

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

##### PREAMBLE

1. **Sections Affected**

Article 4 R4-38-401 R4-38-402 R4-38-403	<b><u>Rulemaking Action</u></b> New Article New Section New Section New Section
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2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-2904(B)(1)  
Implementing statute: Title 41, Chapter 6, Article 7.1, Licensing Time Frames
  
3. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Jean Ellzey, Executive Director
Address:	Board of Homeopathic Medical Examiners 1400 West Washington, Room 230 Phoenix, Arizona 85007
Telephone:	(602) 542-3095
Fax:	(602) 542-3093
  
4. **An explanation of the rule, including the agency's reason for initiating the rule:**

R4-38-401: The rule defines terms used throughout this Article.

R4-38-402: The rule defines the administrative and substantive review process and time frames for initial licensing of homeopathic physicians, issuance of dispensing permits, and registration of experimental protocols, medical assistants, and practical courses for the training of medical assistants.

R4-38-403: The rule defines the administrative and substantive review process and time frames for renewal of homeopathic physician licenses, dispensing permits, and registration of experimental protocols, medical assistants, and practical courses for the training of medical assistants.
  
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
  
6. **The preliminary summary of the economic, small business, and consumer impact:**

Since the proposed rules describe the Board's usual procedures over the past several years, this rule will have no discernible economic impact on small businesses or consumers.
  
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name:	Jean Ellzey, Executive Director
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Address: Board of Homeopathic Medical Examiners  
1400 West Washington, Room 230  
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

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

Date: April 1, 1998

Time: 1 p.m.

Location: Board of Homeopathic Medical Examiners  
1400 West Washington, Third Floor Conference Room  
Phoenix, Arizona 85007

Subject: Public Proceeding

A person may submit written comments regarding the proposed rules by submitting the comments no later than 5 p.m., April 1, 1998, to the following person:

Name: Jean Ellzey, Executive Director

Address: Board of Homeopathic Medical Examiners  
1400 West Washington, Room 230  
Phoenix, Arizona 85007

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

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

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS**

**ARTICLE 4. APPLICATION AND RENEWAL PROCESS:**  
**TIME FRAMES**

Section  
R4-38-401. Definitions  
R4-38-402. Application; Initial License, Permit or Registration  
R4-38-403. Application; Renewal of License, Permit or Registrations

**ARTICLE 4. APPLICATION AND RENEWAL PROCESS:**  
**TIME FRAMES**

**R4-38-401. Definitions**

In this Article, the following terms apply:

1. "Application period" means 365 days, starting from the date an initial application and fee are received in the board office under A.R.S. § 32-2912(F)(3) and (4).
2. "Deficiency notice" means a written, comprehensive list of missing information or documents.
3. "Prescribed fee" means a fee permitted by A.R.S. § 32-2914 or prescribed by R4-38-104.
4. "Serve" means send the document by U.S. Mail to the last address provided by the applicant.
5. "Staff" means any person employed or designated by the board to perform administrative tasks.

**R4-38-402. Application, Initial License, Permit or Registration**

**A. An applicant shall submit to the board office a signed, notarized application form, the contents of which are described**

by A.R.S. Title 32, Chapter 29 and 4 A.A.C. 38; any supporting information required; and, the prescribed fee. Within 90 days after receipt of an initial application package, staff shall finish an administrative completeness review of the application.

1. If the application is complete, staff shall serve the applicant with a written notice of administrative completeness informing the applicant of the date, time, and place of the board's consideration of the application.
  2. If the application is deficient, staff shall serve the applicant with a deficiency notice. The 90-day time frame for staff to finish the administrative completeness review is suspended from the date the deficiency notice is served until all missing information is received.
- B. Except as otherwise provided by law, the applicant shall provide all missing information within 180 days after the date on the deficiency notice, including information from other agencies, institutions, and persons. The written examination prescribed in R4-38-106 is included within the 180 days.**
- C. Within 90 days after receipt of a complete initial application package, the board shall render a decision on the initial license, permit, or registration. The oral examination and interview prescribed in R4-38-105 is included within the 90 days.**
1. If the board finds the applicant meets the licensing requirements, the board shall grant a license effective on the date that the board receives the license issuance fee. If no license fee is required, the board shall grant the

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- permit or registration which is effective on the date of its approval.
2. If the board finds the applicant does not meet the licensing requirements, the board shall issue a written notice of denial of license as prescribed in A.R.S. § 41-1065.
  3. If the board determines that there are substantive deficiencies in the application, the board shall serve a single comprehensive written request for additional information.
  4. The 90-day substantive review time frame is suspended from the date on the request for additional information until the date that all requested information is received. Except as otherwise provided by law, the applicant shall provide the requested information within 60 days from the date on the notice.
- D.** If an applicant fails to provide the information required in subsections (B) and (C), the board shall determine whether to deny the application or to consider it withdrawn under A.R.S. § 32-2912(F).
- R4-38-403. Application; Renewal of License, Permit, or Registration**
- A.** On or before the deadlines prescribed in A.R.S. § 32-2915(D), an applicant for renewal of a license, permit or registration shall submit to the board each renewal application, the contents of which are prescribed by A.R.S. Title 32, Chapter 29 and 4 A.A.C. 38, and the appropriate fees.
  - B.** Within 30 days after receipt of a renewal application package, staff shall notify the applicant that the package is either complete or deficient.
1. If the application is complete, staff may serve the applicant with a notice of administrative completeness. Even if there may be a statutory violation, if the notice of administrative completeness is not served within 30 days after receipt of a renewal application package, the package is deemed complete.
  2. If the renewal application is deficient, staff shall serve the applicant with a deficiency notice. The 30-day time frame for staff to finish the administrative completeness review is suspended from the date the deficiency notice is served until all missing information is received.
- C.** Except as otherwise provided by law, an applicant for renewal shall provide all missing information within 10 days after the date on the deficiency notice or by the applicable deadline prescribed in A.R.S. § 32-2915, whichever is later.
- D.** Within 90 days of receipt of a complete renewal application package, the board shall either issue a license renewed notice, showing the effective year of renewal, or conduct a substantive review of those renewal applications which, when considered alone or in conjunction with additional information, raise a concern that the applicant's conduct may be in violation of A.R.S. Title 32, Chapter 29. The board shall investigate and resolve such a concern under A.R.S. §32-2934.
- E.** If an applicant for renewal fails to provide the missing information required by subsection (C), the license, permit, or registration expires effective January 1 of the renewal year for which the application was made and the board shall not refund any renewal fees paid for that year.

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**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**PREAMBLE**

1. **Sections Affected**  
R20-6-204
  - Rulemaking Action**  
Amendment
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the rules are implementing (specific):**  
Authorizing statute: A.R.S. §§ 20-143 and 20-413  
Implementing statutes: A.R.S. § 20-413
  3. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Greg Harris, Executive Assistant Director  
Address: Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018  
Telephone: (602) 912-8456  
Fax: (602) 912-8452
  4. **An explanation of the rule, including the agency's reason for initiating the rule:**  
This rule was necessitated by SB 1031 passed in 1997 that amended the surplus lines statutes.
  5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish previous grant of authority of a political subdivision of this state:**  
Not applicable.

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6. The preliminary summary of the economic, small business and consumer impact:  
Recent amendments to the law have codified parts of the current rule, thus requiring the Department to amend the rule.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:  
Name: Greg Harris  
Address: Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018  
Telephone: (602) 912-8456  
Fax: (602) 912-8452
8. The time, place and nature of the proceeding for the admission, amendment or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:  
Date: April 30, 1998  
Time: 2 p.m.  
Location: Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018  
Nature: Oral proceeding to amend the surplus line rule.  
The Department will accept written comments which are received by 5 p.m. on April 30, 1998, or postmarked no later than that date.
9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporation by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follow:

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 2. TRANSACTION OF INSURANCE**

Section

R20-6-204. Surplus Line Brokers' Filing Requirements; List of Unauthorized Insurers

**ARTICLE 2. TRANSACTION OF INSURANCE**

R20-6-204. Surplus ~~Lines~~ Line Brokers' Filing Requirements; List of Unauthorized Insurers

- A. Authority. This rule is promulgated pursuant to A.R.S. § 20-143 and in accordance with A.R.S. § 20-413.
- B. Purpose. The purpose of this rule is to set forth filing requirements for surplus ~~lines~~ line brokers, create and maintain a list of those foreign and alien unauthorized insurers providing surplus ~~lines~~ line coverages in Arizona and require disclosure statements.
- C. Scope. This rule applies to all unauthorized insurers writing surplus lines in Arizona and to all surplus ~~lines~~ line brokers.
- D. The list of unauthorized insurers
1. A list of unauthorized insurers that may write surplus lines insurance in this state shall be created by the Director in accordance with A.R.S. § 20-413. On the list shall appear the names of unauthorized insurers for which any surplus ~~lines~~ line broker has made the filings required by paragraphs (2) or (3) of this subsection. A licensed surplus ~~lines~~ line broker may place insurance with any insurer appearing on the current list. The list shall be available at the Department of Insurance and a copy

thereof may be obtained upon request and payment of the required photocopy charge.

2. In the case of foreign unauthorized insurers ~~other than title insurers, the broker shall ascertain the financial condition of the insurer and shall file, or authorize an insurer to file on his behalf, with the Director the following on or before June 1 of each year:~~
  - a. A current Certificate of Deposit, Capital and Surplus for Foreign Insurers from the public officials or other persons who have supervision over the insurer in any other state on the appropriate form;
  - b. A ~~sworn statement that certification from the broker of the insurer's compliance with the financial requirements of A.R.S. § 20-413 he has ascertained the financial condition of the insurer;~~
  - c. The most recent report of examination of the insurer certified by the insurance supervisory official of its state of domicile;
  - d. A certified copy of a full size National Association of Insurance Commissioners (N.A.I.C.) convention blank annual statement (Form 2) as of December 31 last preceding.  
The broker may rely on the foregoing information as prima facie evidence on the financial condition of the foreign insurer. The broker, or an insurer on behalf of the broker, shall annually file the insurer's annual statement as of December 31 last preceding on or before June 1 each year.

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3. For all alien insurers other than title insurers, the Director has determined that the public interest requires a minimum deposit in public depositories or trust institutions within the United States of one million five hundred thousand dollars (\$1,500,000); the broker may rely on the information contained in the most recent N.A.I.C. Financial Review of Alien Insurers as prima facie evidence of the financial responsibility of an alien insurer and shall submit to the Director a sworn statement regarding the information certification from the broker of the insurer's compliance with the financial requirements of A.R.S. § 20-413.
  - 7 4. Any unauthorized insurer which appears on the list may be removed under the authority of A.R.S. § 20-413(H) and which is subsequently declared by the Director to be in an unsound financial condition, improperly managed or unreliable in insurance transactions, or for which a broker has failed to timely file the annual statement, certification of deposit, capital and surplus and affidavit pursuant to (D)(2) of this rule, shall be removed from the list and thereafter no insurance may be placed with that insurer until its name reappears on the list. Surplus line brokers will be notified of such declaration by the Director. This paragraph shall not affect the validity of any existing contract if in the event an insurer is removed from the list.
  4. The requirements of paragraph (3) for alien insurers shall not apply to Mexican insurers placing vehicle insurance coverages in Mexico through licensed Arizona surplus line brokers.
  5. An unauthorized insurer may be included in the list upon performance by the broker of paragraphs (2) or (3) of this subsection. An insurer which does not appear on the list shall not transact insurance business in the State of Arizona until its name appears on the list.
  6. This rule shall not require the Director to determine the actual financial condition of any unauthorized insurer.
- E. Organizations of surplus lines line brokers; unauthorized insurer
1. A broker need not file any type of report on the placement of surplus line insurance where the coverage has been recognized by order of the Director as a recognized surplus line. A broker shall file the report under oath required by A.R.S. § 20-408 regarding the placement of surplus line insurance for coverages not recognized by the Director.
  2. A voluntary domestic organization or organizations of surplus line brokers may file with the Director the affidavits, reports, certificates or statements required by this rule or the report under oath required by A.R.S. § 20-408 for those lines which have not been recognized by the Director pursuant to A.R.S. § 20-409. Ultimate responsibility for filings and maintenance of documents shall remain in each surplus line broker.
  - 4.1. Records or reports that are subject to examination may be filed with any voluntary organization of surplus lines line brokers. The Director may examine the records or reports filed with an organization of surplus lines line brokers in order to ascertain compliance with Article 5, Chapter 2 of Title 20, A.R.S. An such examination performed pursuant to this authority shall not preclude examination of records of surplus lines brokers.
  - 3.2. Nothing in this rule shall be construed to require that a surplus lines line broker become a member of any surplus lines line organization in order to file any affidavit or statement or to preserve or maintain the same.
  5. The Director may contract with a voluntary domestic organization of surplus line brokers whereby the affidavits, reports, certificates or statements required by this rule or the report under oath required by A.R.S. § 20-408 may be filed with and maintained by the organization.
- F. Disclosure requirement. There shall be stamped or written conspicuously in boldface type on the first page of the policy of surplus line insurance and the confirmation of insurance, if any, these words:  
"This insurance is transacted pursuant to Arizona Revised Statutes, Title 20, Chapter 2, Article 5 and is placed in an insurer or insurers not holding a Certificate of Authority from or regulated by the Arizona Department of Insurance."
- G. Effective date. This rule shall become effective on January 1, 1981. The current list of insurers shall remain in effect until July 1, 1981.