

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. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITIES AND DEFERRED COMPENSATION PLANS

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R2-9-101	Repeal
R2-9-101	New Section
R2-9-102	Repeal
- 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. § 38-871(C)(4)
Implementing statutes: A.R.S. § 38-871, 38-872, 38-873, 38-874
- 3. A list of all previous notices appearing in the Register addressing the proposed.**

Notice of Rulemaking Docket Opening: 7 A.A.R. 3845, August 31, 2001
- 4. Name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Graham Alex Turner
Address: 1700 W. Washington, Suite 601
Phoenix, AZ 85007
Telephone: (602) 542-1500
Fax: (602) 542-2199
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The rules pertaining to the expenses of the administration of the state's deferred compensation programs, and the manner in which investment providers will contact state employees and retirees, do not conform to current practice and are not consistent with current rule format and wording. The current rules will be repealed. A new Section reflecting current practice regarding the manner in which investment providers contact state employees will be promulgated.
- 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:**

Not applicable
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:

Adoption of this rule will have a minor impact on the following groups:

The Governing Committee. The Governing Committee will expend time reviewing and approving the annual business plan of the plan administrator. The approval of the plan administrator's marketing plans is currently performed under the rules being repealed, as well as pursuant to A.R.S. § 38-871(C)(4). It does not appear that the new Section will result in additional duties.

The plan administrator. The deferred compensation plans have approximately \$550 million in assets held in trust for approximately 24,500 current and former employees, and retirees. The duties of the plan administrator include the investment of the participant funds, the monitoring and recommendation of investment choices, the maintenance of all plan records, obtaining annual independent audits of the plans, and the maintenance of a customer service center, an automated voice response telephone system, and an internet site.

The plan administrator is also required to determine how it proposes to educate and market the deferred compensation plans, and to design and furnish all informational and promotional material. The current plan administrator formulates an annual business plan addressing these issues. When plan administration services were recently competitively bid, all bidders indicated they utilize annual business plans for deferred compensation programs of this size.

The plan administrator was asked to isolate the cost of submitting the annual plans to the Governing Committee for review. The plan administrator responded that business plans are prepared regardless of any state requirement, and are submitted to the client entity for review and comment as a routine business practice. Therefore, the additional cost of submitting the material to the Governing Committee for approval pursuant to the new Section was described as "negligible." In addition, the plan administrator reported that the new Section will not require any fee adjustment.

The participants. Pursuant to A.R.S. § 38-871(C)(1), no state funds may be used for the administration of the deferred compensation plans. The Governing Committee has no staff or budget; day-to-day plan administration is performed by the third party plan administrator. The participants in the programs are assessed a participation fee to pay the cost of the plan administrator. Therefore, any costs sustained by the plan administrator in obtaining the approval of the Governing Committee are included in the overall fee assessed to the participants. The plan administrator has estimated its costs in obtaining Governing Committee approval as "negligible," and stated that no fee increase will be requested as a result of the new Section. Further, these actions are currently performed under the rules being repealed, as well as under the requirements of A.R.S. § 38-871(C)(4). It does not appear that the new Section will result in any additional cost to participants.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact:

Name: Graham Alex Turner
Address: 1700 W. Washington, Suite 601
 Phoenix, AZ 85007
Telephone: (602) 542-1500
Fax: (602) 542-2199

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

Written comments will be received at the address listed in item #9 for 30 days after this notice of proposed rulemaking is published in the *Register*. Oral comments may also be made to the Governing Committee at its monthly meetings during this time period. A public hearing will be scheduled if one is requested. Otherwise, the record will be closed at the end of the 30-day period following publication in the *Register*. Should a request for a public hearing be received, notice of that proceeding will be provided in a later edition of the *Register*.

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 2. ADMINISTRATION

**CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITIES AND
DEFERRED COMPENSATION PLANS**

ARTICLE 1. GENERAL PROVISIONS

Section

R2-9-101. ~~Expenses~~ Employee Solicitation for Tax-deferred Annuities and Deferred Compensation Plans

R2-9-102. ~~Employee and employee-participant contact~~ Repealed

ARTICLE 1. GENERAL PROVISIONS

R2-9-101. ~~Expenses~~ Employee Solicitation for Tax-deferred Annuities and Deferred Compensation Plans

~~**A.** Companies submitting offers under these rules are reminded the Committee has no funds to pay any costs or expenses they might normally expect to receive from or charge to an offeree. Therefore, all offers submitted to this Committee must contain an acknowledgement of this fact and a disclaimer of liability to this Committee or its members for any expenses or costs which the offeror incurs in connection with an offer or a contract.~~

~~**B.** No expenses or costs shall be recoverable by an offeror from the state of Arizona, this Committee or its members but it shall not be improper for an offeror to include such anticipated expenses or costs as a part of its offer and which will ultimately be borne by the employee-participants in the Plan.~~

~~**A.** The administrator under contract with the Governing Committee shall draft and present an annual business plan describing its approach to educating and marketing to employees regarding the tax-deferred annuity and deferred compensation plans. The administrator's business plan is subject to the approval of the Governing Committee. The business plan shall include:~~

~~1. Enrollment and participation goals for employees;~~

~~2. Performance measures for the administrator;~~

~~3. Plans for achieving the goals and performance measures;~~

~~4. An explanation of the effect of participation on take-home pay and future retirement income; and~~

~~5. Information regarding retirement planning and investment options.~~

~~**B.** The administrator shall establish and follow written procedures that provide for the impartial representation of the available investment options and investment products offered under the tax-deferred annuity and deferred compensation plans. The written procedures are subject to the advance written approval of the Governing Committee. The procedures shall:~~

~~1. Include directives to the administrator's personnel that information provided to employees shall be presented in a fair and equal manner, allowing employees to make individual choices based upon their specific investment needs or desires;~~

~~2. Be adequate to ensure that the administrator's personnel will not engage in preferential solicitation of any investment option or investment product; and~~

~~3. Include a means of monitoring at reasonable intervals the adequacy of the procedures and reporting the results of the monitoring to the Governing Committee.~~

~~**C.** The failure of the administrator to present the plan required in subsection (A), or the failure of the administrator to establish and follow the procedures required in subsection (B), is a breach of its contract with the Governing Committee.~~

R2-9-102. ~~Employee and employee-participant contact~~ Repealed

~~**A.** No employee or employee-participant will be contacted except as permitted by the Committee.~~

~~**B.** Contact with an employee or employee-participant by a company employee in violation of these rules is cause for barring the offending person from any further participation in such contract work. If it is determined by the Committee that the company employee was acting pursuant to company instructions, a breach of contract may be declared and its contract with the Committee terminated.~~

~~**C.** Companies under contract with the Committee will be allowed to make such solicitations as are consistent with these rules and the Plan, through prior presentation of their method of so doing to the Plan administrator and approval by the Committee.~~

~~1. The Committee shall arrange for the presentation of such solicitations by means of general publication or distribution with paychecks.~~

~~2. This rule shall not apply to routine accounting or reporting required or provided by contract or these rules.~~

~~3. Group meetings may be conducted for all employees at least once a year. Those interested employees will be provided a counseling and enrollment session in order to explain the merits of the State of Arizona Deferred Compensation Plan.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ALLOPATHIC BOARD OF MEDICAL EXAMINERS

PREAMBLE

- 1. Sections Affected**

R4-16-201	Amend
R4-16-202	Amend
R4-16-203	Amend
R4-16-204	Amend
R4-16-205	Amend

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

Authorizing statutes: A.R.S. §§ 32-1403(A)(8) and 32-1404(D)
Implementing statute: A.R.S. § 32-1491

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 3046, July 13, 2001

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

Name:	Dominick Spatafora Legislative and Regulatory Affairs Director
Address:	Arizona Board of Medical Examiners 9545 East Doubletree Ranch Road Scottsdale, AZ 85258
Telephone:	(480) 551-2712
Fax:	(480) 551-2701

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

These rules cover the dispensing of drugs by physicians. Specifically, the rules address registration and renewal of drug dispensing registration, packaging and inventory, prescribing and dispensing requirements, recordkeeping and shortage reporting, and inspections. The Board is amending these rules to be consistent with current rulewriting standards and to reflect recent statutory changes. The need for these amendments was identified during the five-year review process.

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

The Board does not anticipate any negative economic, small business, or consumer impacts related to, or created by, the proposed rules.

- 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:	Dominick Spatafora, Legislative and Regulatory Affairs Director
Address:	Arizona Board of Medical Examiners 9545 East Doubletree Ranch Road Scottsdale, AZ 85258

Arizona Administrative Register
Notices of Proposed Rulemaking

Telephone: (480) 551-2700

Fax: (480) 551-2701

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 for this rulemaking. Written, faxed, e-mail comments, or requests for an oral proceeding may be made by contacting the officer listed in item #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period and this rulemaking's public record will close at 4:30 p.m. on December 28, 2001.

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ALLOPATHIC BOARD OF MEDICAL EXAMINERS

ARTICLE 2. DISPENSING OF DRUGS

Section

R4-16-201.	Registration and Renewal
R4-16-202.	Packaging and Inventory; Exception
R4-16-203.	Prescribing and Dispensing Requirements
R4-16-204.	Recordkeeping and Reporting Shortages
R4-16-205.	Inspections; Denial and Revocation

ARTICLE 2. DISPENSING OF DRUGS

R4-16-201. Registration and Renewal

- A.** A physician who wishes to dispense a controlled ~~substance, substances and~~ a prescription-only ~~drug or drugs and device devices~~ shall be currently licensed to practice medicine in the state of Arizona and shall provide to the Board the following:
1. A completed ~~form for registration form, furnished by the Board, that~~ which includes the following information:
 - a. The physician's name, license number, and field of practice;
 - b. A list listing of the types of drugs and devices the physician will desires to dispense including prescription-only and controlled substances; and
 - c. The location or locations where the physician will desires to dispense controlled substances, prescription-only drugs and devices;
 2. A copy of the physician's current location specific Drug Enforcement Administration Certificate of Registration specifying an Arizona address if for each dispensing location from which the physician will desires to dispense a controlled substance, substances. In any group practice there shall be one physician who is the responsible party for ordering and maintaining controlled substances at that practice location. The responsible physician must be registered with the Drug Enforcement Administration at that location and registered as a dispensing physician with the Board. Based on the responsible physician's Drug Enforcement Administration Certificate of Registration, other members of the practice may dispense at that location as long as they are registered with the Board and hold a Drug Enforcement Administration Certificate of Registration at an Arizona location; and
 3. The fees required in A.R.S. § 32-1436, statutorily required fee.
- B.** A physician shall renew a registration to dispense a ~~drug or device drugs and devices~~ by complying with the requirements ~~set forth~~ in subsection (A) ~~on or before June 30 of each year~~ the physician's biennial license expiration date. When a physician has made timely and complete application for the renewal of a registration, the physician may continue to dispense until the Board approves or denies the renewal application. application has been approved or denied by the board.
- C.** If the completed annual renewal form, all required documentation and the correct fee are not received in the Board's office ~~on or before June 30~~ the physician's biennial license expiration date, the physician shall not dispense any controlled substances, prescription-only drugs or devices ~~drugs and devices~~ until re-registered, newly registered. The physician shall

Arizona Administrative Register
Notices of Proposed Rulemaking

register by filing for initial registration pursuant to subsection (A) and shall not dispense drugs and devices until receipt of a new registration.

R4-16-202. Packaging and Inventory; Exception

- A. A physician shall dispense all drugs in prepackaged containers or in light resistant containers with a consumer safety cap, unless a patient or a patient's representative requests a non-safety cap, that comply with standards specified in the official compendium as defined in A.R.S § 32-1901(49) and state and federal law.
- B. All drugs dispensed shall be labeled with the following information:
1. The physician's name, address, and telephone number;
 2. The date the drug is dispensed ~~and its expiration date;~~
 3. The patient's name; and
 4. ~~The name, form, name of the manufacturer and strength of the drug;~~ drug name, strength, and dosage form, name of manufacturer, the quantity dispensed, directions for its use, and any cautionary statement necessary for the safe and effective use of the drug.
 5. A beyond-use-date not to exceed one year from the date of dispensing or the manufacturer's expiration date if less than one year.
- C. A physician shall secure all controlled substances in a locked cabinet or room and shall control access to the cabinet or room by a written procedure ~~which that~~ shall include, at a minimum, designation of the persons who have access to the cabinet or room and procedures for recording requests for access to drugs. This written procedure shall be made available on demand to the Board or its authorized representatives for inspection or copying. Prescription-only ~~medications~~ drugs shall be stored so as not to be accessible to patients.
- D. Drugs not requiring refrigeration shall be maintained in an area where the temperature does not exceed 85° F.
- E. A physician shall maintain an ongoing dispensing log for all controlled substances and the prescription-only ~~medications~~ drug nalbuphine hydrochloride (Nubain) ~~and butorphanol tartrate (Stadol)~~ dispensed by the physician ~~which that~~ includes a separate inventory sheets ~~sheet~~ for each ~~controlled drug, substance, nalbuphine hydrochloride, and butorphanol tartrate.~~ The ~~heading of a~~ dispensing log shall include the following information:
1. The date the drug is dispensed;
 2. The patient's name;
 3. ~~The name, dosage, form, name of the manufacturer and strength of the drug;~~ drug name, strength, and dosage form, and name of the manufacturer;
 4. The number of dosage units dispensed;
 5. A running total of ~~medication drug~~ dispensed; and
 6. The signature of the physician or the person authorized by the physician who dispensed the ~~medication drug,~~ written next to each entry.
- F. A physician may use a computer to maintain ~~The the~~ dispensing log required in subsection (E) ~~may be maintained on computer~~ provided that the log is quickly accessible through either on-screen viewing or printing of a copy.
- G. This ~~Section~~ section shall not apply to a prepackaged ~~prepackaged,~~ manufacturer sample ~~samples~~ of drugs ~~a drug,~~ unless otherwise provided by federal law.

R4-16-203. Prescribing and Dispensing Requirements

- A. A physician shall record on the patient's medical record the drug name, strength, and dosage; ~~form, and strength of the drug~~ or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, the medical reasons for dispensing the drug or device, and the number of refills authorized.
- B. ~~Before dispensing the controlled substance, prescription-only drug or device~~ Prior to delivery to a the patient, a physician shall review the prepared drug or device ~~drugs and devices~~ to ensure ~~their that:~~ compliance with the prescription, and, additionally, ensure that the patient has been informed of the name of the drug or device, directions for its use, precautions, and storage requirements.
1. The container label and contents comply with the prescription.
 2. The patient is informed of the name of the drug or device, directions for use, precautions, and storage requirements.
- C. A physician shall purchase all dispensed drugs and devices from a manufacturer or distributor approved by the United States Food and Drug Administration, or a pharmacy holding a current, valid permit from the Arizona Board of Pharmacy.
- D. The person who prepares a drug or device ~~drugs and devices~~ for dispensing shall countersign and date the original prescription form for the drugs and devices.
- E. For purposes of this ~~Article, article,~~ "dispensing" means the delivery of a controlled substance, prescription-only drug or device ~~drug or device~~ to a patient for use outside the physician's office.

R4-16-204. Recordkeeping and Reporting Shortages

- A. A physician who dispenses drugs shall ensure that all ~~All~~ original prescriptions ~~prescription orders~~ dispensed from a physician's office ~~shall be~~ are dated, consecutively numbered in the order in which they ~~were~~ are originally dispensed, and filed separately from ~~the~~ patient medical records. ~~Original prescription orders for Schedule II drugs or other controlled~~

Arizona Administrative Register
Notices of Proposed Rulemaking

~~substances shall be maintained separately from other prescription orders. Original prescriptions shall be maintained in three separate files, as follows:~~

- ~~1. Schedule II drugs;~~
- ~~2. Schedule III, IV, and V drugs; and~~
- ~~3. Non-controlled drugs.~~

~~B. A physician shall maintain drug purchase orders and invoices for controlled substances, nalbuphine hydrochloride and butorphanol tartrate which are received, and original prescription orders for all drugs for a period of three years from the date of the order. Dispensing logs and destruction records shall also be maintained for three years. A physician shall ensure that purchase orders and invoices are maintained for all drugs dispensed for profit and not for profit for three years from the date of the purchase order or invoice. Purchase orders and invoices shall be maintained in three separate files as follows:~~

- ~~1. Schedule II drugs only;~~
- ~~2. Schedule III, IV, and V drugs and nalbuphine; and~~
- ~~3. All other drugs.~~

~~C. A physician who discovers a theft or loss of controlled substances or dangerous drugs determines that drugs have been illegally removed from the physician's office, or that a drug shortage exists in controlled substances maintained for dispensing, shall immediately notify a local law enforcement agency and thereafter, provide that agency with a report in writing, with copies to the Drug Enforcement Administration and the Board within seven days of the discovery.~~

- ~~1. Immediately notify the local law enforcement agency;~~
- ~~2. Provide that agency with a written report, and~~
- ~~3. Provide copies to the Drug Enforcement Administration and the Board within seven days of the discovery.~~

~~D. For purposes of this Section, "Schedule II drugs or other substances" means the controlled substances identified, defined, or listed in A.R.S. Title 36, Chapter 27, A.R.S. § 36-2513 and the following hallucinogenic substances:~~

- ~~1. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product.~~
- ~~2. Nabilone.~~

R4-16-205. Inspections; Denial and Revocation

~~A. A physician shall cooperate with and allow access to the physician's office and records for periodic inspections of dispensing practices by the Board or its authorized representatives, representatives to the physician's office and records during periodic inspections of dispensing practices by the Board. Failure to cooperate or allow access shall be grounds for revocation of a physician's registration to dispense prescription drugs and prescription-only devices or denial of renewal of the physician's dispensing registration.~~

~~B. Failure to comply with A.R.S. § 32-1491 or this Article article shall constitute constitutes grounds for denial or revocation of dispensing registration.~~

~~C. The Board shall revoke a physician's registration to dispense drugs and devices shall be revoked by the Board upon occurrence of the following:~~

- ~~1. Suspending, revoking, surrendering, or canceling Suspension, revocation or cancellation of the physician's license;~~
- ~~2. Placing Placement of the physician's license on inactive status;~~
- ~~3. Failing Failure to timely renew the physician's license; or~~
- ~~4. Restricting Restriction of the physician's ability to prescribe or administer medication, including loss or expiration of a physician's Drug Enforcement Administration Certificate of Registration.~~

~~D. If the Board denies a physician's dispensing registration, the physician may appeal the decision by filing the request, in writing, with the Board, no later than 10 days after receipt of the notice denying the registration. A physician denied registration may request a hearing to appeal the decision by filing the request, in writing, with the Board, not later than 10 days after receipt of the notice denying the registration.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 28. STATE REAL ESTATE DEPARTMENT

PREAMBLE

1. Sections Affected

R4-28-104
R4-28-403

Rulemaking Action

Amend
Amend

Arizona Administrative Register
Notices of Proposed Rulemaking

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

Authorizing statute: A.R.S. § 32-2107(E)

Implementing statute: A.R.S. §§ 32-2124(E), (F), and (G) (examination required) and 32-2132 (authorization for fees)

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

None

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

Name: Cindy Wilkinson, Policy Officer

Address: Arizona Real Estate Department
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018

Telephone: (602) 468-1414, ext. 345

Fax: (602) 955-6284

E-mail: cwilkinson@re.state.az.us

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

Applicants for licensure as a real estate, cemetery or membership camping salesperson or broker must pass a state license exam pursuant to A.R.S. § 32-2124(E), (F), and (G). Pursuant to A.A.C. R4-28-403(A), the Department contracts with a third party for administration of these license examinations. The amount charged applicants is set by contract with the third party vendor and is within the range for the fees set in A.R.S. § 32-2132(A)(1), (2), (5), and (6). The current combined amount for broker's exam application and examination is \$110 and for a salesperson's is \$85, pursuant to R4-28-104(A)(1) and (5). The current contract (#AD990209) allows the vendor the option of increasing the fee.

Anticipating that future contracts with the same or other vendors may contain provisions for fees in varying amounts, the Department proposes to eliminate the specific stated amount of these fees in the rule, and merely ensure that the fees charged are within the statutory range. The proposed rule will clarify that applicants can contact the Department to determine the specific amount of the fee and the identity and contact information for the vendor administering the examinations on behalf of the Department. The identity of and means of contacting the contracted vendor is provided to schools authorized to teach the required pre-license education and is also available on the Department's web site, www.re.state.az.us.

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:

No economic impact is anticipated on private or public employment or on small businesses. The expected economic impact on consumers (license candidates) is minimal.

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: Cindy Wilkinson, Policy Officer

Address: Arizona Real Estate Department
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018

Telephone: (602) 468-1414, ext. 345

Fax: (602) 955-6284

E-mail: cwilkinson@re.state.az.us

Arizona Administrative Register
Notices of Proposed Rulemaking

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:

Date: Thursday, January 17, 2002
Time: 10:00 a.m.
Location: Arizona Department of Real Estate
2910 N. 44th Street, First Floor Conference Room
Phoenix, AZ 85018
Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m., January 17, 2002. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Department's coordinator, Dick Simmonds, Business Services Officer, at (602) 468-1414, ext. 160 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 28. STATE REAL ESTATE DEPARTMENT

ARTICLE 1. GENERAL PROVISIONS

Section
R4-28-104. Fees

ARTICLE 4. EDUCATION

Section
R4-28-403. License Examinations

ARTICLE 1. GENERAL PROVISIONS

R4-28-104. Fees

A. Licensing Fees.

- ~~1.~~ ~~Broker's exam and examination application, \$110.00;~~
- ~~2.~~1. Broker's license, \$125.00;
- ~~3.~~2. Broker's renewal (Timely), \$125.00;
- ~~4.~~3. Broker Renewal pursuant to A.R.S. 32-2130(C), \$20.00;
(Additional per month fee. Maximum \$120)
- ~~5.~~ ~~Salesperson's exam and examination application fee, \$85.00;~~
- ~~6.~~4. Salesperson's license, \$60.00;
- ~~7.~~5. Salesperson's renewal (Timely), \$60.00;
- ~~8.~~6. Salesperson's renewal pursuant to A.R.S. 32-2130(C), \$10.00;
(Additional per month fee. Maximum \$60)
- ~~9.~~7. Branch office license,
12 months or less, \$35.00;
13 to 24 months, \$50.00;
Renewal, \$50.00;
- ~~10.~~8. Change of name and address, \$10.00;
- ~~11.~~9. Temporary broker's license, \$50.00;
- ~~12.~~10. Temporary cemetery salesperson's license, \$50.00;
- ~~13.~~11. Membership camping Certificate of Convenience, \$50.00.

B. No change

1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
- C. No change

ARTICLE 4. EDUCATION

R4-28-403. License Examinations

- A. The department shall hold, or contract for, at least 1 state licensing examination each week.
- ~~B.~~ An applicant for real estate, cemetery, or membership camping broker's or salesperson's license shall submit an application to take the examination to the company under contract to administer the exam and pay the fee required by the contractor. The fee charged to take the examination shall be the fee contracted between the Department and the contractor and shall be within the range provided by statute. The Department shall make readily available the name of the current contractor and the amount of the fee.
- ~~B-C.~~ A state license examination shall not be returned to the applicant. The applicant shall be notified in person of the results of the examination by the words "passed" or "did not pass". The results notification for an applicant who did not pass the examination shall also show the score for the examination and the relative score for each content area.
- ~~C-D.~~ Qualifying to take or passing a license examination does not constitute a waiver of the Commissioner's right to deny issuance of a license if grounds exist pursuant to A.R.S. § 32-2153 or any other applicable statute.