

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 2. ADMINISTRATION

CHAPTER 14. OFFICE OF THE SECRETARY OF STATE – UNIFORM COMMERCIAL CODE

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 1	New Article
R2-14-101	New Section
R2-14-106	New Section
R2-14-107	New Section
R2-14-108	New Section
R2-14-111	New Section
R2-14-112	New Section
R2-14-113	New Section
R2-14-114	New Section
R2-14-116	New Section
Article 2	New Article
R2-14-201	New Section
R2-14-202	New Section
R2-14-205	New Section
R2-14-207	New Section
R2-14-208	New Section
Article 3	New Article
R2-14-301	New Section
R2-14-302	New Section
R2-14-303	New Section
R2-14-304	New Section
R2-14-305	New Section
R2-14-306	New Section
R2-14-307	New Section
R2-14-308	New Section
R2-14-309	New Section
R2-14-310	New Section
R2-14-311	New Section
R2-14-312	New Section
R2-14-313	New Section
R2-14-340	New Section
Article 4	New Article
R2-14-405	New Section
R2-14-406	New Section
R2-14-417	New Section
Article 5	New Article

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R2-14-501	New Section
R2-14-502	New Section
R2-14-503	New Section
R2-14-504	New Section
Article 6	New Article
R2-14-601	New Section
R2-14-602	New Section
R2-14-603	New Section
R2-14-604	New Section

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

Authorizing statute: A.R.S. § 47-9526

Implementing statute: Title 47, Article 9 of the Uniform Commercial Code, effective July 1, 2001

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

Notice of Rulemaking Docket Opening: 7A.A.R. 1319, March 23, 2001

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

Name: Connie Copeland
Director of Business Services

Address: Office of the Secretary of State
Business Services Division
1700 West Washington, 7th Floor
Phoenix, Arizona 85007

Telephone: (602) 542-5561

Fax: (602) 542-7386

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

In accordance with A.R.S. § 47-9526, the Secretary of State shall adopt rules to implement revisions to Title 47, Article 9 of the Uniform Commercial Code, effective July 1, 2001, and pursuant to Title 41, Chapter 6.

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

Model Rules as promulgated by International Association of Corporation Administrators.

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:

Statutorily imposed by A.R.S. § 47-9526. The Uniform Commercial Code is a model statute promulgated by the American Law Institute and the National Conference of Commissioner's on Uniform State Laws with the purpose of achieving uniformity in commercial law throughout the United States.

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: Connie Copeland
Director of Business Services

Address: Office of the Secretary of State
Business Services Division
1700 West Washington, 7th Floor
Phoenix, Arizona 85007

Telephone: (602) 542-5561

Fax: (602) 542-7386

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

A public hearing will be held Thursday, May 3, 2001, from 9 a.m. to 11 a.m. in the conference room of the Secretary of State, 1700 West Washington, 7th floor, Phoenix, AZ 85007.

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. Incorporation by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

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CHAPTER 14. OFFICE OF THE SECRETARY OF STATE - UNIFORM COMMERCIAL CODE

ARTICLE 1. GENERAL PROVISIONS

Section

<u>R2-14-101.</u>	<u>Definitions</u>
<u>R2-14-102.</u>	<u>Reserved</u>
<u>R2-14-103.</u>	<u>Reserved</u>
<u>R2-14-104.</u>	<u>Reserved</u>
<u>R2-14-105.</u>	<u>Reserved</u>
<u>R2-14-106.</u>	<u>Delivery Methods</u>
<u>R2-14-107.</u>	<u>Search request delivery</u>
<u>R2-14-108.</u>	<u>Filing Forms</u>
<u>R2-14-109.</u>	<u>Reserved</u>
<u>R2-14-110.</u>	<u>Reserved</u>
<u>R2-14-111.</u>	<u>Filing fees</u>
<u>R2-14-112.</u>	<u>Expedited services</u>
<u>R2-14-113.</u>	<u>Payment Methods</u>
<u>R2-14-114.</u>	<u>Overpayment and underpayment policies</u>
<u>R2-14-115.</u>	<u>Reserved</u>
<u>R2-14-116.</u>	<u>Fees for public records services</u>

ARTICLE 2. ACCEPTANCE AND REFUSAL FOR RECORDS

Section

<u>R2-14-201.</u>	<u>Role of filing officer</u>
<u>R2-14-202.</u>	<u>Grounds for refusal</u>
<u>R2-14-203.</u>	<u>Reserved</u>
<u>R2-14-204.</u>	<u>Reserved</u>
<u>R2-14-205.</u>	<u>Procedure upon refusal</u>
<u>R2-14-206.</u>	<u>Reserved</u>
<u>R2-14-207.</u>	<u>Notification of defects</u>
<u>R2-14-208.</u>	<u>Refusal errors</u>

ARTICLE 3. UCC INFORMATION MANAGEMENT SYSTEM

Section

<u>R2-14-301.</u>	<u>Primary data elements</u>
<u>R2-14-302.</u>	<u>Names of debtors or a secured party who are individuals</u>
<u>R2-14-303.</u>	<u>Names of debtors or a secured party that are organizations</u>
<u>R2-14-304.</u>	<u>Estates</u>
<u>R2-14-305.</u>	<u>Trusts</u>
<u>R2-14-306.</u>	<u>Initial financing statement</u>
<u>R2-14-307.</u>	<u>Amendment</u>
<u>R2-14-308.</u>	<u>Assignment of powers of secured party of record</u>
<u>R2-14-309.</u>	<u>Continuation</u>

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<u>R2-14-310.</u>	<u>Termination</u>
<u>R2-14-311.</u>	<u>Correction statement</u>
<u>R2-14-312.</u>	<u>Procedure upon lapse</u>
<u>R2-14-313.</u>	<u>Transitional Information</u>
<u>R2-14-314.</u>	<u>Reserved</u>
<u>R2-14-315.</u>	<u>Reserved</u>
<u>R2-14-316.</u>	<u>Reserved</u>
<u>R2-14-317.</u>	<u>Reserved</u>
<u>R2-14-318.</u>	<u>Reserved</u>
<u>R2-14-319.</u>	<u>Reserved</u>
<u>R2-14-320.</u>	<u>Reserved</u>
<u>R2-14-321.</u>	<u>Reserved</u>
<u>R2-14-322.</u>	<u>Reserved</u>
<u>R2-14-323.</u>	<u>Reserved</u>
<u>R2-14-324.</u>	<u>Reserved</u>
<u>R2-14-325.</u>	<u>Reserved</u>
<u>R2-14-326.</u>	<u>Reserved</u>
<u>R2-14-327.</u>	<u>Reserved</u>
<u>R2-14-328.</u>	<u>Reserved</u>
<u>R2-14-329.</u>	<u>Reserved</u>
<u>R2-14-330.</u>	<u>Reserved</u>
<u>R2-14-331.</u>	<u>Reserved</u>
<u>R2-14-332.</u>	<u>Reserved</u>
<u>R2-14-333.</u>	<u>Reserved</u>
<u>R2-14-334.</u>	<u>Reserved</u>
<u>R2-14-335.</u>	<u>Reserved</u>
<u>R2-14-336.</u>	<u>Reserved</u>
<u>R2-14-337.</u>	<u>Reserved</u>
<u>R2-14-338.</u>	<u>Reserved</u>
<u>R2-14-339.</u>	<u>Reserved</u>
<u>R2-14-340.</u>	<u>Electronic Filing Records</u>

ARTICLE 4. FILING AND DATA ENTRY PROCEDURES

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<u>R2-14-404.</u>	<u>Reserved</u>
<u>R2-14-405.</u>	<u>Errors of the filing officer</u>
<u>R2-14-406.</u>	<u>Master Amendment (Global filings)</u>
<u>R2-14-407.</u>	<u>Reserved</u>
<u>R2-14-408.</u>	<u>Reserved</u>
<u>R2-14-409.</u>	<u>Reserved</u>
<u>R2-14-410.</u>	<u>Reserved</u>
<u>R2-14-411.</u>	<u>Reserved</u>
<u>R2-14-412.</u>	<u>Reserved</u>
<u>R2-14-413.</u>	<u>Reserved</u>
<u>R2-14-414.</u>	<u>Reserved</u>
<u>R2-14-415.</u>	<u>Reserved</u>
<u>R2-14-416.</u>	<u>Reserved</u>
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ARTICLE 5. SEARCH REQUESTS AND REPORTS

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<u>R2-14-501.</u>	<u>Search requests</u>
<u>R2-14-502.</u>	<u>Rules applied to search requests</u>
<u>R2-14-503.</u>	<u>Optional information</u>
<u>R2-14-504.</u>	<u>Search responses</u>

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ARTICLE 6. OTHER NOTICES OF LIENS

Section

<u>R2-14-601.</u>	<u>Notice of federal tax lien</u>
<u>R2-14-602.</u>	<u>Notice of state tax lien</u>
<u>R2-14-603.</u>	<u>Notice of other lien in favor of a governmental body</u>
<u>R2-14-604.</u>	<u>Agricultural liens</u>

ARTICLE 1. GENERAL PROVISIONS

R2-14-101. **Definitions**

- A.** “Amendment” means a UCC record that amends the information contained in a financing statement. Amendments include assignments, continuations and terminations.
- B.** “Assignment” is an amendment that assigns all or a part of a secured party’s power to authorize an amendment to a financing statement.
- C.** “Continuation statement” shall have the meaning prescribed by 47-9102.
- D.** “Correction statement” means a UCC record that indicates that a financing statement is inaccurate or wrongfully filed.
- E.** “Electronic Filing record” means a UCC record transmitted from a remitter to the filing officer by Electronic Filing techniques authorized under this Chapter.
- F.** “File number” shall have the meaning prescribed by 47-9519(b).
- G.** “Filing office” and “filing officer” mean the Office of the Secretary of State.
- H.** “Filing Officer statement” means a statement entered into the filing office’s information system to correct an error by the filing office.
- I.** “Financing statement” shall have the meaning prescribed by 47-9102.
- J.** “Individual” means a human being, or a decedent in the case of a debtor that is such decedent’s estate.
- K.** “Initial financing statement” means a UCC record containing the information required to be in an initial financing statement and that causes the filing office to establish the initial record of existence of a financing statement.
- L.** “Organization” means a legal person who is not an individual.
- M.** “Remitter” means a person who tenders a UCC record to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the record for filing. “Remitter” does not include a person responsible merely for the delivery of the record to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer’s representative in the filing process.
- N.** “Secured party of record” shall have the meaning prescribed by 47-9511.
- O.** “Termination statement” shall have the meaning prescribed by 47-9102.
- P.** “UCC” means the Uniform Commercial Code as adopted in this state.
- Q.** “UCC record” means an initial financing statement, an amendment, an assignment, a continuation, a termination or a correction statement and shall not be deemed to refer exclusively to paper or paper-based writings.
- R.** “XML” means Extensible Markup Language for browser based technologies.

R2-14-106. **Delivery Methods**

UCC records may be tendered for filing at the filing office as follows:

- 1.** Personal delivery, at the filing office’s street address. The file time for a UCC record delivered by this method is when delivery of the UCC record is accepted by the filing office pursuant to Section 47-9516. (even though the UCC record may not yet have been accepted for filing and subsequently may be rejected).
- 2.** Postal or courier service delivery of more than 5 UCC records, to the filing office’s mailing address. The file time for a UCC record delivered by this method is no later than the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected). A UCC record delivered after regular business hours or on a day the filing office is not open for business will have a filing time no later than the close of business on the next day the filing office is open for business.
- 3.** Telefacsimile delivery, to the filing office’s fax filing telephone number. The file time for a UCC record delivered by this method before 3:00 P.M. is, notwithstanding the time of delivery, no later than the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected.) A UCC record delivered after 3:00 P.M. or on a day the filing office is not open for business, will have a filing time no later than the close of business on the next day the filing office is open for business.

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- a. Entities, who establish a pre-paid account pursuant to A.R.S. § 35-149 and A.R.S. § 35-142 (A) with the filing office and maintain a minimum deposit of \$25 in their account, may request to file Uniform Commercial Code filings by facsimile (fax). The applicant will submit a complete application form for a pre-paid account prescribed by the filing office signed by an authorized representative of the applicant. The application will include the following information, but not necessarily in this order: account name, account street address, contact person, phone number for the contact person, and the mailing address for the monthly statement. Attached to the application form shall be a list of each person who will file on this account and a specific facsimile number from which each registered filer will send and receive facsimiles. The facsimile filing services commonly referred to as the fax filing service will be available for initial financing statements (UCC-1) and applicable subsequent filing statements (UCC-2).
 - b. Upon approval of the application form, the filing office will assign a pre-paid account number and a separate identifying number to each individual filer on the same pre-paid account. The prepaid account number and the identifying number will be used in conjunction on the fax filing transmittal form to identify the account and the individual submitting a record for filing. A transmittal form prescribed by the filing office will include the following information, not necessarily in that order, the total number of pages included in the filing excluding the transmittal form; the pre-paid account number, the identifying number, the account name, account phone number, the contact person, the fax number from which the fax originated; and the type of UCC and number of UCC requests contained in the fax.
 - c. Uniform Commercial Code records approved and received by fax will receive a return fax from the filing office indicating that the record has been accepted for filing or was rejected. Uniform Commercial Code fax filings accepted for filing will receive a date, time, and file number. UCC-2 fax filings accepted for filing will receive a date and time stamp only.
 - d. Fax filings must meet the requirements of the Arizona Uniform Commercial Code, Arizona Revised Statutes, Title 47. Fax filings will also be rejected for filing should any of the following reasons occur during transmission:
 - i. The fax was not sent in 200 x 200-dpi "fine" resolution mode.
 - ii. Page count does not match pages received excluding the transmittal cover sheet form.
 - iii. Records were skewed or in other ways of low quality.
 - iv. Pre-Paid Account/identifying number information is incorrect, out of date, or otherwise invalid.
 - v. Pre-Paid Account does not include sufficient funds to process the filing.
 - vi. Requests included in the filing do not match number/type or requests specified on the transmittal form.
 - vii. All filings must use standard UCC forms on 8 1/2 by 11-inch paper.
 - viii. The filing office is unable to read or decipher the information on the UCC form without regard to the person or entity that is responsible for the record being unreadable or indecipherable.
 - ix. Each fax filing will be sent a confirmation or rejection by facsimile from the filing office. It is the responsibility of the filer to check for confirmation of the filing or rejection of the filing and to maintain those receipts for their records. All charges for faxed filings will be itemized on monthly statements.
4. Electronic filing. UCC records, excluding correction statements and filing officer statements, may be transmitted electronically to the filing office. Electronic filing includes, but is not limited to, using the XML standard promulgated by the International Association of Corporation Administrators and on-line entry when such services are authorized by the filing office. The file time for a UCC record delivered by these methods are the time that the filing office's electronic agent analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.

R2-14-107. Search request delivery

UCC search requests may be delivered to the filing office by any of the means by which UCC records may be delivered to the filing office except telefacsimile delivery. A search request for a debtor named on an initial financing statement may be made on the initial financing statement form if the form is accepted and the relevant search fee is also tendered. Search requests shall be processed within five business days of delivery.

R2-14-108. Filing Forms

- A.** The forms prescribed by 47-9521, or the forms that supersedes the prescribed forms as adopted by IACA, shall be accepted by the filing office.
- B.** Upon adoption of a revised form, the filing office shall accepted the superseded form no longer than 6 months from date of adoption.
- C.** Forms previously approved for use in the filing office shall be accepted in absence of a correct form identified in subsections (A) or (B) during a grace period until August 1, 2001.
 1. The UCC record will be indexed using rule R2-14-313 for transitional information.

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2. The filing officer shall return the indexed UCC record with an indication of how the debtor and secured party names were identified into designated fields.
3. Notification of defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness based on accepting and identifying names during this grace period.

R2-14-111. Filing fees

- A.** Filing fee. The fee for filing and indexing a UCC record of one or two pages communicated on paper or in a paper-based format (including taxes) is \$9.00. The fee for filing and indexing a UCC record communicated by a medium authorized by these rules which is other than a paper-based format shall be \$7.00.
- B.** UCC search fee. The fee for a UCC search request communicated on paper or in a paper-based format (including taxes) is \$9.00. The fee for filing and indexing a UCC search request communicated by a medium authorized by these rules which is other than a paper-based format shall be \$7.00.
- C.** UCC search -- copies. The fee for UCC search copies in a paper based format is \$0.10 per page (or page storage equivalent for electronically transmitted search responses).

R2-14-112. Expedited services

- A.** Description of expedited service and fee.
 1. Acceptance and Refusal Process. If presented within reasonable time before close of business, the filing officer shall accept and complete the expedited service at the time of request.
 2. Responding to UCC search request. If presented within reasonable time before close of business, the filing officer shall accept and complete the expedited service at the time of request.
- B.** How to request expedited service.
 1. Acceptance and Refusal Process. Request for expedite shall accompany UCC record to be filed and presented with the appropriate fee.
 2. Responding to UCC search request. Request for expedite shall accompany UCC record to be filed and presented with the appropriate fee.

R2-14-113. Payment Methods

Filing fees and fees for public records services may be paid by the following methods:

1. Cash. Payment in cash shall be accepted if paid in person at the filing office.
2. Checks. Personal checks, cashier's checks and money orders made payable to the filing office shall be accepted for payment if they drawn on a bank acceptable to the filing office or if the drawer is acceptable to the filing office.
3. Prepaid account. A remitter may open an account for prepayment of fees by submitting an application prescribed by the filing officer and prepaying an amount not less than \$25.00. The filing officer shall issue an account number to be used by a remitter who chooses to pay fees by this method. The filing officer shall deduct filing fees from the remitter's prepaid account when authorized to do so by the remitter. Terms and conditions for use of the prepaid account shall be outlined in the application as prescribed by the filing officer.
4. Electronic funds transfer (if and when operational). The filing office may accept payment via electronic funds transfer under National Automated Clearing House Association ("NACHA") rules from remitters who have entered into appropriate NACHA-approved arrangements for such transfers and who authorize the relevant transfer pursuant to such arrangements and rules. This provision is subject to the master banking contract as entered into by the state treasurer.
5. Debit cards. The filing office may accept payment by debit cards issued by approved issuers (if and when operational). Remitters shall provide the filing officer with the card number, the expiration date of the card, the name of the card issuer, the name of the person or entity to whom the card was issued, the billing address for the card and authorizing confirmation. Payment will not be deemed tendered until the issuer or its agent has confirmed payment. This provision is subject to the master banking contract as entered into by the state treasurer.
6. Credit card. The filing office may accept payments using credit cards issued by approved credit card issuers (if and when operational). Remitters shall provide the filing officer with the card number, the expiration date of the card, the name of the card issuer, the name of the person or entity to whom the card was issued and the billing address for the card. Payment will not be deemed tendered until the issuer or its agent has confirmed payment. This provision is subject to the master banking contract as entered into by the state treasurer.
7. E-Check. The filing office may accept payments using e-check issued by approved e-check issuers (if and when operational). Remitters shall provide the filing officer with the e-check routing number, the date of the e-check, the name of the approved e-check issuer, the name of the person or entity to whom the e-check was issued, the billing address for the e-check and authorizing confirmation. Payment will not be deemed tendered until the issuer or its agent has confirmed payment. This provision is subject to the master banking contract as entered into by the state treasurer.

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R2-14-114. Overpayment and underpayment policies

- A.** Overpayment. The filing officer shall refund the amount of an overpayment exceeding \$3.00 to the remitter. The filing officer shall refund an overpayment of \$3.00 or less only upon the written request of the remitter within 30 calendar days of written notice of overpayment.
- B.** Underpayment. Upon receipt of a record with an insufficient fee, the filing officer shall return the record to the remitter as provided in rule R2-14-205. A refund may be included with the record or delivered under separate cover.
1. Exception to refusal on underpayment for optionally requested service. If the UCC record is presented and the optional request for the filing officer to search on the UCC record's debtor name is intended and the fee tendered is insufficient, in whole or in part, to pay for the additional cost to the UCC filing fee of the requested search fee, then the filing officer shall:
 - a. Note the Fee was insufficient for the search requested.
 - b. File the UCC record as presented.
 - c. Take no action on the search requested, or
 - d. Handle the remainder of the fee tendered as Overpayment.

R2-14-116. Fees for public records services

Fees for public records services are established by the filing office according to appropriate public records law. A description of current fees are available from the filing office's Internet web site.

ARTICLE 2. ACCEPTANCE AND REFUSAL OF RECORDS

R2-14-201. Role of filing officer

The duties and responsibilities of the filing officer with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC record pursuant to these rules, the filing officer does none of the following:

1. Determine the legal sufficiency or insufficiency of a record.
2. Determine that a security interest in collateral exists or does not exist.
3. Determine that information in the record is correct or incorrect, in whole or in part.
4. Create a presumption that information in the record is correct or incorrect, in whole or in part.

R2-14-202. Grounds for refusal

- A.** In addition to the grounds listed in 47-9516 allowing the filing officer to refuse a UCC record, the filing officer shall refuse a UCC record if either:
1. no address is given in the address field for a secured party.
 2. the record contains more than one secured party, assignee name or address and some of those names or addresses are missing or illegible.
- As used in this Chapter, address is deemed to include: street address, city, state and postal code.
- B.** Deadline for filing a continuation statement. The first day on which a continuation may be filed is the date corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse.
- C.** Last day permitted. The last day on which a continuation may be filed is the date upon which the financing statement lapses.
- D.** It is apparent on the face of the UCC record that the UCC record does not evidence a commercial transaction or that the secured party has misrepresented its legal status.
- E.** Record does not comply with rule R2-14-104.

R2-14-205. Procedure upon refusal

If the filing officer finds grounds to refuse a UCC record, the filing officer shall return the record to the remitter and shall refund the filing fee.

R2-14-207. Notification of defects

Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness.

R2-14-208. Refusal errors

The remitter may appeal the filing officer's refusal to file within 10 business days of refusal date.

1. If a secured party or a remitter demonstrates that a UCC record that was refused for filing should not have been, the filing officer shall file the UCC record as provided in these rules with a filing date and time the UCC record was originally tendered for filing.

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2. The filing officer shall file a filing officer correction statement that states the effective date and time of filing and explanation of error on behalf of the filing officer effective the date the error was successfully appealed.

ARTICLE 3. UCC INFORMATION MANAGEMENT SYSTEM

R2-14-301. Primary data elements

The filing officer uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which are still active. The rules in this Section describe the UCC information management system. The primary data elements used in the UCC information management system are the following:

1. Identification number.
 - a. Each initial financing statement is identified by its file number as described in definition. Identification of the initial financing statement is attached to written UCC records or otherwise permanently associated with the record maintained for UCC records in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement.
 - b. A UCC record other than an initial financing statement is identified by a unique file number assigned by the filing officer. In the information management system, records of all UCC records other than initial financing statements are linked to the record of their related initial financing statement.
2. Type of record. The type of UCC record from which data is transferred is identified in the information management system from information supplied by the remitter.
3. Filing date and filing time. The filing date and filing time of UCC records are stored in the information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date.
4. Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC records to the UCC information management system using one or more data entry or transmittal techniques.
5. Status of financing statement. In the information management system, each financing statement has a status of active or inactive. (see rule R2-14-306)
6. Page count. The total number of pages in a UCC record is maintained in the information management system.
7. Lapse indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse.

R2-14-302. Names of debtors or a secured party who are individuals

For the purpose of this rule, "individual" means a human being, or a decedent in the case of a debtor that is such decedent's estate. This rule applies to the name of a debtor or a secured party on a UCC record who is an individual.

1. Individual name fields. The names of individuals are stored identifiable from organizations. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals. A filer should place the name of a debtor with a single name (for example "Cher") in the last name field. The filing officer assumes no responsibility for the accurate designation of the components of a name but will accurately enter the data in accordance with the filer's designations.
2. Titles and prefixes before names. Titles and prefixes, such as "doctor," "reverend," "Mr.," and "Ms.," should not be entered in the UCC information management system. However, the data will be entered in the UCC information management system exactly as it appears in the designated name fields.
3. Titles and suffixes after names. Titles or indications of status such as "M.D." and "esquire" should not be entered in the UCC information management system. Suffixes are not part of an individual's name and should not be provided by filers in UCC records. Suffixes that indicate which individual is being named, such as "senior," "junior," "I," "II," and "III," should be entered in a field designated for name suffixes. In either case, the data will be entered in the UCC information management system exactly as it appears in the designated name fields.
4. Truncation - individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The length of data entry name fields are as follows.
 - a. First name: 50 characters.
 - b. Middle name: 50 characters.
 - c. Last name: 300 characters.
 - d. Suffix: 20 characters.

R2-14-303. Names of debtors or a secured party that are organizations

This rule applies to the name of an organization who is a debtor or a secured party on a UCC record.

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1. Single field. The names of organizations are stored in files that include only the names of organizations and not the names of individuals. A single field is used to store an organization name.
2. Truncation -organization names. The organization name field in the UCC database is fixed in length. The maximum length is 300 characters. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field.

R2-14-304. Estates

Although they are not human beings, estates are treated as if the decedent were the debtor under rule 302.

R2-14-305. Trusts

If the trust is named in its organic record(s), its full legal name, as set forth in such record(s), is used. Such trusts are treated as organizations. If the trust is not so named, the name of the settlor is used. If a settlor is indicated to be an organization, the name is treated as an organization name. If the settlor is an individual, the name is treated as an individual name. A UCC record that uses a settlor's name should include other information provided by the filer to distinguish the debtor trust from other trusts having the same settlor and all financing statements filed against trusts or trustees acting with respect to property held in trust should indicate the nature of the debtor.

R2-14-306. Initial financing statement

Upon the filing of an initial financing statement the status of the parties and the status of the financing statement shall be as follows:

1. Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC record names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record.
2. Status of debtor. The status of a debtor named on the record shall be active and shall continue as active until one year after the financing statement lapses.
3. Status of financing statement. The status of the financing statement shall be active. A lapse date shall be calculated, five years from the file date, unless the initial financing statement indicates that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be thirty years from the file date, or if the initial financing statement indicates that it is filed against a transmitting utility, in which case there shall be no lapse date. A financing statement remains active until one year after it lapses, or if it is indicated to be filed against a transmitting utility, until one year after it is terminated with respect to all secured parties of record.

R2-14-307. Amendment

Upon the filing of an amendment the status of the parties and the status of the financing statement shall be as follows:

1. Status of secured party and debtor. An amendment shall affect the status of its debtor(s) and secured party(ies) as follows:
 - a. Collateral amendment or address change. An amendment that amends only the collateral description or one or more addresses has no affect upon the status of any debtor or secured party. If a statement of amendment is authorized by less than all of the secured parties (or, in the case of an amendment that adds collateral, less than all of the debtors), the statement affects only the interests of each authorizing secured party (or debtor).
 - b. Debtor name change. An amendment that changes a debtor's name has no affect on the status of any debtor or secured party, except that the related initial financing statement and all UCC records that include an identification of such initial financing statement shall be cross-indexed in the UCC information management system so that a search under either the debtor's old name or the debtor's new name will reveal such initial financing statement and such related UCC records. Such a statement of amendment affects only the rights of its authorizing secured party(ies).
 - c. Secured party name change. An amendment that changes the name of a secured party has no effect on the status of any debtor or any secured party, but the new name is added to the index as if it were a new secured party of record.
 - d. Addition of a debtor. An amendment that adds a new debtor name has no effect upon the status of any party to the financing statement, except the new debtor name shall be added as a new debtor on the financing statement. The addition shall affect only the rights of the secured party(ies) authorizing the statement of amendment.
 - e. Addition of a secured party. An amendment that adds a new secured party shall not affect the status of any party to the financing statement, except that the new secured party name shall be added as a new secured party on the financing statement.
 - f. Deletion of a debtor. An amendment that deletes a debtor has no effect on the status of any party to the financing statement, even if the amendment purports to delete all debtors.
 - g. Deletion of a secured party. An amendment that deletes a secured party of record has no effect on the status of any party to the financing statement, even if the amendment purports to delete all secured parties of record.

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2. Status of financing statement. An amendment shall have no effect upon the status of the financing statement, except that a continuation may extend the period of effectiveness of a financing statement.

R2-14-308. Assignment of powers of secured party of record

- A.** Status of the parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party of record.
- B.** Status of financing statement. An assignment shall have no effect upon the status of the financing statement.

R2-14-309. Continuation

- A.** Continuation of lapse date. Upon the timely filing of one or more continuations by any secured party(ies) of record, the lapse date of the financing statement shall be postponed for five years.
- B.** Status of parties. The filing of a continuation shall have no effect upon the status of any party to the financing statement.
- C.** Status of financing statement. Upon the filing of a continuation statement, the status of the financing statement remains active.

R2-14-310. Termination

- A.** Status of parties. The filing of a termination shall have no effect upon the status of any party to the financing statement.
- B.** Status of financing statement. A termination shall have no effect upon the status of the financing statement and the financing statement shall remain active in the information management system until one year after it lapses, unless the termination relates to a financing statement that indicates it is filed against a transmitting utility, in which case the financing statement will become inactive one year after it is terminated with respect to all secured parties of record.

R2-14-311. Correction statement

- A.** Status of parties. The filing of a correction statement shall have no effect upon the status of any party to the financing statement.
- B.** Status of financing statement. A correction statement shall have no effect upon the status of the financing statement.

R2-14-312. Procedure upon lapse

If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office. On the first anniversary of such lapse date, the information management system renders or is caused to render the financing statement inactive and the financing statement will no longer be made available to a searcher unless inactive statements are requested by the searcher and the financing statement is still retrievable by the information management system.

R2-14-313. Transitional Information

UCC records already contained within the UCC Information Management System. A UCC record that is an initial financing statement or an amendment that exists in the UCC Information Management System prior to July 1, 2001 and fails to specify whether the debtor is an individual or an organization shall be converted into the new UCC Information Management System. The rules outlined below reflect the data entry of the information of the filing office over the past six years. A logic algorithm based on the data entry procedures of past will be used to convert the data. The algorithm is explained in the following rules.

1. Identification of organizations. The classification of a name as an organization has been based on the filing officer's judgment as UCC records were entered into the preceding UCC Information Management System. A name was treated as an organization name if it contained words or abbreviations that indicated status such as the following and similar words or abbreviations in foreign languages: association, church, college, company, co., corp., corporation, inc., limited, ltd., club, foundation, fund, L.L.C., limited liability company, institute, society, union, syndicate, GmbH, S.A. de C.V., limited partnership, L.P., limited liability partnership, L.L.P., trust, business trust, co-op, cooperative and other designations established by statutes to indicate a statutory organization. If the filing officer was unable to distinguish whether a name was an individual or an organization, the classification as an organization was the default.
2. Identification of individuals. A name was treated as an individual when the name was followed by a title substantially similar to one of the following titles, or the equivalent of one of the following titles in a foreign language: proprietor, sole proprietor, proprietorship, sole proprietorship, partner, general partner, president, vice president, secretary, treasurer, M.D., O.D., D.D.S., attorney at law, Esq., accountant, CPA, Jr., Sr., II., III. In such cases, the title is not entered.
3. Multiple names on a single line. Where it is apparent that more than one name was provided in a single line, whether individual(s) or the name of an entity, the name of the individual(s) and the name of the entity were entered as separate debtors, one for each individual listed and one for each organization listed.
4. Individual names. The following rules were applied to individual names to determine the designations of last name, first name, middle name and suffix. The received name was parsed into the separate 'words' and then separated into these fields at the filing officer's discretion.
 - a. First name. An initial or name as the first word of a given name was considered the first name.

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- b. Middle name. An initial or name in the second word position of a given name was treated as the middle name.
 - c. Last name. The last word position of a name shall be considered the last name. Names, when apparent, that contain two or more words as a last name were entered as such at the filing officer's discretion.
 - d. Suffix name. If the last word position of a name is represented by Jr, Sr, II, III, then that word was inserted as the suffix name at the filing officer's discretion.
 - e. One word names. A one word name was entered as an organization. [for example "Cher" is treated as an organization name].
5. Notification of defects. Nothing in these rules prevents a filing officer from noticing apparent potential defects in a UCC record created in during conversion and correcting such defects. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness.

R2-14-340. Electronic Filing Records

- A.** XML authorized. A remitter may be authorized for XML transmission upon authorization of the filing officer. The filing officer shall authorize a remitter to engage in XML transmissions if (a) the remitter holds an account for the billing of fees by the filing officer, (b) the remitter has entered into a trading partner agreement, in form and substance satisfactory to the filing officer, with the filing office, and (c) the filing officer determines, after appropriate testing of transmissions in accordance with the filing officer's specifications, that the remitter is capable of transmitting XML records in a manner that permits the filing officer to receive and index the XML records. The filing officer may suspend or revoke the authorization when, in the filing officer's sole discretion, it is determined that a remitter's transmissions are incompatible with the filing officer's XML system. A request to be authorized to transmit XML records shall be delivered to the filing officer. Upon receipt of a request for authorization, the filing officer shall provide the remitter with necessary information on the requirements for XML transmission, including format, address for transmission, and other necessary specifications.
- B.** International Association of Corporation Administrators (IACA) standard adopted. The XML Electronic Filing Specification 1.0, or if superseded, as adopted by IACA, is adopted in this state as a format for electronic transmission of UCC records. At the request of an authorized XML remitter, the filing officer shall identify which versions and releases of the XML Format are acceptable to the filing office.
- 1. Upon adoption by the filing office of a revised standard adopted by IACA, the filing office shall notify the authorized XML remitters of the new format specification.
 - 2. The filing office shall accept superseded revisions of the standard no longer than six months from the date of notification.
- C.** Implementation Guide. The filing office publishes an implementation guide that prescribes the use of the XML Electronic Filing Specification. The guide shall be available to the public upon request.

ARTICLE 4. FILING AND DATA ENTRY PROCEDURES

R2-14-405. Errors of the filing officer

The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction occurs after the filing officer has issued a certification date the filing officer shall file a filing officer correction statement in the UCC information management system identifying and attached to the record to which it relates, the date of the correction, and explaining the nature of the corrective action taken. The record shall be preserved as long as the record of the initial financing statement is preserved in the UCC information management system.

R2-14-406. Master Amendment (Global filings)

- A.** The filing officer may accept for filing a single UCC record, master amendment, for the purpose of amending more than one financing statement, for one or both of the following purposes: amendment to change secured party name; amendment to change secured party address.
- B.** A master amendment filing shall consist of a written record describing the requested amendment on a form approved by the filing office, and a machine readable file furnished by the remitter and created to the filing officer's specifications containing appropriate indexing information. A copy of master amendment filing specifications is available from the filing officer upon request. Acceptance of a master amendment filing is conditioned upon the determination of the filing officer in the filing officer's sole discretion.

R2-14-417. Notice of bankruptcy

The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system.

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ARTICLE 5. SEARCH REQUESTS AND REPORTS

R2-14-501. Search requests

The filing officer maintains for public inspection a searchable index for all records of UCC records. The index shall provide for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement and each filed UCC record relating to the initial financing statement. Search requests shall contain the following information.

1. Name searched. A search request should set forth the name of the debtor to be searched and must specify whether the debtor is an individual or an organization. A search request will be processed using the name in the exact form it is submitted.
2. Requesting party. The name and address of the person to whom the search report is to be sent.
3. Fee. The appropriate fee shall be enclosed, payable by a method described in rule R2-14-105.
4. Search request with filing. If a filer requests a search at the time a UCC record is filed, the name searched will be the debtor name as set forth on the form. The requesting party shall be the remitter of the UCC record, and the search request shall be deemed to request a search that would be effective to retrieve all financing statements filed on or prior to the date the UCC record is filed.

R2-14-502. Rules applied to search requests

Search results are produced by the application of standardized search logic to the name presented to the filing officer. Human judgment does not play a role in determining the results of the search. The following rules apply to searches.

1. There is no limit to the number of matches that may be returned in response to the search criteria.
2. No distinction is made between upper and lower case letters.
3. Punctuation marks and accents are disregarded. Only alpha-numeric characters are included.
4. Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the 'Ending Noise Words' list as promulgated and adopted by the International Association of Corporation Administrators are disregarded. Such words include the following:

<u>Agency</u>	<u>Association</u>	<u>Assn</u>
<u>Associates</u>	<u>Assc</u>	<u>Assoc</u>
<u>Attorneys at Law</u>	<u>Bank</u>	<u>National Bank</u>
<u>Business Trust</u>	<u>Charter</u>	<u>Chartered</u>
<u>Company</u>	<u>Co</u>	<u>Corporation</u>
<u>Corp</u>	<u>Credit Union</u>	<u>CU</u>
<u>Federal Savings Bank</u>	<u>FSB</u>	<u>General Partnership</u>
<u>Gen part</u>	<u>GP</u>	<u>Incorporated</u>
<u>Inc</u>	<u>Limited</u>	<u>Ltd</u>
<u>Ltee</u>	<u>Limited Liability Company</u>	<u>LC</u>
<u>LLC</u>	<u>Limited Liability Partnership</u>	<u>LLP</u>
<u>Limited Partnership</u>	<u>LP</u>	<u>Medical Doctors Professional</u>
<u>Association</u>	<u>MDPA</u>	<u>Medical Doctors Professional</u>
<u>Corporation</u>	<u>MDPC</u>	<u>National Association</u>
<u>NA</u>	<u>Partners</u>	<u>Partnership</u>
<u>Professional Association</u>	<u>Prof Assn</u>	<u>PA</u>
<u>Professional Corporation</u>	<u>Prof Corp</u>	<u>PC</u>
<u>Professional Limited Liability</u>	<u>Company</u>	<u>Professional Limited Liability Co</u>
<u>PLLC</u>	<u>Railroad</u>	<u>RR</u>
<u>Real Estate Investment Trust</u>	<u>REIT</u>	<u>Registered Limited Liability</u>
<u>Partnership</u>	<u>RLLP</u>	<u>Savings Association</u>
<u>SA</u>	<u>Service Corporation</u>	<u>SC</u>
<u>Sole Proprietorship</u>	<u>SP</u>	<u>SPA</u>
<u>Trust</u>	<u>Trustee</u>	<u>As Trustee</u>

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5. The word “the” at the beginning of the search criteria is disregarded.
6. All spaces are disregarded.
7. For first and middle names of individuals, initials are treated as the logical equivalent of all names that begin with such initials, and first name and no middle name or initial is equated with all middle names and initials. For example, a search request for “John A. Smith” would cause the search to retrieve all filings against all individual debtors with “John” or the initial “J” as the first name, “Smith” as the last name, and with the initial “A” or any name beginning with “A” in the middle name field. If the search request were for “John Smith” (first and last names with no designation in the middle name field), the search would retrieve all filings against individual debtors with “John” or the initial “J” as the first name, “Smith” as the last name and with any name or initial or no name or initial in the middle name field.
8. After using the preceding rules to modify the name to be searched the search will reveal only names of debtors that are contained in active financing statements and, exactly match the name requested, as modified.

R2-14-503. Optional information

Optional information. A UCC search request may contain any of the following information:

1. The request may limit the records requested by limiting them by the address of the debtor, the city of the debtor, the date of filing (or a range of filing dates) or the identity of the secured party of record on the financing statement. A report created by the filing officer in response to such a request shall contain the statement “A limited search may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search.”
2. The request may ask for copies of UCC records identified on the primary search response.
3. Instructions on the mode of delivery desired, if other than by ordinary mail, which request will be honored if the requested mode is available to the filing office.

R2-14-504. Search responses

Reports created in response to a search request shall include the following.

1. Filing officer. Identification of the filing officer number and the certification of the filing officer required by law.
2. Report date. The date the report was generated.
3. Name searched. Identification of the name searched.
4. Certification date. The certification date and time for which the search is effective.
5. Identification of initial financing statements. Identification of each active initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.
6. History of financing statement. For each initial financing statement on the report, a listing of all related UCC records filed by the filing officer on or prior to the certification date.
7. Copies. Copies of all UCC records revealed by the search and requested by the searcher.

ARTICLE 6. OTHER NOTICES OF LIENS

R2-14-601. Notice of federal tax lien

Federal tax liens are treated in the same manner as initial financing statements and may use all forms and formats of communication permitted to be used in connection with initial financing statements. Federal tax lien searches are included in the standard UCC record search.

R2-14-602. Notice of state tax lien

State tax liens are treated in the same manner as initial financing statements and may use all forms and formats of communication permitted to be used in connection with initial financing statements. State tax lien searches are included in the standard UCC record search.

R2-14-603. Notice of other lien in favor of a governmental body

All liens are treated in the same manner as initial financing statements and may use all forms and formats of communication permitted to be used in connection with initial financing statements.

R2-14-604. Agricultural liens

Agricultural liens are filed in the same manner as an initial financing statement and may use all forms and formats of communication permitted to be used in connection with initial financing statements. Each communication of a record of an agricultural lien must identify itself as such. They are indexed by debtor name and will be revealed by searches under rules R2-14-504 and R2-14-505. Agricultural lien searches are included in the standard UCC record search.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R4-38-201	Amend
R4-38-202	Amend
R4-38-203	Repeal
R4-38-204	Amend
R4-38-205	Amend
R4-38-206	Amend

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

Authorizing statute: A.R.S. § 32-2904(B)(1)

Implementing statute: A.R.S. § 32-2951(G)

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 1445, May 14, 1999

Notice of Rulemaking Docket Opening: 7 A.A.R. 1203, March 9, 2001

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

Name: Chris Springer
Executive Director

Address: 1400 West Washington, Room 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

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

R4-38-201. The rule defines terms used throughout this Article.

R4-38-202. The rule defines the general requirements for dispensing drugs and devices that is consistent with Board of Medical Examiners' and federal laws.

R4-38-203. The rule defines labeling requirements for dispensing drugs and devices that is consistent with Board of Medical Examiners' and federal laws.

R4-38-204. The rule defines record-keeping requirements for dispensing drugs and devices that is consistent with Board of Medical Examiners' and federal laws.

R4-38-205. The rule defines storage requirements for dispensing drugs and devices that is consistent with Board of Medical Examiners' and federal laws.

R4-38-206. The rule defines packaging requirements for dispensing drugs and devices that is consistent with Board of Medical Examiners' and federal laws.

- 6. A reference to any study that the agency proposed to rely on in its evaluation 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

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

Since the proposed rules primarily correct inappropriate language, eliminate redundant language and correct a portion of a rule that exceeds state and federal requirements, the rule will have minimal economic impact on small businesses or consumers.

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: Chris Springer
Executive Director

Address: 1400 West Washington, Room 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

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: May 8, 2001

Time: 1:00 p.m.

Location: 1400 West Washington
2nd Floor Conference Room
Phoenix, Arizona, 85007

Subject: Public Proceeding

A person may submit written comments regarding the proposed rules by submitting the comments no later than 5:00 p.m., May 8, 2001, to the following person:

Name: Chris Springer
Executive Director

Address: 1400 West Washington, Room 230
Phoenix, Arizona 85007

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:

Not applicable

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

**ARTICLE 2. LABELING, RECORD KEEPING, STORAGE, AND PACKAGING OF DRUGS
DISPENSED BY HOMEOPATHIC PHYSICIANS**

R4-38-201. Definitions
R4-38-202. General Provisions
R4-38-203. ~~Labeling~~ Repealed
R4-38-204. Recordkeeping
R4-38-205. Storage and Control
R4-38-206. Packaging

**ARTICLE 2. LABELING, RECORD KEEPING, STORAGE, AND PACKAGING OF DRUGS
DISPENSED BY HOMEOPATHIC PHYSICIANS**

R4-38-201. Definitions

In A.R.S. §§ 32-2933, 32-2951, and this Article, the following terms apply:

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- A.** 1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, homeopathic medication, natural substance, or non-prescription drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a homeopathic physician, the homeopathic physician's nurse or assistant, or by the patient or research subject at the homeopathic physician's direction.
- B.** ~~"Controlled Substance" means a drug, substance or immediate precursor identified, defined or listed in Title 36, Chapter 27, Article 2.~~
- C.** ~~"Drug" means:~~
- ~~1. Medications or substances recognized, or for which standards or specifications are prescribed, in the official compendium;~~
 - ~~2. Medications or substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings; and~~
 - ~~3. Medications or substances other than food intended to affect the structure or any function of the body of human beings.~~
- D.** ~~"Homeopathic medication" means any substance of animal, vegetable or mineral origin which is prepared in homeopathic microdosage.~~
- E.** 2. "Label" means a display of written, printed or graphic matter on the immediate container of any article, and, unless easily legible through the outside wrapper or container, such written, printed or graphic matter also shall ~~also~~ appear on the outside wrapper or container of the retail package of such article.
- F.** 3. "Labeling" means all labels and other written, printed or graphic matter ~~either:~~
1. On any article or any of its containers or wrappers; and
 2. Accompanying such article.
- G.** 4. "Manufacture" or "manufacturer" means ~~every~~ each person who prepares, derives, produces, compounds, processes, packages or repackages, or labels any drug in a place devoted to manufacturing such drug, but does not include a pharmacy, pharmacist or physician.
- H.** 5. "Natural substances" means a herbal phytotherapeutic, and oxygen based physiotherapeutic agents, vitamins, minerals, and food factors isolated from animal, vegetable or mineral sources for nutritional augmentation.
- I.** 6. "Official compendium" means the latest revisions of the Pharmacopoeia of the United States and the Homeopathic Pharmacopoeia of the United States, the latest revision of the National Formulary or any current supplement ~~to any of them.~~
- J.** 7. "Packaging" means the act or process of ~~a person~~ placing a drug item in a container ~~for the purpose or intent of to dispensing or distributing~~ dispense or distribute the item ~~to another person.~~
- K.** 8. "Prescription medication" means any medication or substance, including label and container ~~according to context, which that~~ is dispensed pursuant to by a prescription order.
- L.** ~~"Prescription only drug" does not include a controlled substance but does include:~~
- ~~1. Any drug which because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;~~
 - ~~2. Any drug that is limited by an approved new drug application under the applicable federal law or A.R.S. Section 32-1962, for use under the supervision of a medical practitioner;~~
 - ~~3. Every potentially harmful drug, the labeling of which does not bear or contain fall and adequate directions for use by the consumer; and~~
 - ~~4. Any drug, other than a controlled substance, required under applicable federal law to bear on its label the legend "Caution: federal law prohibits dispensing without prescription".~~

R4-38-202. General Provisions

- A.** ~~The A~~ dispensing homeopathic physician shall ~~document in writing,~~ produce and maintain written procedures for the direct supervision of the nurse's or attendant's role in the dispensing process.
- B.** ~~The person~~ When dispensing any a drug ~~not previously dispensed,~~ the homeopathic physician or the homeopathic medical assistant shall read to the patient the name of the medication, directions for its use, any storage requirements, and precautions for use.
- C.** A homeopathic physician ~~who intends to dispense~~ dispensing under pursuant to this section shall ~~complete a form~~ apply for ~~registration a permit~~ as a dispensing physician, as prescribed by the Board, to dispense on a form available at the Board's office, and prescribed by the Board. The permit shall be renewed annually at the same time the license is renewed. ~~This registration~~ The application form shall include the following:
1. The classes of drugs and devices the ~~homeopathic~~ physician will dispense, including controlled substances, pharmaceutical drugs, homeopathic medications, prescription-only drugs, natural substances and non-prescription drugs;
 2. The location where the ~~homeopathic~~ physician will dispense; and

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3. A copy of the ~~homeopathic~~ physician's current Drug Enforcement Administration (DEA) ~~Registration registration, or an affidavit averring that the physician does not possess a DEA certificate and controlled substances will not be prescribed or dispensed.~~
- D. ~~A~~ If a homeopathic physician ~~who~~ determines that a shortage exists in a controlled substances maintained for dispensing, the physician shall immediately notify ~~by telephone~~, the Board, the local law enforcement agency, and the Department of Public Safety by telephone. The ~~homeopathic~~ physician shall also provide written notification to the Board within ~~seven~~ 7 days of the date of the discovery of the shortage.
- E. A Schedule II controlled substances may not be dispensed as a refill. A Schedule III, IV ~~and~~ or V controlled substances may ~~only~~ be refilled ~~five~~ 5 times or within ~~six~~ 6 months, whichever occurs first. These refills shall be properly documented in the patient's medical records and dispensing log ~~as required by this section~~ with a large printed or stamped letter "R".
- F. A homeopathic physician who dispenses controlled substances shall be subject to enforcement by the Federal Drug Enforcement Administration.

~~R4-38-203. Labeling Repealed~~

- ~~A.~~ The following information shall be included on labels of controlled substances and prescription only pharmaceutical drugs, and on labels or accompanying instruction sheets of homeopathic medications, including prescription only homeopathic medications, natural substances and nonprescription drugs, dispensed by a homeopathic physician:
- ~~1.~~ The dispensing physician's name, address, and telephone number;
 - ~~2.~~ The date the drug, homeopathic medication, natural substance, or non-prescription drug is dispensed;
 - ~~3.~~ The patient's name;
 - ~~4.~~ The name and strength or potency of the drug, homeopathic medication, natural substance or non-prescription drug, the quantity dispensed, directions for its use and any cautionary statements necessary for the safe and effective use of the drug; and
 - ~~5.~~ The number of authorized refills.

R4-38-204. Recordkeeping

In addition to the requirements of A.R.S § 32-2951, the dispensing homeopathic physician shall:

- ~~A.~~ The dispensing homeopathic physician shall enter into the patient's medical record the name and strength or potency of the drug, homeopathic medication, natural substance or non-prescription drug dispensed, the date it was dispensed, the dosing schedule, the number of refills and the therapeutic reason:
- ~~B.~~ 1. The dispensing homeopathic physician shall ~~maintain~~ Maintain an ongoing inventory log of all controlled substances dispensed, as well as the prescription only drugs Nubain and Stadol or their generic counterparts, Nalbuphine Hydrochloride and Butorphanol Tartrate. The log shall include a separate inventory sheet for each drug. The heading of the inventory sheets shall include the following information:
- ~~1a.~~ The name of the drug, its strength, its manufacturer, the date it was received, its expiration date, its lot or serial number and any cautionary statements necessary for the safe storage and handling of the drug;
 - ~~2b.~~ The patient's name;
 - ~~3c.~~ The number of pills or the volume of liquid dispensed;
 - ~~4d.~~ The number of authorized refills;
 - ~~5e.~~ The date the drug is dispensed;
 - ~~6f.~~ The name of the person who receives the drug, if other than the patient, and that person's relationship to the patient;
 - ~~7g.~~ The printed name and signature of the actual person who prepares, counts or measures the drug, labels the container or distributes a prepackaged drug to the patient or the patient's representative; and
 - ~~8h.~~ A running total of drug or prepackaged units dispensed and a running total of drug or prepackaged units remaining.
- ~~C.~~ 2. The inventory log of controlled substances dispensed may be maintained by computer. If a computerized log is used, the date and the name, and signature and date of the person preparing and distributing the drug shall be put on the original prescription form.
- ~~D.~~ Prior to dispensing a controlled substance or prescription only pharmaceutical drug the patient shall be given a written prescription on which appears the following statement in bold type: **"This prescription may be filled by this prescribing physician or by a pharmacy of your choice"**
- ~~1.~~ This prescription order shall contain the following information:
 - ~~a.~~ Date of issuance;
 - ~~b.~~ Name and address of patient for which prescription order has been issued;
 - ~~c.~~ Name, strength and quantity of the drug prescribed and dispensed;
 - ~~d.~~ Name and address of the physician dispensing the drug;

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- e. Two signature lines for the prescriber. The right side of the prescription form shall contain, under the signature line, the phrase “substitution permissible. The left side shall contain, under the signature line, the phrase “dispense as written”;
 - f. The dispensing homeopathic physician’s Drug Enforcement Agency number for controlled substances; and
 - g. The printed name, signature and date of the actual person who prepares, counts or measures the drug, labels the container and distributes a prepackaged drug to the patient or the patient’s representative.
23. All original prescription orders for a controlled substances and a prescription only pharmaceutical drugs dispensed by a homeopathic physician shall be dated and filed in the order in which they were originally dispensed. An Original original prescription orders for a schedule II drugs shall be maintained separately from other prescription orders.
- ~~E.~~ 4. A homeopathic physician shall maintain controlled Controlled substance and prescription-only pharmaceutical drug purchase orders, invoices ~~of or~~ receipts; dispensing logs; destruction records and original prescription orders shall be maintained for 4 years for four years.
- ~~F.~~ 5. Destruction records for controlled substances shall reflect procedures approved by the Federal Drug Enforcement Administration.
- ~~G.~~ 6. Prior to dispensing a homeopathic medication, including prescription-only homeopathic medications, a natural substance or a non-prescription drug, the patient shall be given a written statement on which appears the following statement in bold type:
“Prescriptions may be filled by this prescribing physician or by a pharmacy or natural substance supplier of your choice.”

R4-38-205. Storage and Control

In addition to the requirements of A.R.S § 32-2951 the dispensing homeopathic physician shall:

- ~~A.~~ 1. ~~The dispensing homeopathic physician shall keep all controlled substances and prescription only pharmaceutical drugs in a locked cabinet or room and shall control~~ Control access to the cabinet or room containing all controlled substances and prescription-only pharmaceutical drugs by a written procedure. This written procedure shall be made available to the Board or ~~its~~ the Board’s authorized agents or employees on demand for inspection or copying.
- ~~B.~~ 2. ~~The dispensing homeopathic physician shall keep~~ Keep all homeopathic medications, including prescription-only homeopathic medications, natural substances, and non-prescription drugs, as well as samples of prescription drugs provided by a manufacturer, in a cabinet or room with supervised limited access.
- ~~C.~~ 3. Maintain Medications ~~medications~~ and substances not requiring refrigeration ~~shall be maintained~~ in an area where the temperature does not exceed ~~eighty five~~ 85 degrees Fahrenheit.
- ~~D.~~ 4. Maintain All ~~all~~ medications and substances ~~shall be~~ in current or ~~unexpired~~ non-expired dating.

R4-38-206. Packaging

In addition to the requirements of A.R.S § 32-2951, the dispensing homeopathic physician shall dispense

- ~~A.~~ All ~~a~~ controlled substances and prescription-only pharmaceutical drugs ~~shall be dispensed~~ in a prepackaged formulas or packaged in a light-resistant container with a consumer safety cap, unless the patient or patient’s representative and the physician agree otherwise.
- ~~B.~~ All packages of dispensed drugs shall be labeled following the labeling rules of this section.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

PREAMBLE

1. Sections Affected

R17-4-504
R17-4-505
R17-4-511

Rulemaking Action

Repeal
Repeal
Repeal

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

Authorizing statute: A.R.S. § 28-366

Implementing statutes: R17-4-504 implements the former A.R.S. § 28-692.01 and Laws 1990, Ch. 375, § 20. R17-4-505 implements the former A.R.S. §§ 28-692.01 and 28-694. R17-4-511 does not have a specific implementing statute. A.R.S. Title 28 was repealed and completely rewritten during the 1995 and 1996 Legislative sessions. As a result, the implementing statutes listed do not have exact analogues in the current A.R.S. Title 28. However, Laws 1996, Ch. 76, § 309 provides that administrative rules made under the old laws remain in force until amended by the Department.

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 1263, March 16, 2001

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

Name: Bill Bishop
Rules Analyst

Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014-5017

Telephone: (602) 712-8449

Fax: (602) 241-1624

E-mail: bjbishop@dot.state.az.us

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

The Department reviewed these rules as it committed to do in a 5-year rule review report approved by the Governor's Regulatory Review Council on June 23, 2000 (F-00-0603).

R17-4-504(A) was written to implement A.R.S. § 28-692.01 which related to driving under the influence. In the years since the Rule was adopted, the law was renumbered as A.R.S. § 28-1381 and its provisions were rewritten by the Legislature to include much more specificity. This law contains enough detail to make R17-4-504(A) unnecessary.

R17-4-504(B) implements Laws 1990, Ch. 375, § 20 which provides for removal of points from driver's licenses if a person followed the procedure in the former A.R.S. § 28-692.01(E). Even though Laws 1990, Ch. 375, § 20 was never repealed, the section of the statutes to which it points was repealed. Section 692.01(E) was renumbered to (D) by Laws 1992, Ch. 330, § 23. The language in this new Section (D) was then completely deleted by Laws 1993, Ch. 223, § 7. R17-4-504(B) is unnecessary.

R17-4-505 was written to implement the alternate suspension procedures provided in the former A.R.S. § 28-694. This statute was subsequently renumbered as A.R.S. § 28-3165 and its provisions were rewritten and expanded. The statute now contains enough detail to make this rule unnecessary.

R17-4-511 gives procedures for compiling and indexing of records that the Motor Vehicle Division receives so that they may be stored electronically. This rule governs only internal procedures of the Department and does not affect the public. This rule is not needed.

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:

This rulemaking will decrease monitoring and recordkeeping and is therefore exempt from the requirement to provide the impact statement as provided in A.R.S. § 41-1055(D)(3).

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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: Bill Bishop
Rules Analyst

Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014-5017

Telephone: (602) 712-8449

Fax: (602) 241-1624

E-mail: bjbishop@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, 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 public hearing is planned for this rulemaking. Oral comments and oral requests for a public hearing may be made Monday through Friday, 8:00 a.m. to 5:00 p.m., at the phone number listed in paragraph #9. Written comments may also be sent to address listed in paragraph #9. All comments must be received by 4:30 p.m. on Friday, May 4, 2001, at which time the public record will close.

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:

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

ARTICLE 5. DRIVER LICENSES

Section

R17-4-504. ~~Notification for purposes of 30/60 day driving privileges suspension/restriction or driving record points removal~~ Repealed

R17-4-505. ~~Notification for alternate suspension provisions under Admin Per Se~~ Repealed

R17-4-511. ~~Computer storage of driver license applications, changes of address and records of conviction; original records disposal~~ Repealed

ARTICLE 5. DRIVER LICENSES

R17-4-504. Notification for purposes of 30/60 day driving privileges suspension/restriction or driving record points removal Repealed

A. Notification for purposes of A.R.S. § 28-692.01(J) shall be in the form of:

1. ~~An affidavit from the arresting agency which specifies that the named person did not cause serious physical injury as set forth in A.R.S. § 28-692.01(C)(2) and a determination by the Motor Vehicle Division that the person meets the requirement of A.R.S. § 28-692.01(C)(1); or~~
2. ~~An abstract or judgment order from the sentencing court which specifies that the named person was sentenced pursuant to A.R.S. § 28-692.01(D) or (E).~~

B. Notification for purposes of A.R.S. Laws 1990, Chapter 375, § 20 shall be in the form of a certified court record received by the Motor Vehicle Division, which record specifies that the named person has successfully completed the probation imposed pursuant to A.R.S. § 28-692.01(E).

R17-4-505. Notification for alternate suspension provisions under Admin Per Se Repealed

A. Definitions: "Admin Per Se" means the civil action and sanctions pursuant to A.R.S. § 28-694.

B. The Motor Vehicle Division, Arizona Department of Transportation shall impose an alternate suspension of a 30-day license suspension followed by a 60-day restricted license upon receipt of notification.

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- ~~C.~~ Notification shall indicate the arrestee meets the alternate suspension provisions pursuant to A.R.S. § 28-692.01(C). Notification shall be in the form of:
1. An affidavit from the arresting agency, or
 2. An abstract or judgment order from the sentencing court which specified the sentence is under the alternate suspension criteria.
- ~~D.~~ The Division shall adjust all records to reflect the suspension set forth.

R17-4-511. Computer storage of driver license applications, changes of address and records of conviction; original records disposal Repealed

- ~~A.~~ Driver license applications and changes of address:
1. Whenever a person applies to the Department for:
 - a. An instruction permit pursuant to A.R.S. §§ 28-415 or 28-417.01;
 - b. An operators or chauffeurs license under the provisions of A.R.S. § 28-416;
 - c. A license for identification purposes only pursuant to A.R.S. § 28-421.01;
 - d. A license to drive a motorcycle or motor driven cycle, or
 - e. A duplicate license pursuant to A.R.S. § 28-425; the information contained on the application which is required by the respective statute allowing the application shall be indexed and compiled on the Department's computer in a manner which will allow retrieval and disclosure of statutorily required information.
 2. Whenever a person notifies the Department of a change of address or change of name as required by A.R.S. § 28-427, this information shall be placed on the Department's computer in such a manner as to allow retrieval and disclosure of the new information and in place of that shown on the original application.
- ~~B.~~ Records of conviction:
1. All abstracts of conviction received by the Department shall be indexed, compiled, and recorded on the Department's computer in a manner that will allow retrieval and disclosure of the information required by A.R.S. § 28-1061(B), (C), or (D) to be reported on abstracts of conviction.
 2. All reports of conviction received by the Department pursuant to Chapter 10, Title 28, Arizona Revised Statutes, shall also be indexed, compiled, and recorded on the Department's computer in a manner that will allow retrieval and disclosure of the information required to be reported to the Department pursuant to Article III thereof.
- ~~C.~~ Disposal of applications, notice of change of address and abstracts of conviction. When the information on the documents referred to in subsections (A) and (B) of this rule has been stored on the Department's computer, they shall be stored in a manner which will allow retrieval as needed by the Department or court order and destroyed in accordance with records destruction schedules established by this Department and the Department of Library, Archives & Public Records.