

Notices of Supplemental Proposed Rulemaking

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and filing and the agency decides to prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES

OCCUPATIONAL LICENSING

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:

4 A.A.R. 3416, October 30, 1998.

2. Sections Affected

Article 2
R9-16-201
R9-16-202
R9-16-203
R9-16-204
R9-16-205
R9-16-206
R9-16-207
R9-16-208
R9-16-209

Rulemaking Action

New Article
New Section
New Section

3. 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. § 36-136(F)

Implementing statute: A.R.S. §§ 36-1901 through 36-1940.03

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

Name: Shirley Lockett, Program Manager

Address: Department of Health Services
Assurance & Licensure Services
1647 East Morten, Suite 150
Phoenix, Arizona 85020

Telephone: (602) 674-4340

Fax: (602) 861-0463

or

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 West Adams, Room 410
Phoenix, Arizona 85007

Telephone: (602) 542-1264

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

The rules are being proposed to implement A.R.S. §§ 36-1901 through 36-1940.03, which require the licensure and regulation of audiologists and speech-language pathologists by the Department of Health Services (Department).

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The rules set forth definitions and prescribe standards for qualifications for licensure, license applications, time-frames for approving or denying a license, clinical fellowship supervisors, license renewal, continuing education, disciplinary actions, equipment used in the practice of audiology or speech-language pathology, record keeping, and inspections.

The Department did not rely on any study to evaluate or justify the rule.

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

The Notice of Proposed Rulemaking was published on October 30, 1998. The Department held oral proceedings on November 30, 1998, December 2, 1998, and December 4, 1998. The Department received public comment from individuals who stated the rules were not consistent with the standards of this state's universities and determined that substantive changes were necessary to conform the rules with this state's universities as required in A.R.S. §§ 36-1940 and 36-1940.01. The following changes were made.

R9-16-201 In the definition of "CCC", deleted the phrase "graduate level". Including the phrase in the definition of CCC would require the Department to exclude those individuals holding CCCs issued under criteria that did not include a graduate level degree.

In the definition of "clinical fellowship agreement", changed the phrase "to ASHA" to "by a clinical fellow". The Department cannot limit requirements to 1 organization without providing alternatives.

In the definition of "clinical practicum", deleted the term "graduate level" to provide consistency with the state's universities that allow a clinical practicum to include undergraduate and graduate experience and added "by a licensed audiologist, a licensed speech-language pathologist" because the Department cannot limit requirements to 1 organization without providing alternatives.

Added the definition of "current CCC" to clarify requirements.

R9-16-202(1) Added "either a current CCC or completion of". Adding "current CCC" clarifies the requirement allowing an individual to submit documentation of a current CCC or completion of 60 semester credit hours.

R9-16-202(2) Added "either a current CCC or completion of". Adding "current CCC" clarifies the requirement allowing an individual to submit documentation of a current CCC or completion of 300 clinical practicum hours.

R9-16-202(3) Added "either a current CCC or completion of". Adding "current CCC" clarifies the requirement allowing an individual to submit documentation of a current CCC or completion of a clinical fellowship.

R9-16-202(1)(a) and (b) Changed lead-in phrase from "To qualify for an audiologist's (or speech-language pathologist's) license, the applicant shall" to "To qualify for an audiologist's (or speech-language pathologist's) license, the 60 semester credit hours shall include". Changing the lead-in phrase allows an individual who submits documentation of a current CCC not to send documentation of the completion of the 60 semester credit hours as listed in the rules.

R9-16-202(1)(a) and (b) Changed "24 graduate level semester credit hours" to "21 graduate level semester hours". Changed "6 graduate level semester credit hours" to "6 semester credit hours". The changes provide consistency with the standards of this state's universities.

R9-16-202(2)(a) and (b) Changed lead-in phrase from "An individual applying for an audiologist's (or speech-language pathologist's) license shall complete" to "For an individual applying for an audiologist's (or speech-language pathologist's) license, the 300 clock hours shall include". Changing the lead-in phrase allows an individual who submits documentation of a current CCC not to send documentation of the completion of 300 clock hours as listed in the rules.

R9-16-202(2)(a) and (b) Changed clinical practicum subject requirements to provide consistency with the standards of this state's universities as required by statute.

R9-16-203(A)(1)(a) Added "social security number" to conform to statutory requirements.

R9-16-203(A)(2) Changed "30 graduate level semester credit hours" to "60 semester credit hours" and added "a copy of current CCC" to comply with the changed requirements in R9-16-202(1).

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

Not applicable.

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

There will be some costs associated with the implementation of A.R.S. §§ 36-1901 through 36-1940.03, which require the Department to license and regulate individuals who practice audiology or speech-language pathology. The Department will incur costs associated with the production and review of applications, the approval of continuing education (CE) courses, and inspections. An individual practicing audiology or speech-language pathology is required to pay a \$50 original license application fee, \$50 licensure fee, \$50 license renewal fee; obtain a minimum of 8 hours of CE per licensure year; and maintain records of CE courses attended, equipment maintained, services provided, and products dispensed.

These costs are offset by the benefits that consumers will realize as a result of the proposed rules. Currently there are no protections for consumers who receive audiology or speech-language pathology services. The proposed rules establish minimum licensure and operational standards that reduce the possibility of physical, mental, emotional, and psychological harm to a consumer due to a misdiagnosis, or the improper or inadequate delivery of audiology or speech-language pathology services. In addition, the requirements for CE will provide increased opportunities for an individual who presents and receives payment for

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audiology or speech-language pathology CE courses by increasing the number of individuals attending audiology and speech-language pathology CE courses.

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

No oral proceeding is scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to 1 of the persons identified in paragraph 4 within 30 days of the publication of this notice. Written comments on the proposed rules or economic impact statement may be submitted to the persons specified in paragraph 4 until the close of record, which is scheduled for 5 p.m. on May 25, 1999.

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

None.

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

American National Standard - Specification for Audiometers, S3.6-1996, Standards Secretariat, c/o Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York, 10005-3993, January 12, 1996, at R9-16-209(B)(1)

13. **The full text of the changes follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES

OCCUPATIONAL LICENSING

ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-

LANGUAGE PATHOLOGISTS

Section

- R9-16-201. Definitions
R9-16-202. Qualifications for Licensure
R9-16-203. License Application
R9-16-204. License Application Time-frames
R9-16-205. Clinical Fellowship Supervisors
R9-16-206. License Renewal
R9-16-207. Continuing Education
R9-16-208. Disciplinary Actions
R9-16-209. Equipment; Records; Inspections

ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-

LANGUAGE PATHOLOGISTS

R9-16-201. Definitions

The following definitions apply in this Article, unless otherwise specified:

- 1. "Accredited" means approved by the:
a. New England Association of Schools and Colleges.
b. Middle States Association of Colleges and Secondary Schools.
c. North Central Association of Colleges and Schools.
d. Northwest Association of Schools and Colleges.
e. Southern Association of Colleges and Schools.
f. Western Association of Schools and Colleges.
2. "Applicant" means an individual who submits to the Department an initial or a renewal application packet to practice audiology or speech-language pathology in Arizona.
3. "Application packet" means the information, documents, and fees required by the Department for licensure.
4. "Audiology" means the same as the definition in A.R.S. § 36-1901(2).
5. "ASHA" means the American Speech-Language-Hearing Association, a national scientific and professional organization for audiologists and speech-language pathologists.
6. "CCC" means Certificate of Clinical Competence, an award issued by ASHA to an individual who:

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- a. Completes a degree in audiology or speech-language pathology from an accredited college or university that includes a clinical practicum;
 - b. Passes the ETSNESP; and
 - c. Completes a clinical fellowship.
 7. "CE" means continuing education, the ongoing process of receiving audiology or speech-language pathology-related courses.
 8. "Clinical fellow" means an individual engaged in clinical fellowship.
 9. "Clinical fellowship" means the postgraduate professional experience acquired by an individual, after completion of graduate level academic course work and a clinical practicum, during which the individual, while supervised by a clinical fellowship supervisor, is employed full-time or on a part-time equivalent basis to provide assessment, diagnosis, evaluation, screening, treatment, report writing, and counseling of individuals exhibiting speech, language, hearing, or communication disorders.
 10. "Clinical fellowship agreement" means the document submitted by a clinical fellow to register the initiation of a clinical fellowship.
 11. "Clinical fellowship report" means a document completed by a clinical fellowship supervisor containing:
 - a. A summary of a clinical fellow's diagnostic and therapeutic procedures,
 - b. A verification of the clinical fellow's diagnostic and therapeutic procedures by the clinical fellowship supervisor, and
 - c. An evaluation of the clinical fellow's procedures to perform the diagnostic and therapeutic procedures.
 12. "Clinical fellowship supervisor" means an audiologist or speech-language pathologist who:
 - a. Had a CCC while supervising a clinical fellow before the effective date of this Article or in another state; or
 - b. Has a current license and supervises a temporary licensee.
 13. "Clinical practicum" means the experience acquired by an individual completing course work in audiology or speech-language pathology during which the individual, while supervised by a licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, provides assessment, diagnosis, evaluation, screening, treatment, and counseling to individuals exhibiting speech, language, hearing, or communication disorders.
 14. "Course" means a workshop, seminar, lecture, conference, class, or instruction.
 15. "Current CCC" means documentation issued by ASHA verifying that an individual is presently certified by ASHA.
 16. "Days" means calendar days.
 17. "Diagnostic and therapeutic procedures" means the principles and methods used by an audiologist in the practice of audiology or a speech-language pathologist in the practice of speech-language pathology.
 18. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state licensing agency or board.
 19. "ETSNESP" means Educational Testing Service National Examination in Speech-Language Pathology and Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
 20. "Full-time" means 30 clock hours or more per week.
 21. "Graduate level" means the status of a master's or doctoral degree.
 22. "License" means the written authorization issued by the Department to practice audiology or speech-language pathology.
 23. "Local education agency" means a school district governing board established by A.R.S. §§ 15-301 through 15-396.
 24. "Monitoring" means being responsible for and providing direction to a clinical fellow without directly observing diagnostic and therapeutic procedures.
 25. "On-site observations" means the presence of a clinical fellowship supervisor who is watching a clinical fellow perform diagnostic and therapeutic procedures.
 26. "Part-time equivalent" means:
 - a. 25-29 clock hours per week for 48 weeks,
 - b. 20-24 clock hours per week for 60 weeks, or
 - c. 15-19 clock hours per week for 72 weeks.
 27. "Pupil" means a child attending a school, a private school, or an accommodation school, which are defined in A.R.S. § 15-101.
 28. "Semester credit hour" means 1 earned academic unit of study based on completing, at an accredited college or university, a 50 or 60 minute class session per calendar week for 15 to 18 weeks.
 29. "Semester credit hour equivalent" means 1 quarter credit is equal in value to 2/3 of a semester credit hour.
 30. "Speech-language pathology" means the same as the definition in A.R.S. § 36-1901(17).
 31. "State supported institution" means a school receiving funding under A.R.S. §§ 15-901 through 15-1086.
 32. "Supervise" means to be responsible for and provide direction to:
 - a. A clinical fellow during on-site observation or monitoring of the clinical fellow's diagnostic and therapeutic procedures; or
 - b. An individual completing a clinical practicum.
 33. "Supervisory activities" means evaluations and assessments of a clinical fellow's diagnostic and therapeutic procedures in providing assessment, diagnosis, evaluation, screening, treatment, and counseling to individuals exhibiting speech, language, hearing, or communication disorders.
 34. "Week" means the period of time beginning at 12:00 a.m. on Sunday and ending at 11:59 p.m. the following Saturday.
- R9-16-202. Qualifications for Licensure**
An applicant shall meet the requirements set forth in A.R.S. § 36-1940 to qualify for an audiologist's license or A.R.S. § 36-1940.01 to qualify for a speech-language pathologist's license.
1. To demonstrate that an applicant has obtained an equivalent to a master's degree in audiology as stated in A.R.S. § 36-1940(A)(2)(a), (B)(2)(a) or speech-language pathology as stated in A.R.S. § 36-1940.01(A)(2)(a), the applicant shall provide the Department with written documentation of either a current CCC or completion of a minimum of 60 semester credit hours or semester credit hour equivalent in audiology or speech-language pathology from an accredited college or university.
 - a. To qualify for an audiologist's license, the 60 semester credit hours shall include a minimum of 21 graduate level semester credit hours in the area of audiology and a minimum of 6 semester credit hours in the area of speech-language pathology.

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- b. To qualify for a speech-language pathologist's license, the 60 semester credit hours shall include a minimum of 21 graduate level semester credit hours in the area of speech-language pathology and a minimum of 6 semester credit hours in the area of audiology.
 - c. An applicant is allowed no more than 6 graduate level semester credit hours for the clinical practicum.
 - d. The Department shall not permit semester credit hours for a thesis or dissertation to be used to meet the requirements of this subsection.
2. To demonstrate that an applicant has completed a clinical practicum in audiology as required in A.R.S. § 36-1940(A)(2)(b), (B)(2)(b) or speech-language pathology as required in A.R.S. § 36-1940.01(A)(2)(b), the applicant shall provide the Department with written documentation of either a current CCC or completion of a minimum of 300 clock hours in a clinical practicum at an accredited college or university.
- a. For an individual applying for an audiologist's license, the 300 clock hours shall include at least 20 clock hours in speech-language pathology and 250 clock hours or more in audiology including:
 - i. 40 clock hours or more in the evaluation of hearing in children;
 - ii. 40 clock hours or more in the evaluation of hearing in adults;
 - iii. 80 clock hours or more in the selection and use of amplification and assistive devices with a minimum of 10 clock hours with adults and a minimum of 10 clock hours with children; and
 - iv. 20 clock hours or more in the treatment of hearing disorders in children and adults.
 - b. For an individual applying for a speech-language pathologist's license, the 300 clock hours shall include at least 20 clock hours in audiology and 250 clock hours or more in speech-language pathology including 20 clock hours or more in each of the following categories:
 - i. The evaluation of speech disorders in children;
 - ii. The evaluation of speech disorders in adults;
 - iii. The evaluation of language disorders in children;
 - iv. The evaluation of language disorders in adults;
 - v. The treatment of speech disorders in children;
 - vi. The treatment of speech disorders in adults;
 - vii. The treatment of language disorders in children;
 - viii. The treatment of language disorders in adults.
3. To demonstrate that an applicant has completed the post-graduate professional experience required by A.R.S. § 36-1940(A)(2)(c), (B)(2)(c), or A.R.S. § 36-1940.01(A)(2)(c), the applicant shall provide the Department with written documentation of either a current CCC or completion of 36 weeks or more of a clinical fellowship.
- a. The clinical fellowship shall be completed within 7 years from the date the clinical practicum was completed;
 - b. Once initiated, the clinical fellowship shall be completed in no more than 36 consecutive months; and
 - c. A minimum of 80% of the clinical fellowship hours shall be in direct client contact.

R9-16-203. License Application

- A. An applicant for a regular audiology license or a regular speech-language pathology license shall submit to the Department an application packet containing:
 - 1. An application on a form provided by the Department and signed by the applicant that contains all of the following:
 - a. The applicant's name, social security number, current home address, business address, and home and business telephone numbers;
 - b. If applicable, the name of applicant's employer, employer's current business address and telephone number;
 - c. A statement of whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this state or any other state;
 - d. A listing of all states and countries in which the applicant is or has been licensed;
 - e. A statement of whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state or country upon the applicant's audiology or speech-language pathology license; and
 - f. A statement by the applicant verifying the truthfulness of the information provided by the applicant;
 - 2. An official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree or 60 semester credit hours or semester credit hour equivalent as provided in R9-16-202(1) or a copy of a current CCC;
 - 3. Written documentation of the applicant's completion of a clinical practicum as required by R9-16-202(2) or a copy of a current CCC;
 - 4. A photocopy of the clinical fellowship report signed by the clinical fellowship supervisor as required by R9-16-202(3) or a copy of a current CCC;
 - 5. Written documentation of a passing grade on the ETSNESPA or a copy of a current CCC; and
 - 6. An application fee of \$50.
- B. An applicant for a temporary license shall submit to the Department an application packet containing:
 - 1. An application on a form provided by the Department containing the information in subsections (A)(1), (A)(2), (A)(3), and (A)(5);
 - 2. A copy of the clinical fellowship agreement that includes:
 - a. The clinical fellow's name, home address, and telephone number;
 - b. The clinical fellowship supervisor's name, business address, telephone number, and Arizona audiology or speech-language pathology license number;
 - c. The name of and address where the clinical fellowship will take place;
 - d. A statement by the clinical fellowship supervisor agreeing to conform to the rules in R9-16-205;
 - e. The signatures of the clinical fellow and the clinical fellowship supervisor; and
 - 3. An application fee of \$50.
- C. An applicant for an audiology license to fit and dispense hearing aids shall submit to the Department an application packet containing:
 - 1. The information, documents, and fee required in subsection (A); and
 - 2. Written documentation of passing a hearing aid dispenser examination as required by A.R.S. § 36-1940(B)(4).
- D. An applicant for a speech-language pathology license limited to providing services to pupils under the authority of a local

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education agency or state supported institution shall submit to the Department an application packet containing:

1. An application on a form provided by the Department containing the information in subsection (A)(1);
2. A copy of a temporary or standard certificate in speech-language therapy issued by the State Board of Education;
3. A copy of a contract of certificated employment with a local education agency or state supported institution that includes:
 - a. The applicant's name and social security number,
 - b. The name of the local education agency or state supported institution,
 - c. The classification title of the applicant,
 - d. The work dates of the contract of employment, and
 - e. Signatures of the applicant and the individual authorized by the governing board to represent the local education agency or state supported institution; and
4. An application fee of \$50.

R9-16-204. License Application Time-frames

- A. For any of the license applications in R9-16-203 or R9-16-206, the overall time-frame described in A.R.S. § 41-1072(2) is 60 days.
- B. For any of the license applications in R9-16-203 or R9-16-206, the administrative completeness review time-frame is 30 days and begins on the date the Department receives an application packet.
 1. If an application packet is incomplete, the Department shall send to the applicant a written notice of incompleteness that states each deficiency and the information or documents needed to complete the application packet. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives a complete application packet.
 2. When the Department receives a complete application packet, the Department shall send a written notice of administrative completeness to the applicant.
 3. If the applicant does not submit a complete application packet within 90 days from the date the Department sends a written notice of incompleteness to the applicant, the Department shall consider the application withdrawn.
 4. If the Department sends a written notice of approval to the applicant during the time provided to assess administrative completeness, the Department shall not provide a separate written notice of administrative completeness.
- C. For any of the license applications in R9-16-203 or R9-16-206, the substantive review time-frame described in A.R.S. § 41-1072(3) is 30 days and begins on the date the Department sends written notice of administrative completeness to an applicant.
 1. If an applicant does not meet the requirements of A.R.S. §§ 36-1901 through 36-1940.03 and this Article, the Department shall send to the applicant a written comprehensive request for additional information that states each statute and rule the request is based on. The substantive review time-frame and the overall time-frame are suspended from the date the written comprehensive request is sent until the date the Department receives the requested information.
 - a. If an applicant does not submit the requested information within 90 days of the date the Department sends the comprehensive written request to the applicant, the Department shall consider the application withdrawn.

- b. If the information submitted by the applicant does not meet the requirements of A.R.S. §§ 36-1901 through 36-1940.03 and this Article, the Department shall send a written notice of denial to the applicant including a basis for the denial and an explanation of the applicant's right to appeal.

2. If an applicant meets the requirements of A.R.S. §§ 36-1901 through 36-1940.03 and this Article, the Department shall send written notice of approval to the applicant.

- D. After receiving the written notice of approval in subsection (C)(2), an applicant shall send a \$50 license fee to the Department.

R9-16-205. Clinical Fellowship Supervisors

In addition to complying with the requirements in A.R.S. § 36-1905, a clinical fellowship supervisor shall:

1. Complete a minimum of 36 supervisory activities throughout a clinical fellowship. Of the 36 supervisory activities, the clinical fellowship supervisor shall complete:
 - a. A minimum of 18 on-site observations;
 - b. No more than 6 on-site observations in 24 hours; and
 - c. A minimum of 18 monitoring activities;
2. Submit a copy of the clinical fellowship report to the Department within 30 days of the completion of the clinical fellowship; and
3. No later than 72 hours after terminating a clinical fellowship, provide the Department and the clinical fellow with written notice of the termination.

R9-16-206. License Renewal

- A. Before the expiration date of a regular license, a licensee shall submit to the Department an application packet containing:
 1. A license renewal fee of \$50;
 2. A completed record of compliance with the CE requirements in R9-16-207; and
 3. A license renewal form provided by the Department that contains:
 - a. The licensee's name, current home address, business address, and home and business telephone numbers;
 - b. If applicable, the name of the licensee's employer, employer's current business address, and telephone number;
 - c. License number and date of expiration; and
 - d. A statement of whether the licensee has ever been convicted of a felony or a misdemeanor involving moral turpitude.
- B. A licensee who submits the information and fee in subsection (A)(1) no later than 30 days after the license expiration date shall submit a \$10 late fee in addition to the information and fee required by subsection (A).
- C. When renewing a temporary license, the licensee shall submit a license renewal fee of \$50 and a form provided by the Department containing:
 1. The applicant's name, address, and phone number;
 2. The name of applicant's employer, employer's current business address, telephone number, and Arizona audiologist or speech-language pathologist license number;
 3. The clinical fellowship supervisor's name, business address, telephone number, and Arizona audiologist or speech-language pathologist license number;
 4. A statement by the clinical fellowship supervisor agreeing to conform to the rules in R9-16-205; and
 5. The signature of the clinical fellowship supervisor.

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R9-16-207. Continuing Education

- A. Every 12 months from the effective date of a regular license, a licensee shall complete 8 credit hours or more of CE approved by the Department. A credit hour shall consist of a minimum of 50 continuous minutes of instruction.
- B. An individual presenting a CE course or a licensee requesting approval for a CE course shall submit the following to the Department:
 - 1. A brief summary of the course;
 - 2. The name, educational background, and teaching experience of the individual presenting the course;
 - 3. The educational objectives of the course;
 - 4. The name of the organization providing the CE course; and
 - 5. The date, time, and place of presentation of the CE course.
- C. If a licensee submits the information in subsection (B) with an application packet, the Department shall comply with the time-frames in R9-16-204.
- D. For Department approval of a CE course, the overall time-frame described in A.R.S. § 41-1072(2) is 45 days.
- E. For Department approval of a CE course, the administrative completeness review time-frame is 30 days and begins on the date the Department receives a request for CE approval.
 - 1. If a request for CE approval is incomplete, the Department shall send to an individual presenting a CE course or a licensee, a written notice of incompleteness that states each deficiency and the information or documents needed to complete the request. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives a complete request for CE approval.
 - 2. When the Department receives a complete request for CE approval, the Department shall send a written notice of administrative completeness to the individual presenting a CE course or a licensee.
 - 3. If the individual presenting a CE course or a licensee does not supply a complete request for CE approval within 60 days from the date the Department receives a request for CE approval, the Department shall consider the request for CE approval withdrawn.
 - 4. If the Department grants approval for a CE course during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- F. For Department approval of a CE course, the substantive review time-frame described in A.R.S. § 41-1072(3) is 15 days and begins on the date the Department sends written notice of administrative completeness to an individual presenting the CE course or a licensee.
 - 1. If a CE course does not meet the requirements in subsection (G), the Department shall send a written notice of denial to the individual presenting the CE course or the licensee including a basis for the denial.
 - 2. If a CE course meets the requirements of subsection (G), the Department shall send written notice of approval to the individual presenting the CE course or the licensee.
- G. The Department shall approve a CE course if the Department determines that the CE course:
 - 1. Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in audiology or speech-language pathology;

- 2. Is developed and presented by individuals knowledgeable and experienced in the subject area; and
- 3. Contributes directly to the professional competence of a licensee.
- H. A licensee shall maintain a record of each CE course completed by the licensee for 36 months from the date of submitting the record to the Department as required by R9-16-206(A)(2). The record shall contain:
 - 1. The name, address, and license number of the licensee;
 - 2. For each CE course completed by the licensee:
 - a. The name of the organization providing the CE course, and the date and place of presentation;
 - b. The name of the CE course;
 - c. A description of the CE course's content and educational objectives;
 - d. The name and description of the educational background and teaching experience of the individual presenting each course;
 - e. The number of CE credit hours earned for the CE course; and
 - f. A statement, signed by the individual presenting the CE course, verifying the licensee's attendance; and
 - 3. A statement, signed by the licensee, verifying the information contained in the record.
- I. A licensee is not permitted to carry forward CE credit hours from a previous year.

R9-16-208. Disciplinary Actions

In determining the length of license suspension or revocation, or the level of disciplinary action for any violation of A.R.S. §§ 36-1901 through 36-1940.03 or this Article, the Department shall consider:

- 1. The type of violation.
- 2. The severity of the violation.
- 3. The danger to the public health and safety.
- 4. The number of violations.
- 5. The degree of harm to the consumer.
- 6. Pattern of noncompliance, and
- 7. Any mitigating or aggravating circumstances.

R9-16-209. Equipment; Records; Inspections

- A. A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech-language pathology according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
 - 1. The equipment is calibrated a minimum of every 12 months according to the American National Standard - Specifications for Audiometers, S3.6-1996, Standards Secretariat, c/o Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, January 12, 1996, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments; and
 - 2. A written record of the calibration is maintained in the same location as the calibrated equipment for 36 months from the date of the calibration.
- C. A licensee shall maintain the following records for 36 months from the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech-language pathology, or practice of fitting and dispensing hearing aids:
 - 1. The name, address, and telephone number of the individual to whom services are provided;

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after a separate public participation process. They have a limited authority and may generally only establish hunting seasons and bag and possession limits. Orders cannot address peripheral activities such as hunting contests.

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History of Rulemaking Activity

Two "petitions for rule" were filed on the hunting contest issue. (A.R.S. § 41-1033 allows any person to file a petition for rule with a State agency following procedures established by the agency.) The 1st petition was filed by the Wildlife Conservation Advisory Council. The Council is comprised of organization members. Its organization members consist of 32 wildlife and sportsmen organizations statewide, whose combined memberships by Arizona residents number approximately 40,000. Their petition was considered and accepted by the Arizona Game and Fish Commission at its open meeting of April 18, 1998. Upon accepting the petition, however, the Commission gave direction to the Department to file a *Notice of Rulemaking Docket Opening* broad enough to allow flexibility in developing rule language. This was agreed to by the petitioner, who was also aware that a 2nd petition had been filed on this issue.

The 2nd petition was filed jointly by the Animal Legal Defense Fund, Humane Society of the United States, Defenders of Wildlife, Animal Protection Institute, Predator Education Fund, Wildlife Damage Review, Arizona Humane Society, Arizona Society for the Prevention of Cruelty to Animals, Fund for Animals, and the Grand Canyon Trust. All but 2 of these organizations are national. Arizona memberships total 179,000 persons.

Representatives for both of the petitioners worked together to come up with rule language which would be acceptable to the petitioners and to the Department. Based upon this language, the Department drafted a *Notice of Proposed Rulemaking* and brought it to the Arizona Game and Fish Commission for consideration at its open meeting on June 20, 1998. The *Notice* was published in the *Arizona Administrative Register* on July 31, 1998. Written comments were accepted until September 3, 1998, and statewide public hearings were held as noticed on September 2 and 3, 1998. The Arizona Game and Fish Commission held a public hearing on October 24, 1998 in Phoenix.

At that meeting, the Department presented draft evaluations of arguments raised to date and offered new rule language that would require filing Notices of Supplemental Rulemaking and additional public input. After hearing public testimony, the Commission instead directed the Department to pursue mediated rulemaking to be facilitated by the Attorney General's office. The mediation was to include the original 2 petitioners for this rule (Richard Katz, representing several animal welfare organizations, and Pete Cimellaro, representing various sportsmen's organizations) and others who may wish to participate. The Department was directed to present the results of this mediation at the Commission's December Commission meeting and the oral proceedings were continued to that meeting.

The Arizona Attorney General's office, serving as independent facilitator, held preliminary separate meetings with participants to establish the framework for the mediated sessions. The mediated sessions were held on November 5 and 6, 1998, at the Attorney General's offices.

Participants were: Mike Burris, Arizona Predator Callers; Pete Cimellaro, Wildlife Conservation Advisory Council; Walter R. Collins, Wildlife Conservation Advisory Council; Richard Katz, Animal Legal Defense Fund; Brad Kerby, Wildlife Conservation Advisory Council; Lisa Markkula, Animal Defense League of Arizona; Don Martin, Mojave County Sportsman Club; Joe Melton, Yuma Rod & Gun Club; Cindy Seff, Wildlife Conservation Advisory Council; D. J. Schubert; Phil Smith; Jay Adkins, Arizona Game and Fish Department/Attorney General's Office; Bruce Taubert, Arizona Game and Fish Department; and Rocky Taylor.

Legal counsel advised that the differences in the mediated language made it appropriate to take further public input on that language before the Commission could take any action. The Department prepared a draft Notice of Supplemental Rulemaking, which included the mediated language, edited to meet the style requirements of the Governor's Regulatory Review Council and the Secretary of State. On December 11, 1998, the Commission did not accept the draft, but instead directed that the Department file 2 Notices of Supplemental Rulemaking in order to take public comment on 2 alternative rules; the proposed rule language to be considered was specified in their motion.

The Supplemental Notice published January 8, 1999, contained proposed rule language that "A person or group shall not participate in, promote, or solicit participation in any organized contest for killing predatory animals, furbearing animals or nongame mammals." The Supplemental Notice published January 15, 1999, contained proposed rule language that "A person or group shall not participate in, promote, or solicit participation in any organized contest for killing predatory animals, furbearing animals or nongame mammals for economic gain." (Note: the alternative rules were published separately because of a requirement by the Secretary of State's office that they not be contained in the same issue of the Arizona Administrative Register.)

Written comments were accepted and evaluated. Based upon these written comments, the Department made a recommendation to the Arizona Game and Fish Commission that the Commission adopt Alternative Number 1 as published January 8, 1999.

At its meeting of March 20, 1999, the Commission instead directed the Department to extend the public comment period to take public input on the mediated rule language. Because the Commission's motion was specific to the mediated rule language, the language in this *Notice of Supplemental Proposed Rulemaking* has not been edited to meet the style requirements of the Governor's Regulatory Review Council or the Secretary of State. Scheduling requirements make the September Commission meeting the 1st available for holding a public hearing on this rule. The June meeting would not allow sufficient time to gather and address public input; there is no meeting scheduled in July, and the August meeting will be in Pinetop, which is not considered a major metropolitan area appropriate for holding the public hearing on this controversial issue.

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

The rule as originally proposed and published July 31, 1998, addresses contests for "taking" predatory animals, fur-bearing animals, or nongame mammals. It would allow only hunting contests that are either (1) not open or advertised to the general public, or (2) limited to 5 or fewer persons. The maximum economic benefit that could be awarded would be \$500. The maximum length

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allowed would be 3 days. The proposed rule also would require that a written report of the animals taken be submitted to the Department within 7 days of a contest's conclusion.

Mediated language would make the following changes to the rule as proposed:

- The rule would prohibit hunting contests for nongame mammals without exception.
- The word "taking" has been changed to "killing." (Using the broad definition of "take" in A.R.S. § 17-101 would prohibit contests which do not result in the killing of wildlife.)
- There is no prohibition against "advertising."
- The maximum allowable aggregate benefit is changed from \$500 to \$1000.
- Participation is limited to 300 persons.
- An annual report would be required. That provision would "sunset" after 3 years.

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

The agency did contract a survey to support the proposed rule. The survey, *Arizona Residents' and Hunters' Attitudes Toward Predator Hunting Contests*, was conducted by Responsive Management of Harrisburg, Virginia. The public can review the information in the survey the Department's Phoenix office or at any of the Department's regional offices. In summary, the results were:

Persons surveyed were licensed Arizona hunters and other Arizona residents. Respondents were told that "A predator hunting contest is an event where teams of hunters compete for cash and/or prizes. The winning team scores the most points by killing the most coyotes, foxes, and bobcats. Predator hunting contests are not prohibited by law in Arizona, but these contests are not endorsed by the Arizona Game and Fish Department either. All predators must be taken in accordance with Arizona hunting regulations." Survey respondents were then asked if they agree or disagree that the Arizona Game and Fish Commission should make predator hunting contests in Arizona against the law.

Of the hunting license holders, over 1/3 agreed that predator hunting contests should be against the law. Specifically, 23% strongly agreed, 14% somewhat agreed, 17% somewhat disagreed, 45% strongly disagreed, and 6% had no opinion or did not know.

Of the other Arizona residents, over two-thirds agreed that predator hunting contests should be against the law. Specifically, 55% strongly agreed, 14% somewhat agreed, 11% somewhat disagreed, 10% strongly disagreed, and 5% did not know.

A person may review this study by contacting:

Name: Susan L. Alandar
Address: Arizona Game and Fish Department
2221 West Greenway Road DORR
Phoenix, Arizona 85023
Fax Number: (602) 789-3299
E-Mail: predator@gf.state.az.us

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 rule is crafted to eliminate contests like "Predator Hunt Extreme," which offered valuable prizes for killing predators, without taking away the privileges of hunters who enjoy participating in traditional small contests which do not have negative impact on wildlife populations. Since broad-scale hunts such as "Predator Hunt Extreme" are extremely rare (the Department is not aware of any similar hunt having been held), the economic impact of this rule will not be great. There should be no impact on small business or consumers.

10. **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: John Phelps, Predator/Furbearer Biologist
Address: Arizona Game and Fish Department
2221 West Greenway Road WMGB
Phoenix, Arizona 85023
Telephone: (602) 789-3352

11. **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 person may request an oral proceeding on the proposed rule:**

See preceding question 4 of this Notice for information on submission of written comments.

Date: Saturday, September 11, 1999

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Time: 8:30 a.m.
Location: Little America Resort
2515 Butler Avenue
Flagstaff, Arizona

Nature: The Arizona Game and Fish Commission will hold a hearing and may take final action on this rule or on 1 of the proposed rules published by the Secretary of State in the Arizona Administrative Register on January 8, 1999 (5 A.A.R. page 62) or January 15, 1999 (5 A.A.R. page 94) (Notices of Supplemental Proposed Rulemaking.)

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Susan L. Alandar at (602)789-3289 (Voice); 1-800-367-8939 (TTY); 2221 W. Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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. The full text of the changes follows:

Because the Commission's motion was specific to the mediated rule language, the language in this Notice of Supplemental Proposed Rulemaking has not been edited to meet the style requirements of the Governor's Regulatory Review Council or the Secretary of State.

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

Section

R12-4-317. Hunting Contests

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

R12-4-317. Hunting Contests

- A. A person or group shall not participate in, promote, or solicit participation in any hunting contest for killing predatory animals, furbearing animals, or nongame animals.
B. There shall be an exception to section (A) for hunting contests meeting the following criteria:
1. The hunting contest is limited to participation by 5 or fewer persons; or.
2. The maximum length for the hunting contest is 3 days, not including days canceled because of inclement weather; and.
a. The maximum aggregate economic benefit awarded to all participants in the hunting contest is not more than \$1,000.; and.
b. The hunting contest is limited to not more than 300 participants per hunting contest; and.
c. The hunting contest is limited to the killing of predatory and furbearing animals only.
C. A person or group holding a hunting contest which is lawful pursuant to section (B) (2) of this rule shall submit a written

report to the Department by July 1st for the immediate preceding 1 year period ending May 30. The report shall be in a format provided by the Department and shall specify the name of the person or group reporting, the number of participants, the dates of the contest, and the number of each species killed from each game management unit during each hunting contest. The reporting requirement shall terminate 3 years after the effective date of the adoption of this rule.

- A. A person shall not participate, promote, or solicit participation in any hunting contest for taking predatory animals, furbearing animals, or nongame mammals.
B. There shall be an exception to Subsection (A) for events meeting the following criteria:
1. The event is not open or advertised to the general public, or is limited to participation by 5 or fewer persons;
2. The maximum aggregate economic benefit to be awarded to all participants is \$500; and
3. The maximum length for the event is 3 days, not including days cancelled because of inclement weather.
C. A person or group organizing, promoting, or soliciting participation in a hunting contest which is lawful under this rule shall submit a written report to the Department within 7 days of the conclusion of the contest. The report shall specify the name and mailing address of the person or group reporting, and the number of each species of animal taken from each game management unit during the event.