

## 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 23. BOARD OF PHARMACY

#### PREAMBLE

- | <u>Sections Affected</u> | <u>Rulemaking Action</u> |
|--------------------------|--------------------------|
| R4-23-110                | Amend                    |
| R4-23-205                | Amend                    |
| R4-23-301                | Amend                    |
| R4-23-302                | Amend                    |
| R4-23-303                | Amend                    |
| R4-23-304                | Amend                    |
| R4-23-305                | Amend                    |
- 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) and (5) and (B)(7) and (10).  
Implementing statutes: A.R.S. § 32-1923, 32-1924(C), 32-1925(A), (B), (C), and (E)(2), and 32-1926(A) and (C).
- A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 2998, September 3, 1999.
- 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 Ave., Suite 101  
Phoenix, AZ 85015  
Telephone: (602) 255-5125 Ext. 131  
Fax: (602) 255-5740  
E-mail: rxcop@uswest.net
- An explanation of the rule, including the agency's reasons for initiating the rule:**

Beginning in May of 1994, discussions within the agency centered on what to do with pharmacy intern preceptors. Before 1985, the Board issued pharmacy intern preceptor wall certificates. Since 1986 the Board has issued no preceptor wall certificates and has had no formal preceptor approval or recognition procedure. Basically the Board has not enforced any standards for pharmacy intern preceptors or monitored preceptor's practices. Existing rule R4-23-302 mentions a pharmacy intern preceptor application, but no such form exists. A docket was opened in March of 1995 to draft proposed rules for interns and pharmacy intern preceptors. The draft rule has experienced many changes involving input from pharmacists, educators, and the agency. The proposed rule is a result of that effort. The rule

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

addresses format, style, and grammatical changes necessary under the current administrative procedures act and other necessary language changes to provide a clear, concise, and understandable document.

The rule amends the definition of “supervision” in R4-23-110 by adding the term “graduate intern” and specific reference to supervision relating to intern training. Existing rule defines the pharmacy intern fee of \$10.00 in R4-23-205(E)(1)(b). Subsection R4-23-205(E)(1)(b) is repealed and the intern fee is moved to R4-23-205(A)(2)(a) and (b). The fee is increased to \$20.00 for initial licensure and \$20.00 for licensure renewal. The increase in fee is necessary to provide a rapid licensure process. R4-23-301 addresses intern licensure and under the administrative procedures act any licensing activity requires implementing time-frame rules. However, the APA allows an agency to forego establishing separate time-frame rules if the time-frame is 7 days or less. Board staff determined that a licensure time-frame of less than 7 days was possible and desirable. The intern fee has not been increased in over 20 years. The new fee which includes a wall certificate will offset the increased staff time to quickly process intern applications and the increase in postage necessary to comply with the under 7 day time-frame. Other changes to R4-23-301 address the prerequisites for licensure as a pharmacy intern and graduate intern, experiential training, and notification of training.

The heading of R4-23-302 is amended to read: Training Site and Pharmacy Intern Preceptors. In addition to necessary format, style, and grammar changes, R4-23-302 is amended to establish the qualifications and requirements of an intern training site and establish the qualifications, privileges, and responsibilities of a pharmacy intern preceptor.

R4-23-303 is amended by adding necessary format, style, and grammar changes.

The rule amends R4-23-304 to add the designation “graduate intern” where applicable and deletes the preceptor’s final report. Penalties for filing of late or delinquent intern training reports are established in subsection (B).

The rule amends R4-23-304 by adding necessary citations to other sections and other necessary format, style, and grammar changes.

The Board believes that adoption of these rules will benefit the public health and safety by establishing clear standards governing pharmacy interns, graduate interns, and pharmacy intern preceptors. The Board further believes that regulation and enforcement are necessary to produce confident, well-trained pharmacists.

6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the 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:**

Not applicable.

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:**

The principal impact will be on pharmacy interns, graduate interns, and pharmacies. The majority of the changes to the rule do not have any economic impact, but rather provide more clear, concise, and understandable language.

For pharmacy interns and graduate interns, the main economic impact is the increase in licensure fee. This small increase of \$10.00 to an already small fee is offset by the benefit of almost immediate licensure. This allows an intern to start work almost immediately, thus increasing the intern’s income. By being able to work several days earlier than before, the intern can earn back many times the increased cost of the licensure fee. Usually a pharmacy intern takes the required examinations for pharmacist licensure right after graduation, becomes licensed as a pharmacist, and receives a large increase in wages. The rule imposes another possible economic impact on interns by implementing penalties for filing late or delinquent internship training reports with the Board. The maximum penalty is 100 hours of additional intern training. If this additional training ended up being done after graduation, then the intern could theoretically lose from \$1200 to \$2400 in pharmacist wages because of lost time before licensure as a pharmacist. Again, this loss will be under the direct control of the intern and is not a direct economic impact of the rule.

The rule has no economic impact on pharmacy intern preceptors. It just clarifies the preceptor’s qualifications, privileges, and responsibilities.

The citizens of Arizona will benefit from minimum standards of training for pharmacists that should produce more confident newly licensed pharmacists.

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: Dean Wright, Compliance Officer

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

Address: Board of Pharmacy  
5060 N. 19th Ave., Suite 101  
Phoenix, AZ 85015

Telephone: (602) 255-5125 Ext. 131

Fax: (602) 255-5740

E-Mail: rxcop@uswest.net

**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:**

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, November 1, 1999. An oral proceeding is scheduled for:

Date: November 1, 1999

Time: 10:00 a.m.

Location: 5060 N. 19th Ave., Suite 101  
Phoenix, AZ 85015

A person may request information about the oral proceeding by contacting the person listed above.

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

Not applicable.

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

None.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 1. ADMINISTRATION**

Section  
R4-23-110. Definitions

**ARTICLE 2. PHARMACIST REGISTRATION**

Section  
R4-23-205. Fees

**ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS**

Section  
R4-23-301. ~~General~~ Intern Licensure  
R4-23-302. Training ~~place~~ Site and Pharmacy Intern Preceptors  
R4-23-303. Training Time  
R4-23-304. Reports  
R4-23-305. Miscellaneous Intern Training Provisions

**ARTICLE 1. ADMINISTRATION**

**R4-23-110. Definitions**

“Active ingredient” means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

“Authentication of product history” means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

“AZPLEX” means an Arizona pharmacy law examination written and administered by the Board staff or a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

“Batch” means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

“Beyond-use date” means a date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used.

“Biological safety cabinet” means a containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board and the office of the Secretary of State.

“Class 100 environment” means an atmospheric environment in compliance with the Federal Standard 209 Clean Room and Work Station Requirements: Controlled Environment, publication FED-STD-209D, U.S. Government Services Administration 450 Golden Gate Avenue, San Francisco, CA, June 15, 1988, edition which includes January 28, 1991, changes, (and no future amendments or editions), incorporated by reference and on file with the office of the Secretary of State.

“Community pharmacy” means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

“Component” means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

“Container” means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

“Correctional facility” has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good manufacturing practice” means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Cytotoxic” means a pharmaceutical that is capable of killing living cells.

“Day” means a calendar day unless otherwise specified.

“Delinquent license” means a pharmacist or intern license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug. No person shall sell, purchase, or trade or offer to sell, purchase, or trade a drug sample.

“Extreme emergency” means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

“FDA” means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

“Inactive ingredient” means any component other than an “active ingredient” present in a drug.

“Internal test assessment” means performing quality assurance or other procedures necessary to ensure the integrity of a test.

“Limited-service correctional pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

    Holds a current Board permit under A.R.S. § 32-1931;

    Is located in a correctional facility; and

    Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

“Limited-service mail-order pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

“Limited-service nuclear pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

“Limited-service pharmacy permittee” means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

“Long-term care consultant pharmacist” means a pharmacist providing consulting services to a long term care facility.

“Lot” means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures it uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

“Lot number” or “control number” means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

“Materials approval unit” means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

“Mediated instruction” means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

“NABP” means National Association of Boards of Pharmacy.

“NABPLEX” means National Association of Boards of Pharmacy Licensure Examination.

“NAPLEX” means North American Pharmacist Licensure Examination.

“Outpatient” means a person who is not a residential patient in a health care institution.

“Outpatient setting” means a location that provides medical treatment to an outpatient.

“Patient profile” means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

“Pharmaceutical care” means the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes, related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmacy law continuing education” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

“Prepackaged drug” means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

“Provider pharmacist” means a pharmacist who supplies medication to a long-term care facility and maintains patient profiles.

“Radiopharmaceutical” means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

“Radiopharmaceutical quality assurance” means the performance and interpretation of appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

“Radiopharmaceutical services” means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

“Red C stamp” means a device used with red ink to imprint an invoice with a red letter C at least 1 inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

“Remodel” means to structurally alter the pharmacy area or location.

“Remote drug storage area” means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

“Resident” means a person admitted to and residing in a long term care facility.

“Score transfer” means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

“Sterile pharmaceutical product” means a dosage form free from living micro-organisms.

“Strength” means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

“Supervision” means the pharmacist shall be present, assume legal responsibility, and have personal oversight of activities relating to the acquisition, preparation, distribution, and sale of prescription medications by pharmacy interns, graduate interns, or supportive personnel and when used in connection with the intern training requirements shall mean that, in the pharmacy where intern training is being obtained, a pharmacy intern preceptor shall assume the primary responsibility of teaching the intern obtaining practical experience during the entire period of such training.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

“Supplying” means selling, transferring, or delivering to a patient or a patient’s agent 1 or more doses of:

A nonprescription drug in the manufacturer’s original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer’s or compressed medical gas distributor’s original container for subsequent use by the patient.

“Supportive Personnel” means individuals trained to perform, under the supervision of a pharmacist, activities related to the preparation and distribution of prescription medications consistent with policy and procedures required in R4-23-403.

“Transfill” means a manufacturing process by which 1 or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

“Wholesale distribution” means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, “emergency medical reasons” includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug pursuant to a prescription;

Distributing a drug sample by a manufacturers' or distributors' representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

“Wholesale distributor” means anyone engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

**ARTICLE 2. PHARMACIST REGISTRATION**

**R4-23-205. Fees**

**A. Licensure fees:**

1. No change.
2. Pharmacy or graduate intern:
  - a. Initial licensure [prorated according to A.R.S. § 32-1925(B)]: \$20.00+0.00.
  - b. Licensure renewal: \$20.00.

**B. Reciprocity fee: \$300.00.**

**C. Examination fees:**

1. No change.
2. No change.

**D. Vendor permit fees:**

1. No change.
2. No change.
3. No change.
4. No change.

**E. Other Fees:**

1. Wall certificate.
  - a. No change.
  - b. ~~Pharmacy intern: \$10.00.~~
  - eb. Relief pharmacist: \$10.00.
2. No change.
3. No change.

**F. No change.**

**G. No change.**

**ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS**

**R4-23-301. General Intern Licensure**

**A. ~~In general: Registration as a pharmacy intern may only be granted by the Board so the applicant may obtain practical experience in the practice of pharmacy. Registration as a pharmacy intern shall not be granted beyond the time necessary to complete the minimum practical experience as a pharmacy intern, as required by R4-23-303(A), unless such permission is specifically granted by the Board. Licensure as a pharmacy intern or graduate intern is for the purpose of complementing the didactic education in preparation for licensure as a pharmacist. Request for special consideration or treatment relating to intern licensure shall be presented in person to the Board at an open meeting.~~**

**B. The prerequisites for licensure as a pharmacy intern are:**

1. Current enrollment, in good standing, in a Board-approved college or school of pharmacy;
2. Current attendance in classes at a Board-approved college or school of pharmacy; and

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

3. Receive a score of 85 or above on a Board-administered open-book pharmacy law examination; or
  4. By order of the Board.
- C.** If a pharmacy intern licensee stops attending pharmacy school classes, the licensee shall surrender the pharmacy intern license no later than 30 days after the date of the last attended class. A student re-entering a pharmacy program shall reapply for licensure as a pharmacy intern.
- D.** The prerequisites for licensure as a graduate intern are:
1. Graduate from a Board-approved college or school of pharmacy, and
  2. Apply for licensure as a pharmacist by examination or reciprocity, or
  3. Graduate from a non-Board-approved college or school of pharmacy, and
  4. Pass or present proof of acceptance to take a preliminary equivalency examination approved by the Board, or
  5. By order of the Board.
- BE.** Practical experience: Experiential training: Practical experience in intern training activities shall include, but not be limited to, the activities and services encompassed by the term "practice of pharmacy" as defined in A.R.S. § 32-1901, pertaining to drugs devices and medical care: distribution, dispensing, manufacturing, providing information, monitoring, modifying, keeping records, making reports and experience in clinical pharmacy.
- CE.** Out-of-state experience experiential training: Practical experience in intern training received in a state other than Arizona may be allowed by the Board if in the opinion of the Board the requirements of the state in which the experience was received are equal to the minimum standards for intern training in Arizona. The applicant seeking out-of-state pharmacy internship for such credit in intern training shall furnish a transcript certified copy of the records of intern training from the Board of Pharmacy of the state in which the experience was obtained or other recognized jurisdiction.
- DG.** Management required to verify intern's qualifications: The An owner, manager or pharmacist-in-charge shall not permit a person to act as a pharmacy or graduate intern until there has been verification the owner, manager, or pharmacist-in-charge has verified that the person is currently registered licensed by the Board as a pharmacy or graduate intern.
- E.** Registration: An applicant for registration as a pharmacy intern shall not be approved until the applicant shall have been accepted for registration in an accredited college of pharmacy.
- FH.** Intern application: An applicant for registration licensure as a pharmacy intern or graduate intern shall file an application on a form furnished by the Board and accompanied by the initial licensure fee specified in R4-23-205 and other information or documents required to show an applicant is eligible for licensure. If accepted, the applicant shall pay a biennial registration fee prorated from date of registration to June 30 of even-numbered years. The fee is not refunded under any circumstances. The intern certificate shall be kept in good standing by payment of a biennial fee July 1 of even-numbered years, provided, however, the intern training time shall be no longer than six years from the time of enrollment in a college of pharmacy, without providing proof to the Board that he is intending and working toward becoming a pharmacist.
- I.** Licensure: Within 7 business days of receipt of a completed application, fees, and other information specified in subsection (H), the Board shall issue a license number and mail a current renewal receipt to an applicant. An applicant who is issued a license number may begin practice as a pharmacy intern or graduate intern. The initial licensure fee shall include the issuance of a wall certificate. The Board Office shall mail the wall certificate within 14 days of issuing the license number.
- GJ.** License renewal: An intern license shall be kept in good standing by payment of a biennial renewal fee specified in A.R.S. § 32-1925 and R4-23-205. If a pharmacy intern fails to complete pharmacy education within 6 years, the intern is not eligible for relicensure as an intern without Board approval according to A.R.S. § 32-1923(E). Failure to pay renewal fee: If the biennial renewal fee is not paid by July 1 November 1 of an even-numbered the renewal year specified in A.R.S. § 32-1925, the intern registration license is delinquent and a penalty as provided in A.R.S. §§ 32-1925 and 32-1931 is required.
- HK.** Notification of training: A pharmacy or graduate intern shall notify the Board within 10 days of starting or; terminating training; or changing place of training site, in accordance with A.R.S. § 32-1926(A).

**R4-23-302. Training place Site and Pharmacy Intern Preceptors**

- A.** Training place. To receive credit for intern training hours, a pharmacy or graduate intern shall train in a site that:
1. A pharmacy operating under a pharmacy credit from the Board, employing a pharmacy intern preceptor Holds a valid Arizona pharmacy permit and employs a pharmacy intern preceptor; or
  2. Other pharmaceutical specialties, such as wholesale drug companies, drug manufacturers, medical care clinics and others Is an alternative training site established and monitored by a Board-approved college or school of pharmacy or other site, where practical experience in pharmacy may be obtained as listed in subsection (B) of related activities are performed and where interns will gain experience as specified in R4-23-301(E).
- B.** Cancellation of approval of training place. Revocation of training site privileges: The Board may disapprove or cancel approval of revoke a pharmacy, alternative, or other place training site's privilege to train pharmacy or graduate interns if, in the opinion of the Board finds that a, the pharmacy, alternative, or other place of training training site fails to comply with provide experiential training as specified in subsection (E) or violates state or federal drug laws and regulations law.
- C.** Pharmacy intern preceptor:- To be a pharmacy intern preceptor, a pharmacist shall:

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

1. ~~A pharmacist who has been actively engaged in the practical experience of pharmacy in Arizona for one year as listed in R4-23-301(B) may make application, on a form to be provided by the Board, to be a pharmacy intern preceptor. Hold a current unrestricted Arizona pharmacist license;~~
  2. Actively engage in the practice of pharmacy for a minimum of 1 year immediately before acting as a pharmacy intern preceptor;
  23. Receive Board approval before acting as a pharmacy intern preceptor, if the pharmacist Any preceptor applicant who has been found guilty of violations of the laws and regulations pertaining to drugs, devices or poisons, or of gross immorality, shall be eligible as a pharmacy preceptor only by special permission from the Board: violating any federal or state law relating to the practice of pharmacy, drug or device distribution or record keeping, or unprofessional conduct; and
  4. Hold a faculty position in the experiential training program of a Board-approved college or school of pharmacy; or
  5. Receive specific approval as a pharmacy intern preceptor from the Board.
- D.** ~~Cancellation~~ Revocation of preceptorship privileges:- The right to be a pharmacy intern preceptor may be revoked Board may revoke a pharmacy intern preceptor's privilege to train pharmacy or graduate interns if the Board finds that the a pharmacy intern preceptor has failed to comply with fails to provide experiential training as specified in R4-23-301(E) or violates state or federal drug laws and regulations law.
- E.** Intern to notify Board. An intern must notify the Board when he begins training and when he leaves his training position.
- F.** Supervision defined: The term "supervision" as used in connection with the intern training requirements shall mean that, in the pharmacy where intern training is being obtained, a pharmacy preceptor shall be in personal contact with, and actually giving instructions to, the intern obtaining practical experience during the entire period of such training.
- GE.** Preceptor-intern ratio: The ratio of intern to full-time pharmacy preceptor employed in any Intern Training Place, where more than one intern is employed must not be greater than one intern to each pharmacy preceptor at any one time. A preceptor may train more than one pharmacy intern at different times. In a community, limited-service, or hospital pharmacy, where more than 1 pharmacy or graduate intern is trained during the same calendar quarter, a pharmacy intern preceptor shall not supervise more than 1 pharmacy or graduate intern at a time.
- H.** ~~Willingness to train interns: Evaluation of training. The owner and pharmacy preceptor in an Intern Training Place shall cooperate with the Board of Pharmacy in developing intern training and shall report to the Board from time to time as requested by the Board on the progress and aptitude of any intern under their supervision.~~
- IE.** Preceptor responsibilities: The Board holds the pharmacy preceptor responsible for the actions of the pharmacy intern he is training. Therefore, the preceptor should determine the degree of skill possessed by the intern and develop a training program whereby the intern will be able to improve upon and develop his ability in the actual practice of pharmacy. A licensed pharmacist acting as a pharmacy intern preceptor assumes the responsibilities of a teacher in addition to those of a pharmacist. A preceptor shall thoroughly review pharmacy policy and procedure with each intern. The Board holds a preceptor responsible for the pharmacy related actions of an intern during the specific training period. Because interns differ in their knowledge and skills, a preceptor is advised to clearly establish an intern's mastery of each competency before signing any item on an intern competency check list.
- JG.** ~~Sufficient time to instruct: The A pharmacy intern preceptor shall allow sufficient time to instruct the an intern in the practical aspects of pharmacy and to review and discuss his an intern's progress frequently.~~
- K.** ~~Preceptor continuing education: The preceptor shall continue his own professional education by reading the available pharmacy journals, magazines and other trade publications. He shall also attend seminars, meetings or other functions which may, in the opinion of the Board, be required to remain an informed and competent pharmacy preceptor~~

**R4-23-303. Training time**

- A.** Training: The minimum hours of internship training required for licensure by examination shall be 1,500 hours, all of which must be accumulated A pharmacy intern shall accumulate all 1500 hours of internship training after the intern has been enrolled enrolling in a college of pharmacy as prescribed in R4-23-301(ΔB) and after the receiving a Board-issued pharmacy intern license has accepted the intern's application. Time spent in college clinical programs or demonstration projects which have been approved by the Board shall be credited. The Board shall credit a pharmacy intern or graduate intern no more than 500 hours of internship training will be approved for one per calendar quarter. (See R4-23-304 for reports required.)
- B.** Start of training and limitation of credit: The Board shall credit practical experience as a pharmacy or graduate intern shall be computed from the date of registration licensure as a pharmacy or graduate intern. To receive credit as internship training, the practical experience shall be credited only when it has been obtained take place in a pharmacy, alternative, or other place approved and authorized by the Board for training interns training site as specified in R4-23-302(A) and under an approved the supervision of a pharmacy intern preceptor. In no event The Board shall credit no more than 500 hours practical experience as a pharmacy or graduate intern be approved for training received in any pharmacy specialty other than an approved intern training place in an alternative training site or other training site specified in R4-23-302(A)(2).

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

**R4-23-304. Reports**

- A. Change of employment or mailing address: A pharmacy intern or graduate intern shall notify the Board within 10 days of change of employment or mailing address.
- B. Quarterly reports: A pharmacy intern or graduate intern shall file on forms supplied by the Board quarterly reports of such training for the duration of ~~his~~ training. Such reports shall be filed October 1, January 1, April 1 and July 1 for the preceding quarter, whether training or not during the quarter. The quarterly reports shall be delinquent if not received at the Board's office 30 days after being due. The Board ~~will~~ shall write the intern to acknowledge receipt of the reports and notify the intern the remaining hours of training required. Late or delinquent filing of reports required in this subsection shall result in a loss of 20% of the intern hours reported late. In the case of a late or delinquent quarterly report that contains no internship hours, additional internship hours beyond the 1500 minimum requirement are required. The additional hours shall accrue at the rate of 5 hours per delinquent day up to a maximum of 100 hours per delinquent quarter.
- ~~C.~~ Preceptor's final report: Upon completion of the year's intern training, the last preceptor under whom this experience was obtained shall file a report describing this training and giving the preceptor's opinion on the ability of the intern to practice pharmacy without supervision. ~~If the preceptor's report is not satisfactory, the Board may require further training before allowing the intern to take the practical examination.~~

**R4-23-305. Miscellaneous intern training provisions**

Experience in lieu of intern training: ~~Intern training is ordinarily only credited for experience gained while training under a pharmacist, or limited credit given for training in wholesale drug companies, drug manufacturers, and other pharmaceutical specialties which may not be under a pharmacist. However,~~ The Board may accept 3 years' experience as a pharmacist in another jurisdiction as the equivalent of the 1,500 hours of intern training required for licensure. To prevent ~~losing a loss of~~ intern hour credit and before beginning training, an intern should ask the Board whether the if a training place is approved and if credit will be given hour credit for hour trained site meets the requirements specified in R4-23-301(E) and R4-23-302(A).  
Note: Intern training ~~should~~ shall be practical; research and ~~college studies~~ didactic courses are not considered that kind of "practical".

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 28. REAL ESTATE DEPARTMENT**

**PREAMBLE**

- | <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R4-28-101                          | Amend                           |
| R4-28-103                          | Amend                           |
| Table 1                            | Amend                           |
| R4-28-301                          | Amend                           |
| R4-28-303                          | Amend                           |
| R4-28-402                          | Amend                           |
| Article 7                          | Reserved                        |
| R4-28-701                          | Repeal                          |
| R4-28-803                          | Amend                           |
| R4-28-804                          | Amend                           |
| R4-28-A1205                        | Amend                           |
| R4-28-A1211                        | Amend                           |
| R4-28-B1203                        | Amend                           |
| R4-28-B1207                        | 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. §§ 32-2107, 41-1073.
    - Implementing statute: A.R.S. Title 32, Chapter 20, Article 2; §§ 32-2135, 32-2181(A)(17), 32-2184, 32-2185.06, 32-2194.01(A)(13), 32-2195(H), 32-2195.03(C)(4), 32-2195.04, 32-2195.10, 32-2197.01(7) and (17), 32-2197.02, 32-2197.03, 32-2197.06, 32-2198.01(A)(21) and (A)(22), 32-2198.02, 41-1073(B).
  - 3. **A list of all previous notices appearing in the Register addressing the final rule:**
    - Notice of Rulemaking Docket Opening: 5 A.A.R. 2444, July 30, 1999.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

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

Name: John King, Deputy Commissioner  
Address: Arizona Department of Real Estate  
2910 N. 44<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85018  
Telephone: (602) 468-1414, Ext 135  
Fax: (602) 468-0562

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

This rulemaking makes minor changes for understanding and clarity, corrects an omission to allow exemption licenses to respond to requests for additional information, adds time-frames for branch offices, provides flexibility for contract wording, and establishes requirements for distance learning courses.

**SPECIFIC SECTION BY SECTION EXPLANATION OF THIS PROPOSAL**

R4-28-101, Definitions. The term "distance learning" has been added to identify a specific method of instruction.

R4-28-103, Licensing Time-frames. Adding the phrase "unless the applicant requests an extension" in subsection (C) makes the language consistent with subsection (B)(3) and Department practice.

Table 1, Time-frames. The last Department rulemaking did not allow an applicant applying for exemption a specific number of days to respond to a request for additional information. If the Department is going to determine when an exemption application is considered withdrawn, it is necessary to grant a period of time for an applicant to reply.

The time-frames for branch offices have been added.

R4-28-301, General License Requirements. This Section is being amended to eliminate the requirement that license certification questionnaires must be notarized or witnessed by Department personnel.

R4-28-303, License Renewal; Reinstatement; License Changes. Requesting a salesperson or broker to provide information concerning the 'opening, closing, or relocation of a broker's trust account' on a Change Form, as required in subsection (E)(3)(i) is not correct. The request for this information has been moved to subsection (E)(2), where the salesperson or broker simply informs the Department in writing of the change.

The subsection cited in subsection (F) is incorrect and has been changed.

Subsection (F) deals with requirements of both the salesperson or associate broker. This responsibility was not followed through in subsections (F)(1)(c)(ii) and (F)(2)(c)(ii) when only the broker was required to submit a Certificate of Good Standing from the Arizona Corporation Commission. This oversight has been corrected.

R4-28-402, Continuing Education Requirements; Waiver; Distance Learning. This Section provides the applicant with a detailed description of the continuing education course requirements and establishes the criteria for approval of distance learning courses.

R4-28-701, Compensation Sharing; Disclosure. This Section requires that a real estate broker representing a party in a transaction must disclose to all parties in the transaction the identity of any licensee receiving compensation. The Section is being repealed because it is unworkable in practice and serves no useful purpose in protecting the public interest.

The word 'substantially' was deleted from R4-28-803, Contract Disclosures and R4-28-804, Rescission of Contract in the last rulemaking. This deletion allows businesses no variation in the contract language no matter how minor or insignificant. This was not the Department's intent and the word has been reinserted.

R4-28-A1205, Water Supply. A.R.S. § 32-2195(H) provides that certain disclosure requirements must be satisfied if a water availability report has been issued by the Department of Water Resources. If no report has been issued, then disclosure must be made. This change eliminates the implication that the water availability report must be obtained for all unsubdivided land applications.

R4-28-A1211, Assurances For Completion and Maintenance of Improvements. The list of assurances in this Section was never intended to be an exhaustive list of possible assurances. This list is only a sampling of the traditional assurances seen by the Department over time. New and creative methods of demonstrating adequate assurances will continuously evolve. This rulemaking allows the agency to be flexible.

R4-28-B1203, Material Change; Public Report Amendments. Subsections (C) and (D) have been reversed to make

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

the Section easier to follow and understand.

R4-28-B1207, Subsequent Owner. Subsection (E) deals with the new owner of a property, not the subsequent owner and has been changed accordingly. This Section makes clear to businesses that pending applications cannot be taken over by new owners of the land.

6. **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

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:**

A. *Estimated Costs and Benefits to the Arizona Department of Real Estate.*

No financial benefits are gained by the implementation of this rulemaking. The Department does not anticipate any additional administrative functions will result from the addition of the distance learning program.

The repeal of R4-28-701 will not affect the Department's ability to know who is receiving commissions, as real estate licensees currently must report this information at the close of escrow.

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

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

C. *Businesses Directly Affected By the Rulemaking. (Salespersons, brokers, corporations, limited liability companies, partnerships, trusts, managers of real property, real estate schools, real estate teachers.)*

This rulemaking provides stakeholders with greater flexibility and a minor economic impact when complying with the rules.

R4-28-402 provides an explanation of the continuing education requirements making it easier for stakeholders to understand what is meant by each category, and adds an additional method for gaining credit hours for continuing education.

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

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

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

Consumers and the public are not directly affected by the implementation and enforcement of this proposed rulemaking.

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

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

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: John King, Deputy Commissioner

Address: Arizona Department of Real Estate  
2910 N. 44<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85018

Telephone: (602) 468-1414, Ext 135

Fax: (602) 468-0562

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

Date: November 17, 1999

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

Time: 10:00 a.m.  
Location: Real Estate Department  
2910 N. 44th Street, 3rd Floor Conference Room  
Phoenix, Arizona 85018  
Nature: Oral Proceeding  
Date: November 18, 1999  
Time: 10:00 a.m.  
Location: Real Estate Department  
400 West Congress, Room 222  
Tucson, Arizona 85701  
Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m., November 19, 1999. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Department's coordinator, Dick Simmonds, Business Services Officer, at (602) 468-1414 Ext 160 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

**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:**

None.

**13. Was this rule previously adopted as an emergency rule:**

No.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 28. REAL ESTATE DEPARTMENT**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-28-101. Definitions  
R4-28-103. Licensing Time-frames  
Table 1. Time-frames

**ARTICLE 3. LICENSURE**

Section  
R4-28-301. General License Requirements  
R4-28-303. License Renewal; Reinstatement; License Changes

**ARTICLE 4. EDUCATION**

Section  
R4-28-402. Continuing Education Requirements; Waiver; Distance Learning

**ARTICLE 7. ~~COMPENSATION~~ RESERVED**

Section  
R4-28-701. ~~Compensation Sharing Disclosure; Disclosure~~

**ARTICLE 8. DOCUMENTS**

Section  
R4-28-803. Contract Disclosures

R4-28-804. Rescission of Contract

**ARTICLE 12. DEVELOPMENTS**

**PART A. APPLICATION**

Section

R4-28-A1205. Water Supply

R4-28-A1211. Assurances For Completion and Maintenance of Improvements

**PART B. GENERAL INFORMATION**

Section

R4-28-B1203. Material Change; Public Report Amendments

R4-28-B1207. Subsequent Owner

**ARTICLE 1. GENERAL PROVISIONS**

**R4-28-101. Definitions**

In addition to the definitions listed in A.R.S. § 32-2101 the following terms apply to this Chapter:

1. No Change.
2. No Change.
3. No Change.
4. No Change.
5. No Change.
6. “Distance learning” means a course of instruction where a student learns without a traditional classroom situation and consists of interactive instructional material, such as computer-based or audio-visual, that requires the student to complete the course in no less than the number of hours for which the course is approved. A course that requires a student to merely read text, listen to audio tapes, or view video material without student participation, feedback, and remedial instruction is not a distance learning course.
- ~~6-7.~~ No Change.
- ~~7-8.~~ No Change.
- ~~8-9.~~ No Change.
- ~~9-10.~~ No Change.
- ~~10-11.~~ No Change.

**R4-28-103. Licensing Time-frames**

- A. No Change.
- B. No Change.
- C. Substantive review. The substantive review time-frame established in Table 1 begins after the application is administratively complete.
  1. The Department may schedule an inspection.
  2. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date the Department mails the request until the information is received by the Department. If the applicant fails to provide the information identified in the written request the Department shall consider the application withdrawn, unless the applicant requests an extension.
  3. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period for appealing the denial.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

**Table 1. Time-frames**

(Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Review	Response to Additional Information	Overall Time-frame
Broker and Salesperson (Individual)	§ 32-2122 R4-28-301	15	15	45	30	60
Renewal (without change)	R4-28-302	15	15	0	0	15
Modified/Amended	R4-28-303	15	15	45	30	60
Corp/LLC/Partnership/PC/PLC	§ 32-2125	30	30	90	60	120
Renewal (without change)	R4-28-301	30	30	0	0	30
Modified/Amended	R4-28-303	30	30	90	60	120
Temporary Broker	§ 32-2133	30	30	90	60	120
Temp Cemetery Salesperson	§ 32-2134	30	30	90	60	120
Membership Camping	§ 32-2134.01	30	30	90	60	120
Cert. of Convenience	R4-28-305					
<u>Branch Office</u>	§ 32-2127	<u>15</u>	<u>15</u>	<u>45</u>	<u>30</u>	<u>60</u>
School Approval	§ 32-2135(A) R4-28-404	10	15	20	15	30
Course Approval: New	§ 32-2135 R4-28-404	10	15	20	15	30

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

Instructor Approval	§ 32-2135 R4-28-404	10	15	20	15	30
ADVERTISING	§ 32-2198.10(D)					
Membership Campground  (only for lottery or drawing)	§ 32-2198.14  R4-28-503(D)	15	5	0	0	15
Subdivision  (only for drawing or contest)	§ 32-2183.01(I)  R4-28-503(D)	15	5	0	0	15
Time-Share  (only for drawing or contest)	§ 32-2197.11(I)  R4-28-503(D)	15	5	0	0	15
Time-Share  (the offer of a premium)	§ 32-2197.11(K)  R4-28-503(D)	15	5	0	0	15
Development Application	§ 32-21-83(A) § 32-2195.03(A) § 32-2197.06 § 32-2198.02 R4-28-B1203	20	20	50	20	70
Amended Report	§ 32-2184 § 32-2195.10 § 32-2197.03 § 32-2198.01(D) § R4-28-B1203	10	10	10	10	20
Certificate of Authority	§ 32-2194.03(A)	20	20	50	20	70
Amended Certificate	§ 32-2194.10 R4-28-B1204	10	10	10	10	20
WAIVERS						
Pre-license	§ 32-2124 R4-28-401	15	60	30	0	45
Continuing Education	§ 32-2130 R4-28-402	5	10	7	0	12

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

EXEMPTIONS						
Subdivision	§ 32-2181.01 R4-28-B1202	20	20	20	θ 20	40
Unsubdivided Land	§ 32-2195.01 R4-28-B1202	20	20	20	θ 20	40
Time-Share	§ 32-2197.13	20	20	20	θ 20	40
Membership Camping	§ 32-3198.03	20	20	20	θ 20	40

~~E.D.~~ No Change.

**ARTICLE 3. LICENSURE**

**R4-28-301. General License Requirements**

- A.** An applicant for or holder of any Department-issued license, renewal, or amended license, including, if an entity, any officer, director, member, manager, partner, owner, trust beneficiary holding 10% or more beneficial interest, stockholder owning 10% or more stock, or other person exercising control of the entity, shall submit the following information:
1. A signed certification questionnaire ~~sworn before a notary public, or witnessed by department personnel~~, disclosing any:
    - a. Conviction for a misdemeanor or felony, or deferral of a judgment or sentencing for a misdemeanor or felony;
    - b. Order, judgment, or adverse decision entered against the applicant involving fraud or dishonesty, or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals, membership camping contracts, or campgrounds;
    - c. Restriction, suspension, or revocation of a professional or occupational license, or registration currently or previously held by the applicant in any state, district, and possession of the United States or under authority of any federal or state agency; any civil penalty imposed under the license, or any denial of a license; or
    - d. Order, judgment, or decree permanently or temporarily enjoining the applicant from engaging in or continuing any conduct or practice in connection with the sale or purchase of real estate or cemetery property, time-share intervals, membership camping contracts, campgrounds, securities, or involving consumer fraud or the racketeering laws.
  2. If any response to subsection(A)(1) is answered in the affirmative, the applicant shall provide all of the following written documentation for each person who answered in the affirmative:
    - a. A certified copy of any police report and court record that pertains to each crime for which the applicant has been convicted or for which sentencing or judgment has been deferred. If the applicant is unable to provide documents for each crime, the applicant shall provide written documentation from the court or agency having jurisdiction, stating the reason the records are unavailable.
    - b. Three written references from individuals, 18 years or older and not related by blood or marriage to the applicant, who have known the applicant for at least 1 year before the date of receipt of the application;
    - c. A 10-year work history, reflecting the employer's name and address, supervisor's name and telephone number, and dates of employment, including any periods of unemployment;
    - d. A certified copy of any document, such as the findings of fact, conclusions of law, and order, assessing a civil penalty or denying, suspending, restricting or revoking any professional or occupational license held or previously held by the applicant within the last 10 years;
    - e. A certified copy of any civil judgment awarded by a court of competent jurisdiction in which the applicant was a party and which included findings of fraud or dishonest dealings by the applicant;
    - f. A certified copy of any document of a payment against, or repayment by, the applicant as a judgment debtor by any recovery fund administered by any state or professional or occupational licensing board. If an Arizona real estate or subdivision recovery fund matter, a written disclosure of the file number, approximate date, and approximate amount of payment and current repayment status satisfies this requirement.
    - g. A certified copy of any temporary or permanent order of injunction entered against the applicant;
    - h. Any other documentation that the applicant believes supports the applicant's qualifications for licensure.
  3. A full set of fingerprints as prescribed in A.R.S. § 32-2108.01;

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

4. The appropriate license application and fee; and
5. Social security number, if the applicant is an individual.

- B.** No Change.  
**C.** No Change.  
**D.** No Change.  
**E.** No Change.  
**F.** No Change.

**R4-28-303. License Renewal; Reinstatement; License Changes**

- A.** No Change.  
**B.** No Change.  
**C.** No Change.  
**D.** No Change.

**E.** License Changes. A salesperson or broker shall notify the Commissioner of the following information and changes:

1. In writing or on a Change Form, whichever is appropriate:
  - a. The type of change being made;
  - b. The legal name, address, and telephone number of the salesperson or broker;
  - c. The prior name of the person, if changing name;
  - d. The prior address of the main or branch office, if changing address;
  - e. The salesperson's or broker's license number, expiration month, and year; and
  - f. The date of the application and signature of the salesperson or broker.
2. In writing, within 10 days of the change:
  - a. Personal name, including proof of the change; ~~and~~
  - b. Personal address; and
  - c. Opening, closing, or relocation of a broker's trust account;
  - d. A branch office closing;
  - e. Disclosure of certification information.
3. On a Change Form, within 10 days of the change:
  - a. Active to inactive status;
    - i. The legal name and fictitious name, if any, of the severing broker; and
    - ii. The date and signature of the severing broker.
  - b. The employing broker's business address;
  - c. The business mailing address, if different than the business address;
  - d. A transfer between employer's offices by a salesperson or associate broker;
  - e. The appointment of temporary broker due to a designated broker's death or incapacity; or
  - f. ~~A branch office closing;~~
  - g. ~~Branch office manager;~~
  - h. ~~Disclosure of certification information; or~~
  - i. ~~Opening, closing, or relocation of a broker's trust account.~~
4. On a Change Form, and obtain approval from the Commissioner before conducting business. The existing license remains in effect until the application has been approved or denied.
  - a. The broker's business name;
  - b. The employing broker, including:
    - i. The legal name and fictitious name, if any, of the severing and hiring brokers; and
    - ii. The date and signatures of the severing and hiring brokers.
  - c. Inactive to active status;
    - i. The legal name of the hiring broker; and
    - ii. The date and signature of the hiring broker.
  - d. Designated broker by an entity;
  - e. Adopting, changing, or relinquishing professional corporation or professional limited liability company license status;
  - f. Membership of a professional corporation or professional limited liability company, or the license status of a member;
  - g. Broker change of status to or from associate broker;
  - h. Designated broker or entity change from resident to non-resident broker's license; or
  - i. Designated broker or entity change from non-resident to resident broker's license.
5. Within 30 days of any change in structure of the licensed entity, the name of any:
  - a. Director, officer, or person holding, or controlling 10% or more of the shares, if a corporation;
  - b. Partner if a partnership; or

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- c. Member or manager if a limited liability company.
- 6. If in making a license change the previously issued license is not returned, the salesperson or broker or the designated broker, if applicable, shall submit a written statement explaining why it is not being returned.
- F. In addition to the information required in subsection ~~(D)(1)~~ (E)(1), a salesperson or associate broker shall submit the following information when the change is in a:
  - 1. Professional corporation.
    - a. The name of the professional corporation which includes the full or last name of each officer, director, and shareholder of the professional corporation as it appears in the Articles of Incorporation;
    - b. The name and business address of each officer, director, and shareholder in the corporation and a written statement that each holds a current and active real estate license; and
    - c. A copy of the Articles of Incorporation stamped "Received and Filed" by the Arizona Corporation Commission;
      - i. The Articles of Incorporation shall state that the corporation's sole purpose is to provide professional real estate, cemetery, ~~and~~ or membership camping services, or real estate, cemetery, and membership camping services.
      - ii. If more than 1 year has elapsed between the date the Articles of Incorporation were stamped "Filed" by the Arizona Corporation Commission and the date of the application for a license as a professional corporation, the Department shall require the salesperson or associate broker to submit a Certificate of Good Standing from the Arizona Corporation Commission.
  - 2. Professional limited liability company.
    - a. The name of the professional limited liability company which includes the full or last name of each member of the professional limited liability company as it appears in the Articles of Organization;
    - b. The name and address of each member and manager in the limited liability company and a written statement that each holds a current and active real estate license;
    - c. A copy of the Articles of Organization stamped "Received and Filed" by the Arizona Corporation Commission;
      - i. The Articles of Organization shall state that the company's sole purpose is to provide professional real estate, cemetery, ~~and~~ or membership camping services, or real estate, cemetery, and membership camping services.
      - ii. If more than 1 year has elapsed between the date the Articles of Organization were stamped "Filed" by the Arizona Corporation Commission and the date of the application for a license as a limited liability company, the Department shall require the salesperson or associate broker to submit a Certificate of Good Standing from the Arizona Corporation Commission.
    - d. A copy of the operating agreement, as amended.
- G. No Change.

**ARTICLE 4. EDUCATION**

**R4-28-402. Continuing Education Requirements; Waiver; Distance Learning**

- A. Continuing education requirements.
  - 1. Any individual applying for real estate license renewal shall complete 24 credit hours from a real estate school that meets the requirements in R4-28-404, of which a minimum of 3 hours are completed in each of the following categories:
    - a. Agency law; The majority of class material relates to agency relationships and disclosure;
    - b. Contract law; The majority of class material relates to the formation and implementation of a contract, or the results of using a contract, including:
      - i. Various contract forms and clauses, fundamentals, updates, options, counter offers, first right of refusal, and exchanging;
      - ii. Contract writing;
      - iii. Required disclosures, problem-solving, law and rule requirements;
      - iv. Recent court decisions and case law studies;
      - v. Breach of contract issues;
      - vi. Legal, ethical and agency considerations, procedures, and disclosures;
      - vii. Accommodating current financing procedures, requirements, and options.
    - c. Commissioner's standards; The majority of class material relates to license laws, including:
      - i. Article 26 of the Arizona Constitution;
      - ii. A.R.S. Title 32, Chapter 20, and A.A.C. Title 4, Chapter 28, which includes trust accounts, record-keeping, license requirements, exemptions to licensure, commission payments, recovery fund provisions, development requirements, processes for public reports for and sale of subdivided and unsubdivided land, membership campgrounds and time-shares, cemetery regulations, and grounds for disciplinary action and hearings.
      - iii. A.R.S. Title 44, Chapter 10, Article 3.1, Trade names and Business Practices.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- d. Real estate legal issues; and, The majority of class material relates to existing real estate law, including:
    - i. Sources of real estate law (constitutions, statutes, zoning, common), and the legal system;
    - ii. Land and its elements (air, mineral rights, real and personal property);
    - iii. Land, title and interests in land, homestead, encumbrances, and the Landlord and Tenant Act;
    - iv. Easements, fixtures, land descriptions, ownership, deeds, and building restrictions;
    - v. Escrow procedures, financing documents, and lending laws and regulations, including Regulation Z;
    - vi. Wills and estates, taxes, bankruptcy law, securities laws, title insurance, and appraisal law;
    - vii. Case law studies, real estate fraud, disclosure law, interstate and international real estate;
    - viii. Commission issues and forms of business ownership;
    - ix. Homeowners Association regulations;
    - x. Real Estate Settlement Procedures Act (RESPA); and
    - xi. Environmental issues.
  - e. Fair housing; The majority of class material relates to equal opportunities in housing, including:
    - i. Americans with Disabilities Act, ADA architectural designs (construction and development), and court cases;
    - ii. Arizona and federal fair housing laws, including advertising, marketing, information, and enforcement;
    - iii. Housing developments, deed restrictions, affordable housing, elder housing, zoning and local ordinances, and disclosures;
    - iv. Commercial and residential concerns; and
    - v. Administrative procedures and business practices.
  - f. General. The majority of class material relates to real estate, but does not fall within any of the classifications listed in subsections (A)(1)(a) through (A)(1)(e):
    - i. Appraisal methodology;
    - ii. General finance, use of financial calculators, math classes, and managing cash flow;
    - iii. History of development in metropolitan areas;
    - iv. Introduction to property management;
    - v. Ethics and mediation;
    - vi. Exchanging.
2. The Department may require individuals applying for renewal to obtain credit hours ~~in specific legal issue areas~~ based upon significant current issues in the real estate community.
3. Continuing education credit may be granted for an unapproved course if the applicant demonstrates to the satisfaction of the Commissioner that the course meets the course approval requirements prescribed in R4-28-404.
4. The equivalent subject matter hours within a 90-hour prelicensure course, if taken since the last license renewal, may be substituted for the 24-hours of continuing education required in subsection (A)(1).
5. If any change in the continuing education course requirements falls within a renewal applicant's license period, the renewal applicant may fulfill the continuing education requirements by satisfying the requirements in effect at the beginning or the end of the license period.
- B. Continuing education waiver.**
- 1. Pursuant to A.R.S. § 32-2130, the Commissioner may waive all or a portion of the continuing education requirement when a salesperson or broker submits a written request to the Commissioner and shows good cause for the waiver, such as when:
    - a. A person employed by the state or political subdivision establishes to the satisfaction of the Commissioner that the person's employment during the prior license period involved real estate-related matters;
    - b. Any officer or employee of the state whose license is on an inactive status due to a possible conflict of interest or other employment requirement;
    - c. Any other extraordinary circumstance exists or is demonstrated;
    - d. A substitution for education is demonstrated;
    - e. An approved real estate instructor requests a waiver for a course the instructor has taught.
  - 2. If the Commissioner grants a salesperson or broker additional time to complete the continuing education hours under a conditional waiver, the salesperson or broker shall complete the continuing education hours within the time-frame prescribed in the waiver, unless additional time is granted.
- C.** A person shall not receive credit for more than 9 hours of continuing education classes per day.
- D. Distance learning.**
- 1. A distance learning course shall be offered only by a school holding a Certificate of Approval and shall be approved by the Department before credit is issued.
  - 2. A distance learning course shall require the student to demonstrate a minimum level of comprehension.
    - a. The course shall be divided into modules of instruction for delivery on a computer or other interactive program;
    - b. At least 1 learning objective for each module of instruction shall be specified. The learning objective shall ensure that if all the objectives are met, the entire content of the course is understood;

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- c. A structured learning method shall be implemented to enable each student to attain each learning objective;
  - d. A diagnostic assessment of each student's performance shall be provided during each module of instruction;
    - i. The assessment shall, at the end of each topic discussed, measure what each student has learned throughout each module of instruction, and
    - ii. Assess the comprehension of each concept covered in the content material.
  - e. Remediation.
    - i. A student who is deficient in a diagnostic assessment shall repeat the topic;
    - ii. The topic shall be repeated until the student understands the content material.
  - f. The student shall understand all material covered by the learning objectives before the module is completed.
3. Distance learning courses shall be taught, and written course work graded, by an approved instructor or by the school coordinator or director. The instructor, school coordinator, or director shall:
- a. Provide each student with assistance, if required;
  - b. Obtain a signed certification statement from each student indicating that the student has completed each assignment of instruction; and
  - c. Certify each student as successfully completed a distance learning course only if the student:
    - i. Has completed all instructional modules required to demonstrate comprehension of the material.
    - ii. Has attended any required hours of live instruction or testing, or both, for a given course, and
    - iii. Has passed a final examination.
4. If the distance learning course is computer-based, the school shall file a plan with the Department describing how it will deal with hardware and software failure.

**ARTICLE 7. ~~COMPENSATION~~ RESERVED**

**~~R4-28-701. Compensation Sharing; Disclosure~~**

~~A real estate broker representing a party in a transaction shall disclose to all the parties in the transaction, in writing before completion of the transaction, the identity of any licensee receiving compensation.~~

**ARTICLE 8. DOCUMENTS**

**R4-28-803. Contract Disclosures**

- A. Any agreement or contract for the sale or lease of a property interest in a development that requires a public report shall contain substantially the following language in large or bold print above the signature portion of the document:  
THE PURCHASER SHALL BE GIVEN A COPY OF THE PUBLIC REPORT BEFORE SIGNING THIS DOCUMENT.
- B. No Change.
- C. No Change.
- D. No Change.

**R4-28-804. Rescission of Contract**

- A. Any agreement or contract for the purchase or lease of an unimproved, subdivided lot, or any unsubdivided land, shall contain substantially the following language in large or bold print above the signature portion of the document:  
**The purchaser or lessee has the legal right to rescind (cancel) this agreement without cause or reason of any kind, and to the return of any money or other consideration by sending or delivering a written notice of rescission to the seller or lessor by midnight of the 7<sup>th</sup> calendar day following the day the purchaser or lessee executed the agreement. If the purchaser or lessee does not inspect the lot or parcel before the execution of the agreement, the purchaser or lessee shall have six months to inspect the lot or parcel, and at the time of inspection shall have the right to unilaterally rescind the agreement.**
- B. Any agreement or contract for the purchase or lease of a time-share interval shall contain substantially the following language in large or bold print above the signature portion of the document:  
**The purchaser or lessee has the legal right to rescind (cancel) this agreement without cause or reason of any kind by sending or delivering a written notice of rescission to the seller or lessor by midnight of the 7<sup>th</sup> calendar day following the day the purchaser or lessee executed the agreement.**
- C. No Change.

**ARTICLE 12. DEVELOPMENTS**

**PART A. APPLICATION**

**R4-28-A1205. Water Supply**

The applicant shall include information about any water supply to the development, including:

- 1. Whether the water supply will be provided by a municipal system, improvement district, public utility, private water company, co-operative, irrigation district, private well, water hauler, or other source;
- 2. The name, address, and telephone number of the water provider;

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

3. The compliance status of the water provider with the federal and state environmental laws, as of the date of the application. If in noncompliance, provide an explanation;
4. The location of the present water utility or water utility closest to the development;
5. The name of the person responsible for extending the water utility to the lot lines;
6. The estimated completion date for extending the utility to the lot lines and how the utility will be completed;
7. The estimated cost a lot purchaser will be required to pay for completion of the utility to the purchaser's lot line;
8. If offering an unimproved lot, the estimated cost a lot purchaser will pay for completion of the utility from the lot line to the dwelling;
9. Upon completion of the utility, other costs or requirements that must be addressed before the lot purchaser receives service, including the current service charges, hookup fees, turn-on fees meter fees, and development fees;
10. The name of the person responsible for maintenance of the water lines within the development, other than from lot line to dwelling;
11. The name of the person who is or will be responsible for maintenance of the water lines outside the development;
12. If a private well will be used, a description of the requirements and costs involved to install an operational domestic water system;
13. If the source of water is a private well and domestic water cannot be obtained from the private well, will the purchaser be offered a refund of the purchase price and if so, an explanation of any condition or restriction involving the refund;
14. The name and location of the supplier if water for domestic use will be transported or hauled to individual lots by the lot purchaser. A cost estimate computed on a monthly basis for a 4-member family, including the cost of water, cistern, and other holding tanks, pumps, or any other costs necessary to install an operational water system;
15. If the development is a subdivision or part of a subdivision located outside of a groundwater active management area, a water adequacy report from ADWR;
16. If the development is unsubdivided lands, a the water availability report ~~from the~~ issued by ADWR. The report or a brief summary of the report, approved by the Department, shall be displayed in all promotional material and contracts for sale; and
17. If a water provider is a public service corporation, whether a Certificate of Convenience and Necessity from the Arizona Corporation Commission has been issued and, if not, an explanation of why a Certificate has not been issued.

**R4-28-A1211. Assurances For Completion and Maintenance of Improvements**

- A. No Change.
- B. The applicant shall provide 1 or more of the following assurances for completion:
  1. A surety or completion bond from an insurance company licensed to do business in Arizona with a rating of good or higher from a rating agency and a copy of the rating. The bond shall specify which improvements are included and shall:
    - a. Be stipulated by and payable to a 3<sup>rd</sup> party who is not the developer;
    - b. Be accepted and signed by all parties;
    - c. Include an expiration date not less than 90 days beyond the last improvement estimated completion date and clearly state when and how the 3<sup>rd</sup> party may draw on the funds;
    - d. Be in an amount 10% greater than the estimated amount to complete all improvements; and
    - e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements.
  2. An irrevocable letter of credit from a financial institution licensed to do business in Arizona. The irrevocable letter of credit shall specify which improvements are included and shall:
    - a. Be stipulated by and payable to a 3<sup>rd</sup> party who is not the developer;
    - b. Be accepted and signed by all parties;
    - c. Include an expiration date not less than 90 days beyond the last improvement estimated completion date and clearly state when and how the 3<sup>rd</sup> party may draw on the funds;
    - d. Be in an amount 10% greater than the estimated amount to complete all improvements;
    - e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements;
    - f. State that repayment is the responsibility of the developer and not of the 3<sup>rd</sup> party; and
    - g. State that the irrevocable letter of credit is non-cancelable.
  3. A loan commitment and agreement from a lender licensed to do business in Arizona. The loan commitment and agreement shall specify which improvements are included and shall:
    - a. Be stipulated by and payable to a 3<sup>rd</sup> party who is not the developer;
    - b. Be accepted and signed by all parties;
    - c. Include an expiration date not less than 90 days beyond the last improvement estimated completion date and clearly state when and how the 3<sup>rd</sup> party may draw on the funds.
    - d. Be in an amount 10% greater than the estimated amount to complete all improvements;

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements; and
  - f. State that repayment is the responsibility of the developer and not of the 3<sup>rd</sup> party even if the 3<sup>rd</sup> party draws on the funds.
4. A trust or escrow account with a financial institution or escrow company licensed to do business in Arizona. The trust or escrow account shall specify which improvements are included and shall:
- a. Be stipulated by and payable to a 3<sup>rd</sup> party who is not the developer;
  - b. Be accepted and signed by all parties;
  - c. Include an expiration date not less than 90 Days beyond the last improvement estimated completion date and shall clearly state when and how the 3<sup>rd</sup> party may draw on the funds;
  - d. Be in an amount 10% greater than the estimated amount to complete all improvements;
  - e. Include a registered engineer's, architect's, or contractor's cost estimate to complete the improvements; and
  - f. Directly pay for the improvements completed or release funds to the developer upon written verification from a registered engineer that the improvements have been completed in accordance with the plan.
5. Subdivisions. The municipal or county government shall prohibit occupancy and the subdivider shall not close escrow on lots sold in the subdivision until all proposed or promised subdivision improvements are complete.
- a. The subdivider shall submit an agreement or copy of the ordinance from the city or county prohibiting occupancy until all proposed or promised subdivision improvements are complete.
  - b. The subdivider shall submit a written statement that no escrow shall close on any lot until all subdivision improvements are complete.
  - c. The subdivider shall submit a copy of the subdivider's purchase contract containing in large or bold print the condition that escrow shall not close until the city or county issues its occupancy clearance and all subdivision improvements are complete.
  - d. Escrow may close on a lot before completion of all improvements if the lot is within a phase of the subdivision where all improvements are complete and can be used and maintained separately from the improvements required for the entire subdivision.
  - e. If improvements are completed in phases, the subdivider shall submit complete details of the phasing program, including approval of the phasing by the city or county and the completion schedule for the phases.
  - f. Any improvement offered or promised to purchasers that is scheduled for completion in a later phase shall have its completion assured by an alternative method of assurance listed in this Section.
  - g. If the subdivider's sales include unimproved (vacant) lots, the subdivider shall deposit all earnest money into a neutral escrow depository until escrow closes.
6. City and county trust agreement. Any municipal or county government may enter into an assurance agreement with a trustee to hold a lot conveyance until improvements are completed, provided:
- a. The trustee is an escrow company licensed to do business in Arizona, and
  - b. The agreement is recorded.
7. Written escrow agreement. A developer may enter into a written escrow agreement with a title insurance company or escrow company to escrow all funds and not close any escrow until all improvements are complete. The agreement shall contain the following stipulations:
- a. The funds shall not be released nor the purchaser's deed or other relevant documents recorded until certification is given to the Department and the escrow agent by the developer's architect or engineer that the project is complete, ready for occupancy, and in compliance with all city and county requirements.
  - b. If the completion date is not met:
    - i. The developer shall give purchasers notice that completion dates were not met and an updated completion schedule,
    - ii. A purchaser may cancel and receive a full refund by sending written notice to the escrow agent,
    - iii. The public report is invalid and all sales are suspended, and
    - iv. The Department considers the public report valid if improvements are completed at a later date and the public report is complete and accurate.
8. Any other assurance satisfactory to the Department that is not listed in subsections (B)(1) through (B)(7).
- C. No Change.

**PART B. GENERAL INFORMATION**

**R4-28-B1203. Material Change; Public Report Amendments**

- A. No Change.
- B. No Change.
- ~~C. A developer may apply to amend the public report by submitting payment of the applicable amendment fee and the following information:
  1. The name and registration number of the development;~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

2. ~~The name and signature of the developer;~~
3. ~~A list of the changes to the development and sales offering or in the information previously provided to the Department;~~
4. ~~Status of sales as prescribed in subsections (D) and (E); and~~
5. ~~A purchase contract addendum, to be signed and dated by both seller and purchaser, acknowledging that the sale is conditioned upon issuance of the amended public report and purchaser's receipt and acceptance of the amended public report.~~

**D.C.** Completion Date Extension.

1. A developer may apply for an amendment to a public report to extend the completion date of any improvement by providing an affidavit from the developer attesting that each purchaser, owner, and the city or county officials responsible for improvements were provided written notice of the completion status of the improvement, including a list of all people who were provided notice.
2. The Department may deny the application to extend the completion date beyond the 1st extension if a purchaser, owner, or city or county official opposes issuance of an amended public report to extend a completion date;
3. If an extension is denied, the developer shall provide a written agreement to voluntarily suspend sales until the improvement is complete or the Department may issue a summary suspension order as provided in A.R.S. § 32-2157(B).

**D.** A developer may apply to amend the public report by submitting payment of the applicable amendment fee and the following information:

1. The name and registration number of the developer;
2. The name and signature of the developer;
3. A list of the changes to the development and sales offering or in the information previously provided to the Department;
4. Status of sales as prescribed in subsection (E); and
5. A purchase contract addendum, to be signed and dated by both seller and purchaser, acknowledging that the sale is conditioned upon issuance of the amended public report and purchaser's receipt and acceptance of the amended public report.

**E.** No Change.

**F.** No Change.

**G.** No Change.

**H.** No Change.

**R4-28-B1207. Subsequent Owner**

**A.** No Change.

**B.** No Change.

**C.** No Change.

**D.** No Change.

**E.** A developer who is a subsequent new owner of property that is the subject of a pending application for a public report shall not replace or be substituted for the applicant of that pending application ~~until the Department approves or denies the pending application.~~ Once the pending application is acted upon, the subsequent owner may file an application for a public report.