

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first 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. COMMERCE, PROFESSIONS AND OCCUPATIONS

CHAPTER 49. BOARD OF ATHLETIC TRAINERS

PREAMBLE

1. Sections Affected

R4-49-101
R4-49-102
R4-49-103
R4-49-104
R4-49-201
R4-49-202
R4-49-203
R4-49-204
R4-49-205
R4-49-206
R4-49-301
R4-49-302
R4-49-401
R4-49-402
R4-49-403
R4-49-404

Rulemaking Action

New Section
New Section

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

Authorizing statute: A.R.S. § 32-4103(A)(7)

Implementing statutes: A.R.S. § 32-4101 through A.R.S. § 32-4161

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 2490, June 30, 2000

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

Name: Cedes Bruno

Address: Arizona Board of Athletic Trainers
5060 North 19th Avenue, Suite 209
Phoenix, Arizona 85015

Telephone: (602) 589-6337

Fax: (602) 589-8354

Arizona Administrative Register
Notices of Proposed Rulemaking

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

The Arizona Board of Athletic Trainers is a new regulatory agency which is required to adopt and revise rules to enforce A.R.S. § 32-4101 et. seq. The proposed rules will be used in the Arizona Board of Athletic Trainers regulation of the Athletic Training industry in the State of Arizona.

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 date.

Not applicable

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

There is minimal to no cost increase impact to small businesses or consumers as any and all costs related to these proposed rule amendments are borne by the implementing agency or its licensees. The only cost element that might be identified would be for an applicant applying for an Arizona State License from another occupational therapy licensing state and wants to have the National Examining Board to notify the Arizona Board of Occupational Therapy of written proof they have successfully passed their National examination requirement. The National Examining Board may charge a fee for such notification of which would be paid for by the licensee, not this Board.

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: Cedes Bruno

Address: Arizona Board of Athletic Trainers
5060 North 19th Avenue, Suite 209
Phoenix, Arizona 85015

Telephone: (602) 589-6337

Fax: (602) 589-8354

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. However, an agenda is published for each Board Meeting and if testimony is to be heard during a specific Board Meeting, it is scheduled within the monthly agendas. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item 4 within 30 days after publication of this notice. Written comments about the proposed rule may be submitted to the person identified in item 4 until 5:00 p.m., on the day prior to the Board Meeting at which the Board is scheduled to approve the submission of a Notice of Final Rulemaking as announced within a Board Agenda.

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. Incorporate by reference and their location in the rules:

None applicable

13. The full text of the rules follows:

TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

CHAPTER 49. BOARD OF ATHLETIC TRAINERS

ARTICLE 1. GENERAL PROVISIONS

R4-49-101. Definitions

R4-49-102. Fees

R4-49-103. Board Operations

R4-49-104. Service by the Board

Arizona Administrative Register
Notices of Proposed Rulemaking

ARTICLE 2. LICENSURE

<u>R4-49-201.</u>	<u>Qualifications for Licensure</u>
<u>R4-49-202.</u>	<u>License Application</u>
<u>R4-49-203.</u>	<u>License Application Review</u>
<u>R4-49-204.</u>	<u>License Renewal</u>
<u>R4-49-205.</u>	<u>Expired License: Reinstatement</u>
<u>R4-49-206.</u>	<u>License Display</u>

ARTICLE 3. HEARINGS

<u>R4-49-301.</u>	<u>Hearing Procedures</u>
<u>R4-49-302.</u>	<u>Rehearing or Review of Decision</u>

ARTICLE 4. ATHLETIC TRAINING PRACTICE

<u>R4-49-401.</u>	<u>Scope of Practice</u>
<u>R4-49-402.</u>	<u>Direct Supervision of Athletic Training Students</u>
<u>R4-49-403.</u>	<u>Standards of Practice</u>
<u>R4-49-404.</u>	<u>Code of Ethics</u>

ARTICLE 1. GENERAL PROVISIONS

R4-49-101. Definitions

In addition to the definitions at A.R.S. § 32-4101, in this Chapter:

1. "Accredited educational institution" means an educational institution, accredited by the North Central Association of Colleges and Schools or a comparable regional accrediting body.
2. "Administrative completeness review" means the Board's process for determining that an applicant has provided all of the information and documents required by the Board.
3. "Applicant" means an individual requesting licensure or renewal from the Board.
4. "Application packet" means the forms and documents the Board requires an applicant to submit or be submitted on an applicant's behalf.
5. "Approved national athletic training accrediting agency," means the National Athletic Trainers' Association Board of Certification, Inc.
6. "Athlete" means:
 - a. Any person participating in, or preparing for, a competitive team or individual sport;
 - b. A member of a professional athletic team.
7. "Athletic training certification" means current, valid athletic trainer certification provided by the National Athletic Trainers' Association Board of Certification, Inc.
8. "Completed Application" means an application with all of the information requested on the application filled in, the verified signature of the applicant, fees, and all required documentation.
9. "Confidential Record" means:
 - a. Minutes of executive sessions;
 - b. A record classified as confidential by another law, rule, or regulation applicable to the Board;
 - c. College or university grades, medical or mental health information, and professional references of an applicant except that the applicant who is the subject of the information may view or copy the record;
 - d. Social Security number;
 - e. Home address and phone number of an applicant;
 - f. A record for which the Board determines that public disclosure will have a significant adverse effect on the Board's ability to perform its duties or that would otherwise be detrimental to the best interests of the state. When the Board determines that the reason justifying the confidentiality of the record no longer exists, the Board shall make the record available for public inspection and copying; and
 - g. Information regarding a complaint under investigation.
10. "Continuing education activity" means a college course, institute, seminar, lecture, conference, workshop, and various forms of mediated instruction or programmed learning courses related to athletic training practice.
11. "Day" means calendar day.
12. "Facility of practice" means the principle location of an agency or organization where an athletic trainer provides athletic training services.

Arizona Administrative Register
Notices of Proposed Rulemaking

13. “Good Moral Character” shall be established if the licensure candidate:
- a. Has not, within 5 years of application for licensure, been convicted of a felony or misdemeanor if such offense has a reasonable relationship to the functions of an athletic trainer;
 - b. Has not, within 5 years of application for licensure, committed any act involving dishonesty, fraud, misrepresentation, gross negligence or incompetence reasonably related to the profession of athletic training;
 - c. Is not currently incarcerated in a penal institution;
 - d. Has not engaged in fraud or misrepresentation in connection with this application for licensure or related examination;
 - e. Has not had licensure revoked or suspended for cause by this state or by any other jurisdiction, or surrendered a professional license in-lieu of disciplinary action;
 - f. Has not had athletic training certification revoked or suspended for cause by an approved National Athletic Training Accrediting Agency; or
 - g. Has not practiced without the required licensure in this state or in another jurisdiction within the United States within the 2 years immediately preceding the filing of the application for registration.
14. “Good standing” means that an athletic trainer:
- a. Has a current license;
 - b. Is not presently subject to any disciplinary action, consent order, or settlement agreement; and
 - c. Has no disciplinary action, consent order, or settlement agreement pending.
15. “Licensee” means a person licensed in Arizona as an athletic trainer.
16. “NATA-BOC” means National Athletic Trainers’ Association Board of Certification, Inc.
17. “National examination” means the national athletic training certification examination provided by the NATA-BOC.
18. “Substantive review” means the Board’s process for determining whether an applicant meets the requirements of A.R.S. § 32-4122 and this Chapter.

R4-49-102. Fees

- A.** The applicant shall pay the following fees:
1. Application for initial license fee: \$250;
 2. Renewal license fee: \$125;
 3. Reinstatement fee: \$125. This is in addition to the license renewal fee;
 4. Duplicate license fee: \$25.
- B.** An additional fee of 25¢ for copying per page.
- C.** All fees are non-refundable except as provided in A.R.S. § 41-1077.
- D.** Original license fees and returned or insufficient fund replacement checks shall be remitted in cash, cashier’s check, or money order.
- E.** Renewal, duplicate license, and reinstatement fees shall be remitted in cash, cashier’s check, money order, or personal check.

R4-49-103. Board Operations

- A.** The Board shall meet annually in January after the third Monday of the month. The Board shall hold additional meetings as required by A.R.S. § 32-4103(A)(8) and as necessary to conduct the Board’s business. Meetings may be convened by the Chair, a majority vote of the Board members or upon written request from at least 2 Board members.
- B.** All Board records shall be open to public inspection and copying, except confidential records. Records may be inspected at the Board Office Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays.

R4-49-104. Service by the Board

Service of any Board decision, order, or subpoena shall be made by personal service or by mailing a copy by certified mail, return receipt requested. Service by certified mail shall be made to the last address of record filed with the Board. Service upon an attorney who has appeared on behalf of a party constitutes service upon the party. If service is by certified mail, service is complete upon mailing.

ARTICLE 2. LICENSURE

R4-49-201. Qualifications for Licensure

- A.** To qualify for an athletic trainer license a person shall:
1. Complete the education and experience requirements to sit for the national examination at the time the person first attained certification. At a minimum this must be a baccalaureate degree from an institution accredited by an approved national athletic training-accrediting agency;
 2. Pass the National examination in order to obtain an Athletic Training certification;

Arizona Administrative Register
Notices of Proposed Rulemaking

- B.** An applicant who is and continuously maintains athletic training certification before January 1, 2004 is exempt from subsection (1) and (2) above.

R4-49-202. License Application

- A.** An initial application shall be signed by the applicant and include the following information:
1. Applicant's full name;
 2. The applicant's name as it will appear on the license certificate;
 3. Other names used;
 4. Social Security number;
 5. Residence address and telephone number;
 6. Date of birth;
 7. Applicant's national athletic training certificate number and date of certification;
 8. Education transcripts;
 9. Professional experience, field work, or both within the last 5 years;
 10. Employer's name, address, and telephone number;
 11. Current or previous athletic training or other professional license or certification numbers from other states and foreign countries and the status of each license or certification;
 12. Current and previous disciplinary actions;
 13. Affidavit of truth; signed and notarized.
- B.** An applicant shall submit or cause to be submitted on the applicant's behalf the following:
1. Application fee;
 2. Written verification received from the NATA-BOC accrediting agency of athletic training certification or a passing score on the national examination as required by R4-49-201 (A);
 3. Official academic transcripts from institutions listed on the application;
 4. Two letters of professional recommendation of Good Moral Character from a Health Care Provider.
- C.** If the Board denies an application, the applicant may, within 30 days of service of the notice of denial, make a written request for a hearing to review the Board's decision. The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Article 10.
- D.** In a hearing conducted on a denial of a license, the applicant has the burden of proof.

R4-49-203. License Application Review

- A.** For licensure as an Athletic Trainer the time-frames required by A.R.S. § 41-1072 et. seq. are:
- | | |
|--|-----------------|
| 1. <u>Overall time-frame:</u> | <u>120 days</u> |
| 2. <u>Administrative completeness review time-frame:</u> | <u>60 days</u> |
| 3. <u>Substantive review time-frame:</u> | <u>60 days</u> |
- B.** An administratively complete application for licensure consists of all the information and documents listed in:
1. R4-49-202 for an Initial Athletic Training license.
 2. R4-49-205 for a Renewal of an Athletic Training license, and
 3. R4-49-207 for a Reinstatement of an Athletic Training license.
- C.** An administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(2), begins on the date the Board receives an application.
1. If the application is not administratively complete when received, the Board shall send a notice of deficiency to the applicant. The deficiency notice shall state the documents and information needed to complete the application.
 2. Within 120 days from the postmark date of the deficiency notice, the applicant shall submit to the Board the missing documents and information. The time-frame for the Board to finish the administrative completeness review is suspended from the postmark date of the deficiency notice until the date the Board receives the missing documents and information.
 3. If the applicant fails to provide the missing documents and information within the time provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be certified shall apply again under R4-49-202, R4-49-205 or R4-49-207.
 4. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
- D.** Substantives review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(3) begins on the postmark date of the notice of administrative completeness.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. The applicant shall submit to the Board the additional information identified in the request for additional information within 60 days from the postmark date of the request for additional information. The time-frame for the Board to finish the substantive review of the application is suspended from the postmark date of the request for additional information until the Board receives the additional information.
3. Unless an applicant request that the Board deny a license within the 60-day period in subsection (D)(2), the Board shall close the file of an applicant who fails to submit the additional information within the 60 days provided. An applicant whose file is closed and who wants to be license shall apply again under R4-49-202, R4-49-205 and R4-49-207.
4. When the substantive review is complete, the Board shall inform the applicant in writing of its decision whether to license the applicant.
 - a. The Board shall deny a license if it determines that the applicant does not meet all substantive criteria for licensure required by statute and rule. An applicant who is denied a license may appeal the Board's decision pursuant to Title 41, Chapter 6.
 - b. The Board shall grant a license if it determines that the applicant meets all substantive criteria for licensure required by statute and rule.

R4-49-204. License Renewal

- A.** To renew a license a licensee shall submit a renewal application and the renewal fee. In compliance with the schedule set forth in Section D below.
- B.** The renewal application shall be signed by the licensee and include the following:
 1. Applicant's full name;
 2. The applicant's name as it will appear on the renewal license;
 3. Residence address;
 4. Current Arizona Board of Athletic Training license number;
 5. The amount of the renewal fee;
 6. Arrest, criminal conviction and disciplinary actions since last license renewal;
 7. Social Security number;
 8. Employer's name, address, and telephone number;
 9. Signature and date.
- C.** The Renewal application and fees, shall be submitted to the Board office by the 1st day of the month, based on the following schedule:
 1. Last name with A-B: January;
 2. Last name with C-D: February;
 3. Last name with E-F: March;
 4. Last name with G-H: April;
 5. Last name with I-J: May;
 6. Last name with K-L: June;
 7. Last name with M-N: July;
 8. Last name with O-P-Q: August;
 9. Last name with R-S: September;
 10. Last name with T-U: October;
 11. Last name with V-W: November; and
 12. Last name with X-Y-Z: December.
- D.** License renewal fees for the year immediately following the issuance of an original license shall be based on the time between the issuance of the original license and time of renewal as follows:
 1. Less than 1 month after issuing original license: No fee;
 2. 2 to 3 months: 20% of the license renewal fee;
 3. 4 to 5 months: 40% of the license renewal fee;
 4. 6 to 7 months: 60% of the license renewal fee;
 5. 8 to 9 months: 80% of the license renewal fee; and
 6. 10 months or more: 100% of the license renewal fee.

R4-49-205. Expired License: Reinstatement

- A.** A license that is not renewed on or before the date of expiration, expires.
- B.** An expired license may be reinstated within 3 years of expiration if expired:
 1. The former licensee has current certification as an athletic trainer;
 2. A renewal application and renewal fee is submitted; and
 3. The license reinstatement fee is paid under R4-49-102.

Arizona Administrative Register
Notices of Proposed Rulemaking

R4-49-206. License Display

A. A licensee shall display the licensee's current license certificate issued by the Board in a conspicuous place in each facility of practice. A licensee may use a photocopy of the license certificate to satisfy this requirement. A facility of practice is where the licensee performs the activities of an athletic trainer but excludes areas used predominately for athletic sport or competition.

ARTICLE 3. HEARINGS

R4-49-301. Hearing Procedures

The Board shall conduct all hearings held under A.R.S. § 32-4154 et seq. in accordance with Title 41 A.R.S. Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings.

R4-49-302. Rehearing or Review of Decision

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and rules established by the Office of Administrative Hearings.
- B.** A party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
- 1.** Irregularity in the proceedings of the Board, or any orders or abuse of discretion, that deprived the moving party of a fair hearing;
 - 2.** Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
 - 3.** Accident or surprise that could not have been prevented by ordinary prudence;
 - 4.** Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 - 5.** Excessive penalty;
 - 6.** Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 - 7.** That the Board's decision is a result of passion or prejudice; or
 - 8.** That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).
- G.** Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence and:
- 1.** A ruling on the motion will further administrative convenience, expedition, or economy; or
 - 2.** A ruling on the motion will avoid undue prejudice to any party.

ARTICLE 4. ATHLETIC TRAINING PRACTICE

R4-49-401. Scope of Practice

A licensee shall work within the scope of practice for athletic trainers stated in A.R.S. § 32-4101(3) and the domains, tasks, knowledge and skills contained in *National Athletic Trainers Association Board of Certification Role Delineation Study: Athletic Training Profession (4th Edition)*, 1999, National Athletic Trainers Association Board of Certification, 1512 S. 60th St., Omaha, NE 68106.

R4-49-402. Direct Supervision of Athletic Training Students

- A.** A licensee may directly supervise an athletic training student who is actively pursuing athletic training certification.
- 1.** Active pursuit of athletic training certification is:
 - a.** Current enrollment in an educational program to fulfill academic requirements for athletic training certification;
- or

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. Current participation in fieldwork experience to fulfill the fieldwork experience requirements for athletic training certification.
- 2. A licensee shall not directly supervise more than 8 athletic training students at 1 time.
- B.** A licensee is responsible for any treatment related to athletic training performed by athletic training student.
- C.** A licensee who directly supervises an athletic training student shall:
 - 1. Be present in the facility or on the campus where the athletic training student is performing services;
 - 2. Be immediately available for consultation; and
 - 3. Review the performance of the athletic training student every grading period.
- D.** Only a licensed athletic trainer shall prepare an initial treatment plan, initiate or re-evaluate an athlete's treatment plan, or authorize in writing a change of a treatment plan.

R4-49-403. Standards of Practice

A licensee shall work within the standards of practice for athletic trainers stated in A.R.S. § 32-4101(3) and the standards of professional practice contained in *National Athletic Trainers Association Board of Certification Standards of Professional Practice, Disciplinary Process, Requirements to Maintain Certification for the Certified Athletic Trainer*, 2000, National Athletic Trainers Association Board of Certification, 1512 S. 60th St., Omaha, NE 68106.

R4-49-404. Code of Ethics

A licensee shall work within the code of ethics for athletic trainers stated in A.R.S. § 32-4153(10) and the *Code of Ethics of the National Athletic Trainers' Association*, 1997, National Athletic Trainers Association, 2952 Stemmons Freeway, Dallas, TX 75247.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 32. DEPARTMENT OF HEALTH SERVICES

GROUP HOMES FOR INDIVIDUALS WHO ARE DEVELOPMENTALLY DISABLED

PREAMBLE

1. Sections Affected

Article 1
R9-32-101
R9-32-102
R9-32-103
R9-32-104
R9-32-105
R9-32-106
R9-32-107
Article 2
R9-32-201
R9-32-202
R9-32-203
R9-32-204
R9-32-205
R9-32-206

Rulemaking Action

New Article
New Section
New Article
New Section
New Section
New Section
New Section
New Section
New Section

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

Authorizing statute: A.R.S. § 36-136(F)

Implementing statute: A.R.S. § 36-132(A)(21)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R.1806, May 19, 2000

Arizona Administrative Register
Notices of Proposed Rulemaking

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

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 West Adams, Suite 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1290

or

Name: Mary Wiley, Assistant Director

Address: Department of Health Services
1647 East Morten Avenue, Suite 220
Phoenix, Arizona 85020

Telephone: (602) 674-4200

Fax: (602) 861-0645

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

The proposed rules implement A.R.S. § 36-132(A)(21) which requires the Department of Health Services to license and regulate the health and safety of group homes for developmentally disabled individuals. In 1997, the Arizona Legislature transferred the licensing and regulation of group homes from the Department of Economic Security to the Department of Health Services. Before 1997, the Department of Economic Security licensed and regulated group homes for individuals who are developmentally disabled and contracted for services with licensed group homes. While the Department of Health Services has been licensing and regulating the health and safety of group homes for individuals who are developmentally disabled since 1997, it has done so using the Department of Economic Security's rules which were in place before the licensing function was transferred to the Department of Health Services. The proposed rules establish requirements for the licensure and regulation of the health and safety of group homes for individuals who are developmentally disabled under the Department of Health Services.

6. A reference to any study that the agency relied 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:

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 Department of Health Services will incur moderate 1-time costs implementing the proposed rules.

The Department of Economic Security will incur minimal 1-time costs implementing the proposed rules.

Businesses, including small businesses, which operate group homes will incur minimal 1-time administrative costs implementing the proposed rules. Approximately 10 group homes statewide will incur minimal annual costs complying with new temperature range requirements in group homes.

The Department does not anticipate individuals who receive services in group homes to incur costs as a result of the proposed rules.

Arizona Administrative Register
Notices of 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: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 West Adams, Suite 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1290

or

Name: Mary Wiley, Assistant Director

Address: Department of Health Services
1647 East Morten Avenue, Suite 220
Phoenix, Arizona 85020

Telephone: (602) 674-4200

Fax: (602) 861-0645

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:

The Department has scheduled the following oral proceedings:

Wednesday, February 7, 2001
1:00 p.m.
Arizona Department of Health Services
400 West Congress, Room 5
Tucson, Arizona 85701

Thursday, February 8, 2001
9:00 a.m.
Arizona Department of Health Services
1647 East Morten Avenue, Hearing Room
Phoenix, Arizona 85020

Friday, February 9, 2001
10:30 a.m.
Flagstaff Public Library
300 West Aspen
Flagstaff, Arizona 86001

Written comments on the proposed rulemaking or the preliminary summary of the economic, small business, and consumer impact may be submitted until the close of record, Friday, February 16, 2001 at 5:00 p.m. to either individual listed in questions 4 and 9.

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 locations in the rules:

R9-32-202:

(G)(2)(b)(ii) National Fire Protection Association 13, "Standard for the Installation of Sprinkler System" (1999)
National Fire Protection Association 13D, "Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes" (1999)
National Fire Protection Association 13R, "Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height" (1999)

13. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 32. DEPARTMENT OF HEALTH SERVICES

GROUP HOMES FOR INDIVIDUALS WHO ARE DEVELOPMENTALLY DISABLED

ARTICLE 1. LICENSURE REQUIREMENTS

<u>R9-32-101.</u>	<u>Definitions</u>
<u>R9-32-102.</u>	<u>Requirement for Licensure</u>
<u>R9-32-103.</u>	<u>Application and Issuance of License</u>
<u>R9-32-104.</u>	<u>License Renewal</u>
<u>R9-32-105.</u>	<u>Changes Affecting a License</u>
<u>R9-32-106.</u>	<u>Investigation of Complaints</u>
<u>R9-32-107.</u>	<u>Denial, Revocation, or Suspension of a License</u>

ARTICLE 2. GROUP HOME REQUIREMENTS

<u>R9-32-201.</u>	<u>Emergency Procedures and Evacuation Drills</u>
<u>R9-32-202.</u>	<u>Fire Safety Requirements</u>
<u>R9-32-203.</u>	<u>Safe and Functioning Systems</u>
<u>R9-32-204.</u>	<u>Clean and Sanitary Conditions</u>
<u>R9-32-205.</u>	<u>Vehicle Safety</u>
<u>R9-32-206.</u>	<u>Hazards and Dangers</u>

ARTICLE 1. LICENSURE REQUIREMENTS

R9-32-101. **Definitions**

The following definitions apply in this Chapter unless otherwise specified:

1. "Accredited" means accredited by a nationally recognized accreditation organization.
2. "Applicant" means the following if requesting a group home license:
 - a. An individual, if a sole proprietorship;
 - b. Any 2 of the corporation's officers, if a corporation;
 - c. The managing partner, if a partnership or limited liability partnership; or
 - d. The designated manager, or if no manager is designated, any 2 members of a limited liability company, if a limited liability company.
3. "Application packet" means the forms, documents, and additional information the Department requires to be submitted by an applicant.
4. "Day" means a calendar day.
5. "Department" means the Arizona Department of Health Services.
6. "Developmental disability" means the same as defined in A.R.S. § 36-551.
7. "Division" means the Division of Developmental Disabilities in the Arizona Department of Economic Security.
8. "Documentation" means written supportive evidence.
9. "Facility" means a building or buildings used as a group home.
10. "Fire risk profile" means a written instrument, prescribed by the Division, that represents the residents' ability to evacuate a group home.
11. "Group home" means a residential setting for not more than six persons with developmental disabilities that is operated by a service provider under contract with the division and that provides, in a shared living environment, room and board and daily habilitation. Group home does not include an adult developmental home, a child developmental foster home, secure setting or an intermediate care facility for the mentally retarded.
12. "Habilitation" means the process by which an individual is assisted to acquire and maintain those life skills which enable the person to cope more effectively with the demands of his person and environment and to raise the level of his physical, mental and social efficiency.
13. "Hazard" means a condition or situation where a resident may suffer physical injury.
14. "Licensee" means the individual, partnership, or corporation approved by the Department to operate a group home.
15. "Premises" means:
 - a. A facility; and

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. The grounds surrounding a facility used for operating a group home that are owned, leased, or controlled by the licensee.
- 16. “Private pool” means the same as defined in A.A.C. R9-8-811(J).
- 17. “Resident” means an individual who is receiving services from the Division.
- 18. “Self preservation” means the ability of a resident to evacuate a facility in 3 minutes or less without verbal or physical assistance.
- 19. “Service provider” means a person or agency that provides services to clients pursuant to a contract or service agreement with the division.
- 20. “Staff” or “staff member” means an employee of a group home.
- 21. “Supervision” means the process by which the activities of an individual with developmental disabilities are directed, influenced or monitored.

R9-32-102. Requirement for Licensure

An applicant shall obtain a license to operate a group home from the Department before providing supervision or habilitation to an individual with a developmental disability. A license to operate a group home is valid for the:

- 1. Address indicated on the license;
- 2. Name of the licensee indicated on the license; and
- 3. Period of time indicated on the license.

R9-32-103. Application and Issuance of License

A. At least 60 days before the anticipated date of opening a group home, an applicant shall submit to the Department a completed application packet that contains:

- 1. An application form provided by the Department contains:
 - a. The name, address, telephone number, fax number, and e-mail address, if applicable, of the applicant;
 - b. The name, address, telephone number, fax number, and e-mail address, if applicable, of the proposed group home;
 - c. Whether or not the proposed group home is accredited by a nationally recognized accreditation organization;
 - d. Whether the applicant is a current service provider or intends to become a service provider; and
 - e. The signature of the applicant; and
- 2. A copy of each accreditation report issued by a nationally recognized accreditation organization, if applicable.

B. To ensure compliance with state laws, rules, or local ordinances, an applicant or licensee shall ensure that an official of the Department is allowed immediate access to the premises, a resident, record, or vehicle used to transport a resident, according to A.R.S. § 41-1009.

C. For Department licensure of a group home:

- 1. The overall time-frame described in A.R.S. § 41-1072(2) is 120 days. The applicant and the Department may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame;
- 2. The administrative completeness review described in A.R.S. § 41-1072(1) is 60 days and begins on the date the Department receives an application packet;
 - a. If any of the documents are missing or if information on the documents is deficient, 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 60 day time-frame for the Department to finish the administrative completeness review is suspended from the date the Department provides the notice of incompleteness to the applicant until the date the Department receives the required information or missing document;
 - b. If all of the documents are submitted and the information on the documents is complete, the Department shall provide a written notice of administrative completeness to the applicant. The notice shall include the date and time of the Department’s inspection of the group home;
 - c. If the missing or deficient documents or information are not submitted within 120 days from the date of notice of incompleteness, the Department shall consider the application withdrawn;
 - d. If the Department grants a license during the time provided to assess administrative completeness, the Department shall not issue a separate notice of administrative completeness;
- 3. The substantive review time-frame described in A.R.S. § 41-1072(3) is 60 days and begins on the date the Department provides written notice of administrative completeness to the applicant;
 - a. As part of the substantive review, the Department shall conduct an onsite inspection of a group home;
 - b. During the substantive review time-frame, the Department may make 1 comprehensive written request for additional information or documents;
 - c. The time-frame for the Department to complete the substantive review is suspended from the postmark date of the comprehensive written request until the Department receives the additional information or documents;

Arizona Administrative Register
Notices of Proposed Rulemaking

- d. The applicant shall submit to the Department the information or documents identified in the comprehensive written request within 30 days of receipt of the comprehensive written request;
- e. If an applicant meets the requirements of this Section and Chapter, the Department shall issue to the applicant:
 - i. A 2 year regular license to operate a group home; or
 - ii. If the applicant is accredited, a regular license to operate a group home for the duration of the accreditation period, not to exceed 3 years;
- f. The Department shall provide the applicant with a written notice of denial if:
 - i. The applicant does not submit the additional information or documents within the time-frame in subsection (C)(3)(d); or
 - ii. Upon receipt of the additional information or documents from the applicant, the Department determines that the applicant does not meet the requirements of this Section and Chapter; and
- g. An applicant may appeal the Department's determination according to A.R.S. Title 41, Chapter 6.

R9-32-104. License Renewal

A. A licensee shall submit to the Department a completed application for renewal of a license to operate a group home at least 60 days before the expiration date indicated on the license. An application shall contain the information in R9-32-103(A).

B. The Department shall renew a regular license to operate a group home according to the time-frames in R9-32-103(C).

R9-32-105. Changes Affecting a License

A licensee shall notify the Department in writing at least 30 days before the effective date of termination of:

- 1. Operation of a group home; or
- 2. A service provider contract with the Division.

R9-32-106. Investigation of Complaints

Upon receipt of a complaint or where there is a reasonable cause to believe that a group home is not in compliance with the Department's applicable laws and rules, the Department shall:

- 1. Investigate a complaint within 10 days of receipt of the complaint;
- 2. Develop a written report that:
 - a. Indicates whether the complaint was substantiated;
 - b. Identifies the law or rule that the licensee was not in compliance with, if applicable;
 - c. Contains a plan of correction, acceptable to the Department, for the correction of a deficiency; and
 - d. Contains the signature of the licensee, indicating that the licensee agrees to carry out the plan of correction;
- 3. Provide the licensee with the written report in subsection (2); and
- 4. Notify the Division of the outcome of the investigation.

R9-32-107. Denial, Revocation, or Suspension of a License

A. The Department may deny, revoke, or suspend a license to operate a group home if:

- 1. An applicant or licensee does not meet the application requirements contained in R9-32-103;
- 2. A licensee is not a current service provider;
- 3. A licensee does not correct the deficiencies according to the plan of correction contained in R9-32-106 within a reasonable time according to A.R.S. § 41-1009(F); or
- 4. The nature and number of violations revealed by any type of inspection or investigation of a group home pose a direct risk to the life, health, or safety of a resident.

B. An applicant or licensee may appeal the Department's determination in subsection (A) according to A.R.S. Title 41, Chapter 6, Article 10.

C. The Department shall immediately notify the Division when a license to operate a group home is denied, suspended, or revoked.

ARTICLE 2. GROUP HOME REQUIREMENTS

R9-32-201. Emergency Procedures and Evacuation Drills

A. A licensee shall ensure that a written plan for emergencies is developed and implemented. The plan shall:

- 1. Include:
 - a. Procedures for staff to implement in the event of fire, when a resident is missing from the premises, and for severe weather conditions;
 - b. Routes of evacuation, location of firefighting equipment, and evacuation devices identified on a floor plan of the facility;
 - c. Instructions on the use of fire alarm systems, firefighting equipment, and evacuation devices;
 - d. Procedures for evacuating individuals who are not capable of self-preservation; and

Arizona Administrative Register
Notices of Proposed Rulemaking

- e. Procedures for notification of an emergency response team, law enforcement, and the licensee or the licensee's designee; and
- 2. Be available and accessible to staff at the facility.
- B.** A licensee shall ensure that:
 - 1. The facility's street address is posted and visible from the street; or
 - 2. The local emergency response team is notified of the location of the facility in writing at least once every 12 months. The licensee shall make documentation available for review at the facility for at least 2 years from the date of the notification.
- C.** A licensee shall ensure that:
 - 1. An evacuation drill that includes all residents is conducted at least once every 6 months on each shift. The licensee shall make documentation of an evacuation drill available for review at the facility for at least 2 years from the date of the evacuation drill that includes:
 - a. The date and time of the evacuation drill;
 - b. The length of time to evacuate all residents from the facility;
 - c. A description of the evacuation drill; and
 - d. A corrective action plan, if the length of time to evacuate all residents from the facility exceeded 3 minutes;
 - 2. All stairways, hallways, walkways, and other routes of evacuation are free of any obstacle that may prevent evacuation of a resident in an emergency;
 - 3. If a window or door contains locks, bars, grills, or other devices that obstruct evacuation, each device contains a release mechanism that is operable from the inside of the facility and that does not require the use of a key, special knowledge, or special effort; and
 - 4. A facility contains a working telephone that is available and accessible to staff. Current telephone numbers are posted by the telephone for:
 - a. The local fire department;
 - b. The local police department;
 - c. The local emergency medical personnel; and
 - d. 911 or other local emergency response team.

R9-32-202. Fire Safety Requirements

- A.** A licensee shall ensure that the facility is in compliance with all applicable state and local fire safety regulations and that:
 - 1. A fire inspection is conducted at least once every 12 months by the local fire department, the Department, or an entity authorized by the Department;
 - 2. Any repair or correction stated on the fire inspection report is made or corrected; and
 - 3. The fire inspection report is available for review at the facility for at least 2 years from the date of the inspection.
- B.** A licensee shall ensure that a working, portable, all-purpose fire extinguisher with at least a 2A-10-BC rating by the Underwriter's Laboratories as described in Publication 10 of the National Fire Code, incorporated by reference in A.A.C. R9-1-412, is installed and maintained in the facility as prescribed by the manufacturer or the fire authority having jurisdiction. A licensee shall ensure that a fire extinguisher is:
 - 1. Serviced at least once every 12 months or as recommended by the manufacturer; and
 - 2. Tagged specifying:
 - a. The date of purchase or the date of recharging, whichever is more recent; and
 - b. The name of the organization performing the work, if applicable.
- C.** A licensee shall ensure that smoke detectors are working, capable of alerting all residents in the facility, installed according to the manufacturer's instructions, and located in at least the following areas:
 - 1. Each bedroom;
 - 2. Each room or hallway adjacent to a bedroom, except a bathroom or a laundry room; and
 - 3. Each room or hallway adjacent to the kitchen, except a bathroom, a pantry, or a laundry room.
- D.** A licensee shall ensure that each bedroom has at least 1 openable window or door to the outside for use as an emergency exit.
- E.** A licensee shall ensure that:
 - 1. A usable fireplace is covered by a protective screen or covering at all times; and
 - 2. Combustible or flammable materials are not stored within 3 feet of a furnace, heater, or water heater.
- F.** If, based upon the results of a fire risk profile, the Division determines that the group home requires additional mechanisms to ensure the safe evacuation of residents, a licensee shall ensure that:
 - 1. The facility contains an emergency lighting system that:
 - a. Works without in-house electrical power;
 - b. Is installed in the path of egress;
 - c. Is inspected at least once every 12 months by the manufacturer or an entity that installs and repairs emergency lighting systems; and

Arizona Administrative Register
Notices of Proposed Rulemaking

- d. Documentation of an inspection is available for review at the facility for 2 years from the date of the inspection and includes:
 - i. The date of the inspection;
 - ii. The name of the entity performing the inspection;
 - iii. A tag on the system or a written report of the results of the inspection; and
 - iv. A description of any repairs made to the system; and
- 2. The facility contains 1 of the following:
 - a. At least 2 staff members on duty at the facility at all times and the facility has an early-warning fire detection system that:
 - i. Is hard wired with battery back-up;
 - ii. Sounds every alarm in the facility when smoke is detected;
 - iii. Is installed in each bedroom, each room or each hallway adjacent to a bedroom, and each room or each hallway adjacent to the kitchen; and
 - iv. Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs early-warning fire detection systems. Documentation of the inspection is available at the facility for review for at least 2 years from the date of the inspection and includes the information in subsection (F)(1)(d); or
 - b. An automatic sprinkler system that:
 - i. Is installed according to NFPA 13, NFPA 13R, or NFPA 13D, as applicable and which are incorporated by reference, on file with the Department and the Office of the Secretary of State, and available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101. This incorporation by reference contains no future editions or amendments;
 - ii. Covers every room in the facility; and
 - iii. Is inspected at least once every 12 months. Documentation of the inspection is available at the facility for review for at least 2 years from the date of the inspection and includes the information in subsection (F)(1)(d).

R9-32-203. Safe and Functioning Systems

- A.** A licensee shall ensure that:
 - 1. A method of heating and cooling maintains the facility between 65° and 85° F. in areas of the facility occupied by residents;
 - 2. Ventilation is provided by an openable window, air conditioning, or other mechanical device;
 - 3. Working, safe appliances for cooling and cooking food are provided in the facility; and
 - 4. Hot water temperatures in the facility are maintained between 95 ° F. and 120° F.
- B.** A licensee shall ensure that:
 - 1. Electrical lighting is contained in each room in the facility; and
 - 2. Electrical equipment in the facility is safe and in working order.
- C.** A licensee shall ensure that:
 - 1. A facility contains a safe, working plumbing and sewage disposal system;
 - 2. If a non-municipal sewage system is used, the sewage system is in working order and free of visible leakage; and
 - 3. Water is standing only in an area designated to hold standing water.

R9-32-204. Clean and Sanitary Conditions

- A.** A licensee shall ensure that a facility is free of accumulations of garbage or refuse. Garbage and refuse is:
 - 1. Stored in cleanable containers with lids or in sealed disposable plastic containers; and
 - 2. Removed from the facility at least once every 7 days.
- B.** A licensee shall ensure that a facility is:
 - 1. In good repair or has an on-going system to ensure repairs are made and that the facility does not contain a hazard;
 - 2. Clean so that a condition in the facility is not a hazard;
 - 3. Free of odors, such as urine or rotting food;
 - 4. Free of any object, equipment, or condition that may be a hazard; and
 - 5. Free of insects and rodents or has an on-going system to eliminate insects or rodents from the facility.

R9-32-205. Vehicle Safety

- A.** A licensee shall ensure that a vehicle used to transport a resident:
 - 1. Is maintained in safe and working order;
 - 2. Has a record of each maintenance or repair that is maintained in the vehicle or available for review at the facility for at least 2 years from the date of the repair; and
 - 3. Is equipped with:
 - a. A working heating and air conditioning system;
 - b. A first aid kit that meets the requirements in R9-32-206(A)(8);

Arizona Administrative Register
Notices of Proposed Rulemaking

- c. Working seat belts for the driver and each passenger; and
- d. Floor mounted seat belts and wheel chair lock down devices for each wheel chair transported, if the vehicle is used to transport a passenger in a wheelchair.

B. A licensee shall ensure that documentation of the requirements in subsection (A) is completed at least once every 6 months on a vehicle used to transport a resident and that the documentation is maintained in the vehicle or available for review at the facility for at least 2 years from the date of the vehicle inspection.

R9-32-206. Hazards and Dangers

A. A licensee shall ensure that:

- 1. Ramps, stairs, or steps have slip resistant surfaces;
- 2. If handrails and grab bars are installed in a facility, handrails and grab bars are securely attached and stationary;
- 3. Fire arms or ammunition are not maintained at the facility;
- 4. The facility does not contain, unprotected wells, ditches, or holes where an individual may step or fall into;
- 5. Cleaning compounds and toxic substances are maintained in labeled containers and stored to prevent a hazard;
- 6. Bathtubs and showers contain slip resistant strips, rubber bath mats, or slip resistant surfaces;
- 7. Unused furniture, equipment, or devices are removed from the facility or maintained in a covered area on the premises that is designated by the licensee for storage; and
- 8. A facility contains a first aid kit that has the following items in a quantity sufficient to meet the resident's needs:
 - a. Adhesive strip bandages;
 - b. Sterile, individually wrapped gauze squares;
 - c. Rolled gauze;
 - d. Adhesive tape;
 - e. Individually wrapped non-stick sterile pads;
 - f. A triangle bandage for use as a sling;
 - g. Disposable gloves;
 - h. Scissors;
 - i. Tweezers; and
 - j. A cardiopulmonary resuscitation mouth guard or mouth shield.

B. A licensee shall ensure that a private swimming pool meets the following requirements unless the Division provides to the Department, at the time of initial licensure and renewal, written documentation indicating that, based upon an inspection by the Division, the swimming pool is safe, based upon the functional level of the residents. A swimming pool:

- 1. Is surrounded by a fence or enclosure that:
 - a. Is at least 5 feet high;
 - b. Is free of an opening that exceeds 4 inches. A chain link or wire mesh fence, other than chicken wire, may be used if the openings do not exceed 1 and 3/4 inches;
 - c. Is free of openings for handholds or footholds on the exterior of the fence or enclosure;
 - d. Is at least 20 inches from the edge of the swimming pool; and
 - e. Has self-closing, self-latching gates that open out from the swimming pool and that are locked when the swimming pool is not in use;
- 2. Is located at least 54 inches from the exterior wall of the facility to allow egress without entering the swimming pool area;
- 3. Is not located in the path of an emergency exit; and
- 4. Area contains:
 - a. A shepherd's crook that is attached to its own pole; and
 - b. A ring buoy with a rope attached. The rope is at least 10 feet long plus the distance from the edge to the middle of the pool.

C. A licensee shall ensure that a private spa or hot tub that is not enclosed by a fence described in subsection (B) is covered and locked to prevent access by a resident.