurer" has the meaning prescribed in A.R.S. § 20-201.
3. "Arizona life insurer" means a domestic insurer authorized to issue life insurance policies in this state under ~~within the meaning of~~ A.R.S. § 20-254 or ~~and/or~~ annuities under ~~within the meaning of~~ A.R.S. § 20-254.01 regardless of whether the insurer is authorized to transact disability insurance in this state. ~~to the extent it writes life insurance under the laws of a foreign country or other state.~~
4. "Department" means the Arizona Department of Insurance.
5. "Director" has the meaning prescribed in A.R.S. § 20-102.
6. "Domestic insurer" has the meaning prescribed in A.R.S. § 20-203.
7. "Foreign insurer" has the meaning prescribed in A.R.S. § 20-204.
8. "Foreign or alien life insurer" means a foreign or alien insurer authorized to issue life insurance policies in this state within the meaning of A.R.S. § 20-254 or annuities within the meaning of A.R.S. § 20-254.01 regardless of whether the insurer is authorized to transact disability insurance in this state.
9~~8~~. "Local or regional taxes" means any tax, license, or other obligation imposed upon domestic insurers or their agents by any:
   a. City ~~city~~, county, or other political subdivision of a foreign country or other state; or~~;~~
   b. A combination of cities, counties, or other political subdivisions of a foreign country or other state.
10~~9~~. "Other Arizona insurer" means a domestic insurer authorized to transact 1 or more lines of insurance in this state but not authorized to transact life insurance or annuities in this state. ~~to the extent it writes any insurance other than life insurance under the laws of a foreign country or other state.~~
11. "Other foreign or alien insurer" means a foreign or alien insurer authorized to transact 1 or more lines of insurance in this state but not authorized to transact life insurance or annuities in this state.
12~~10~~. "Other state" means any state in the United States, the District of Columbia and territories or possessions of the United States but excluding Arizona.
13~~11~~. "Premium Tax and Fees Report", including the "Survey Of Arizona Domestic Insurers" and the "Retaliatory Taxes And Fees Worksheet", means the form prescribed by the Director and filed annually by insurers pursuant to A.R.S. § 20-224.

C. Scope. This rule applies to all foreign, alien, and domestic insurers.

D. Data to be Reported by Domestic Insurers. Each domestic insurer shall file a Survey of Arizona Domestic Insurers as part of its Premium Tax and Fees Report. The Survey shall report the following data for the calendar year covered by the insurer's Premium Tax and Fees Report with respect to each foreign country or other state in which the insurer was required to pay any local or regional taxes:

1. Total local or regional taxes paid; and ~~payable in the foreign country or other state for the calendar year covered by the insurer's Premium Tax and Fees Report; and~~
2. Total premiums taxed under the premium taxing statute of the foreign country or other state, as reported by the insurer in any premium tax report filed under the laws of the foreign country or other state., ~~received by the insurer taxable under the premium taxing statute of the foreign country or other state for the calendar year covered by the insurer's Premium Tax and Fees Report.~~

E. Computation of Statewide and Foreign Countrywide Additions ~~the Addition~~ to the Rate of Tax. For each foreign country or other state having 1 or more local or regional taxes on domestic insurers, the Department shall compute on a state-

wide or foreign countrywide basis an addition to the rate of tax. The Department shall compute the addition to the rate of tax payable by Arizona life insurers separately from the addition to the rate of tax payable by other Arizona insurers. The addition to the rate of tax payable by each category of Arizona domestic insurers shall be the quotient of: ~~Arizona life insurers shall be calculated separately from the addition to the rate of tax payable by other Arizona insurers.~~

1. The aggregate local or regional taxes reported as paid to the foreign country or other state by domestic insurers in each category for the calendar year covered by the Premium Tax and Fees Report divided by ~~A domestic insurer may be both an Arizona life insurer and another Arizona insurer for purposes of this rule.~~
2. The aggregate statewide or foreign countrywide premiums taxed under the premium taxing statute of the state or foreign country reported by domestic insurers in each category for the calendar year covered by the Premium Tax and Fees Report. ~~The addition to the rate of tax computed for Arizona life insurers shall be applied to the life insurance premiums received by foreign or alien insurers taxable under the laws of Arizona.~~

~~3. The addition to the rate of tax computed for other Arizona insurers shall be applied to any premiums other than life insurance premiums received by foreign or alien insurers taxable under the laws of Arizona.~~

F. Publication of Additions ~~the Addition~~ to the Rate of Tax. The Department shall publish additions ~~the addition~~ to the rate of tax determined under A.R.S. § 20-230(A) and this Section, based upon the survey information gathered from domestic insurers for the preceding calendar year pursuant to subsection (D). The Department shall publish the information annually, on or before November 1, and in the Retaliatory Taxes and Fees Worksheet for the next year's Premium Tax and Fees Report. ~~August 31 based upon the survey information gathered annually from domestic insurers pursuant to Subsection (D), . The Department shall also publish the addition to the rate of tax with the instructions to the schedule of retaliatory taxes and fees included in the Premium Tax and Fees Report.~~

G. Foreign and Alien Insurers' Report of the Effect of Local or Regional Taxes. ~~the Addition to the Rate of Tax.~~ Each foreign or alien insurer domiciled in a foreign country or other state for which the Department publishes ~~has published~~ an addition to the rate of tax shall include in the "State or Country of Incorporation" column of its ~~the~~ Retaliatory Taxes And Fees Worksheet for ~~an amount equal to its premiums from insurance transacted in Arizona that would be subject to taxation under the laws of its domiciliary jurisdiction, during~~ the calendar year covered by its Premium Tax and Fees Report an amount equal to:

1. The total premiums received in Arizona that would be taxed under the laws of the domiciliary jurisdiction, as reported in the "State or Country of Incorporation" column of its premium tax and fees report multiplied by
2. The ~~the~~ applicable addition to the rate of tax. ~~Each insurer shall report the effect of the addition to the rate of tax using the information first~~ published by the Department for the calendar year covered by the insurer's Premium ~~premium~~ Tax and Fees Report.

H. Contest of Computation. A foreign or alien insurer subject to this rule may preserve the right to contest the computation of the addition to the rate of tax by submitting a notice of appeal under Title 41, Chapter 6, Article 10 before or at the time the retaliatory tax is paid. ~~written demand for hearing pursuant to A.R.S. § 20-161 before or at the time the retaliatory tax is paid.~~ Subject to A.R.S. § 20-162, the filing of a notice of appeal ~~demand for hearing~~ to contest the computation of the applicable addition to the rate of tax does not relieve a foreign or alien insurer of the obligation to ~~make~~ timely pay ~~payment of~~ the retaliatory tax, and does not stay accrual of any applicable interest and penalties.

I. Application. ~~Effective Date.~~ This rule ~~is effective when published by the Office of the Secretary of State and~~ applies to Premium Tax and Fees Reports filed by all insurers for the calendar year 1998 ~~1995~~ and all subsequent years.