

## 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 5. DEPARTMENT OF ADMINISTRATION

#### PERSONNEL ADMINISTRATION

#### PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R2-5-101	Amend
R2-5-102	Amend
R2-5-103	Amend
R2-5-104	Amend
R2-5-105	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. § 41-763(6)

Implementing statutes: A.R.S. §§ 41-763(4), 41-783(24), 41-784
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 1109, March 15, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Margaret Whelan, Communications/Employee Relations Specialist

Address: 1831 W. Jefferson, Room 106, Phoenix, AZ 85007

Telephone: (602) 542-4459

Fax: (602) 542-2796
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Definitions, General Provisions, Applicability, Discrimination, Personnel Records. The proposed rules establish the definitions to be used in the Personnel Rules, General Provisions regarding delegation of authority, availability of funds, service of notice, the employee handbook, correction of errors, applicability of the Personnel Rules including exceptions; discrimination and the purpose, content, access, disclosure and control of personnel records.
- 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

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

There will be no economic, small business, or consumer impact.

**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: Claudia Smith, Communications Unit Manager

Address: 1831 W. Jefferson, Room 128  
Phoenix, AZ 85007

Telephone: (602) 542-4894

Fax: (602) 542-2796

**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:**

A public proceeding for oral comments on the rules has been scheduled for Wednesday, June 5, 2002 in the Grand Canyon Room in the basement of the Capitol, 1700 W. Washington, Phoenix, AZ 85007 at 3:30 p.m. and 5:30 p.m. Anyone wishing to submit written comments prior to the meeting may submit written comments between 8:00 a.m. and 5:00 p.m., Monday through Friday up until 5:00 p.m. on Friday, June 21, 2002 to the following person:

Name: Margaret Whelan, Communications/Employee Relations Specialist

Address: 1831 W. Jefferson, Room 106  
Phoenix, AZ 85007

Telephone: (602) 542-4459

Fax: (602) 542-2796

**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 5. DEPARTMENT OF ADMINISTRATION**

**PERSONNEL ADMINISTRATION**

**ARTICLE 1. GENERAL**

Section

R2-5-101.	Definitions
R2-5-102.	General provisions
R2-5-103.	Applicability
R2-5-104.	<del>Nondiscrimination</del> <u>Discrimination</u>
R2-5-105.	Personnel records

**ARTICLE 1. GENERAL**

**R2-5-101. Definitions**

The following words and phrases used in these rules have the defined meanings unless otherwise clearly indicated by the context.

1. "Agency" means any department, board, office, authority, commission, or other governmental budget unit of the state except those exempted by A.R.S. § 41-771.
2. "Agency head" means the chief executive officer of any department, board, office, authority, commission, or other governmental budget unit of the state.
3. ~~"Announcement" means the public notice of examination to fill positions by open competition, or the notice to employees of an examination to fill positions from within the state service.~~
4. "Appeal" means the request for a review by the Personnel Board of a disciplinary action pursuant to A.R.S. § 41-782.

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- 5-4. "Applicant" means any person who seeks appointment to a position in the state service.
- 6-5. "Appointment" means the offer to and the acceptance by a person of a position in the state service.
6. "Base salary" means an employee's salary not including overtime pay, shift differential, bonus pay, special performance adjustment previously granted, or pay for any other allowance or special incentive pay programs.
7. "Business day" means a day that falls between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding observed state holidays.
- 7-8. "Candidate" means a person who has made a passing score on an examination whose knowledge, skills and abilities (KSA's) meet the requirements of a position and whose name is placed in a register who may be considered for employment.
- 8-9. "Cause" means any of the reasons for disciplinary action provided by statutes or these rules.
9. "Certification" means the referral of candidates on a hiring list to an agency to be considered for appointment to a position in the state service.
10. "Child" means:
- a. For purposes of ~~R2-5-415~~ R2-5-416(C) pertaining to the health benefit plan, ~~R2-5-417~~ R2-5-418(B) pertaining to the retiree health benefit plan, and ~~R2-5-418~~ R2-5-419(C) pertaining to the health benefit plan for former elected officials, each unmarried natural, adopted, foster and stepchild under age 19, or under the age of ~~24~~ 25 if a full-time student, who resides or is placed by court order in the household of the employee, the retired employee, or the former or incumbent elected official; ~~and~~
  - b. For purposes of ~~R2-5-416~~ R2-5-417(C) pertaining to the life and disability income insurance plan, and ~~R2-5-419 (A)~~ R2-5-421(B) pertaining to the life insurance plan for former elected officials, each unmarried natural, adopted, foster and stepchild under age 19 who resides or is placed by court order in the household of the employee or the former or incumbent elected official; ~~and or~~
  - c. For purposes of R2-5-207(D), pertaining to the employment of relatives, R2-5-404, pertaining to sick leave, and R2-5-410(B), pertaining to bereavement leave, and R2-5-411, pertaining to parental leave, each natural, adopted, foster and stepchild.
  - d. ~~For purposes of R2-5-411, pertaining to parental leave, each natural, adopted, foster and stepchild under five years of age.~~
11. "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, ~~minimum requirements of training, experience, or skill, knowledge, skills, and abilities, and such~~ other characteristics that the same title and the same pay grade apply to each position in the group.
12. "Class series" means ~~the a~~ a group of related classes ~~which that are~~ is listed in the Occupational Listing of Classes as a subsection of the occupational group.
13. "Class specification" means the description of the type and level of duties and responsibilities of the positions assigned to a class.
14. "Clerical pool appointment" means the non-competitive temporary placement of a qualified individual in a clerical position.
15. "Competition" means the process leading to the identification of candidates for employment or promotional consideration, ~~which that~~ includes the announcement of a vacancy, a formal an evaluation of applicants' qualifications and the development of a hiring list, in accordance with these rules.
16. "Conversion" means ~~the non-competitive movement of an employee from a seasonal or temporary position to a permanent or limited position.~~
16. "Covered employee" means an employee subject to the provisions of these rules.
17. "Covered position" means ~~any a~~ a position in the state service, as provided by A.R.S. § 41-762.
18. "Days" means calendar days unless otherwise stated.
19. "Demotion" means a change in the assignment of an employee for cause from a position in ~~+~~ one class to a position in another class having a lower pay grade resulting from disciplinary action.
20. "Department" means the Arizona Department of Administration.
21. "Detail to special duty" means the temporary assignment of a permanent employee to a covered position other than the employee's current position in the same agency.
- ~~22-21.~~ "Director" means the Director of the Arizona Department of Administration, and the Director's designee with respect to personnel administration.
22. "Eligible dependent" means a dependent eligible for employee benefits pursuant to Section 125 of the Internal Revenue Code.
23. "Emergency appointment" means an appointment made without regard to the recruitment, ~~examination, certification~~ evaluation, referral or selection requirements of these rules in response to a governmental emergency.
24. "Entrance Salary" means the minimum rate of the salary plan established for a specific class.
25. "Essential job functions" means the physical, mental and environmental demands of the basic job duties that an employee must be able to perform, with or without a reasonable accommodation.

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- 24-26. “Examination Evaluation” means the evaluation procedure used to determine the relative ~~excellence~~ qualifications of applicants.
- 25-27. “Flexible or cafeteria employee benefit plan” means a plan providing benefits to eligible employees which meets the requirements of Section 125 of the Internal Revenue Code.
28. “FLSA” means the federal Fair Labor Standards Act.
29. “FLSA covered” means a position that is subject to the provisions of the FLSA.
30. “FLSA Exempt” means a position that is not entitled to overtime compensation under the FLSA.
31. “FMLA” means the federal Family Medical Leave Act.
- 26-32. “Good standing” means the status of a former employee at the time of separation from state service for reasons other than disciplinary or anticipated disciplinary action.
33. “Grievance” means a formal complaint filed by an employee which concerns discrimination, noncompliance with these rules, or other work-related matters which directly and personally affect the employee using an established procedure pursuant to Article 7 of these rules.
27. “Handicap” means a physical impairment that substantially restricts or limits an individual’s general ability to secure, retain or advance in employment except:
- a. Any impairment caused by current or recent use of alcohol or drugs; or
  - b. Any impairment or condition to which A.R.S. §§ 23-1044(A) or 23-1045(A) applies.
34. “Human Resources Employment Database” means the database containing the resume of an applicant interested in employment within Arizona State service.
35. “Incumbent” means the officer or employee currently holding an office or position.
- 28-36. “Institution” means a facility ~~which~~ that provides supervision or care for residents on a 24-hour per day, 7-day per week, basis.
37. “Knowledge, Skills and Abilities (KSA’s)” means familiarity with or possession of information and the capability to perform tasks through a variety of manual, physical, intellectual or interpersonal activities and a natural talent or acquired expertise to perform the functions of a position.
- 29-38. “Limited appointment” means an appointment to a position ~~which~~ that is funded for at least 6 months but not more than 36 months.
- 30-39. “Manifest error” means an act or failure to act ~~which~~ that is, or clearly has caused, a mistake, ~~of commission or omission to occur.~~
- 31-40. “Mobility assignment” means the assignment of a permanent status employee to an uncovered position; ~~or to a position in another state agency; or to another governmental jurisdiction. This term also applies to the assignment of an employee from another governmental jurisdiction.~~
- 32-41. “Original probation” means the specified period following initial appointment to ~~the~~ state service in a permanent regular or limited position for evaluation of the employee’s work.
- 33-42. “Original probationary appointment” means the initial appointment to a permanent regular or limited position in the state service.
43. “Parent” means for purposes of R2-5-403(E) pertaining to donation of annual leave, R2-5-404(A), pertaining to sick leave, and R2-5-410, pertaining to bereavement, birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or anyone who can be considered “in loco parentis”.
- 34-44. “Participant” means all employees who are enrolled in the state’s insurance programs.
45. “Part time” means employment scheduled for less than 40 hours per week.
- 35-46. “Pay grade” means a salary level range in a state service salary plan.
- 36-47. “Pay status” means ~~the condition of~~ an employee ~~who~~ is receiving pay for work or for a compensated absence.
- 37-48. “Permanent status” means the standing an employee achieves after the completion of an original probation or a promotional probation.
- 38-49. “Plan” means the flexible or cafeteria employee benefit plan.
- 39-50. “Plan administrator” means the Director, Arizona Department of Administration.
- 40-51. “Promotion” means a permanent change in assignment of a an permanent status employee from a position in ~~+~~ one class to a position in another class having a higher pay grade.
- 41-52. “Promotional probation” means the specified period of employment following promotion of a permanent status employee for evaluation of the employee’s work.
42. “Provisional appointment” means an appointment of a qualified individual to fill a vacancy in a class for which there are less than three candidates available and for which no related registers can be used.
- 43-53. “Qualified” means meeting the minimum qualification for a class knowledge, skills, and abilities requirements of a position as defined described in the class specification specifications plus any special requirements that may be published for a position in that class.
- 44-54. “Reclassification” means changing the classification of a position when a material and permanent change in duties or responsibilities occurs.

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- 45-55. "Reduction" means the non-appealable movement of an employee from ± one position to another in a lower pay grade as a result of a reduction in force.
- 46-56. "Reemployment" means the appointment of a former permanent status employee who was separated by a reduction in force.
47. ~~"Register" means a file of candidates for a position or class, in final score order, from which hiring lists are prepared.~~
57. "Regular position" means a full-time equivalent (FTE) position in state service.
- 48-58. "Reinstatement" means the appointment of a former permanent status employee who resigned, was separated in good standing, or was separated without prejudice.
- 49-59. "Repromotion" means the promotion of an employee who was reduced in grade due to a reduction in force to the grade held prior to the reduction in force or to an intervening grade.
50. ~~"Resident" means an individual who is in the state for other than a temporary or transitory purpose.~~
- 51-60. "Reversion" means the return of an employee on promotional probation to a position in the class in which the employee held permanent status immediately prior to the promotion.
- 52-61. "Rules" means the rules contained in the 2 A.A.C. 5.
53. ~~"Seasonal appointment" means an appointment to a position which recurs on a seasonal or intermittent basis.~~
- 54-62. "Separation without prejudice" means the removal, without appeal rights, of an employee from the state service due to a reduction in force, the lack of a position for an employee requesting to return from leave without pay, or the inability of an employee to return to work at the conclusion of a leave without pay. the non-disciplinary removal, without appeal rights, of an employee in good standing from the state service.
63. "Special detail" means the temporary assignment of a permanent status employee to a covered position in the same agency.
- 55-64. "State service" means all agencies, officers, and employees subject to these rules as provided by A.R.S. § 41-762.
65. "Surviving spouse" means the husband or wife, as provided by law, of an active or retired employee who survives upon the death of the employee.
- 56-66. "Temporary appointment" means the an appointment to a position for a specified period of less than 6 months made for a recurring period of time up to a maximum of 1500 hours in any one position per agency each calendar year.
- 57-67. "Transfer" means the movement of an employee from one position in the state service to another position in the state service in the same pay grade.
68. "Uncovered position" means a position that is not covered by the provisions of the personnel rules.
- 58-69. "Underfill" means the employment of a person in a class lower than the allocated class for that position.
70. "Voluntary Pay Grade Decrease" means a change in assignment at the request of an employee to a position in a class with a lower pay grade.

**R2-5-102. General provisions**

- A. Delegation of authority.
1. The Director may delegate in writing authority to an agency head consistent with legal requirements.
  2. The Director may review or audit delegated authority to determine compliance with laws, rules and policies.
  3. Unless otherwise stated by law or in these rules, an agency head may delegate ~~any~~ authority granted to the agency head in these rules.
- B. Availability of funds. The granting of any compensation in these rules is contingent upon the availability of funds, as determined by ~~the an~~ agency head and the Director.
- C. Conflict with federal requirements. The provisions of A.R.S. § 41-784 shall ~~be applicable~~ apply to these rules, and any provision of these rules ~~which that~~ conflicts or is inconsistent with federal rules, regulations, or standards governing the granting of federal funds to an agency shall not ~~be applicable~~ apply to ~~such the~~ agency.
- D. Service of notice. If ~~any a~~ notice or document is to be given to ~~any a~~ person or agency, the notice or document may be served personally or mailed to the last known residence or current business address of the addressee. Unless otherwise provided by law or these rules, service is complete upon mailing.
- E. Employee handbook. The Director may publish an employee handbook outlining pertinent rules and regulations and make ~~such the~~ handbook available to all employees.
- F. Correction of errors. The Director may correct a manifest error. ~~or a clear inequity affecting an employee or an applicant for employment.~~

**R2-5-103. Applicability**

- A. General. These rules are applicable to all covered employees and to all state service positions.
- B. Exception. The Director may implement a temporary pilot projects project to improve personnel management in ~~the~~ state service. The ~~projects project~~ may include an activities activity or procedures procedure that ~~are is~~ not in accordance with these rules, ~~for the purpose of determining the feasibility or effectiveness of such activities or procedures,~~ and ~~may shall~~ not exceed ~~12-18~~ months in duration. A Pilot pilot projects project must shall conform to the Standards for a Merit System

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of Personnel Administration, 5 CFR Part 900, Subpart F, Section 900.603, incorporated by reference herein and on file in the Office of the Secretary of State.

**R2-5-104. ~~Nondiscrimination~~ Discrimination**

An agency shall not discriminate against an individual in violation of A.R.S. §§ 41-1461, 41-1463, and 41-1464.

**R2-5-105. Personnel records**

**A.** Purpose. An employee's official personnel file is documentation of the administration of the person's employment.

**~~A-B.~~** Content. Each ~~An~~ employee's official personnel file shall contain:

1. A copy of the job application or resume for the employee's current ~~permanent~~ regular position;
2. A copy of all performance appraisal reports;
3. ~~A file of personnel~~ Personnel action forms that have authorized changes in employment status, position, classification, pay, or leave status;
4. Letters of commendation as established by agency policy; ~~or disciplinary letters, or objections filed thereto by the employee.~~
5. Disciplinary letters as defined in Article 8 and letters of reprimand. Documents ~~documents~~ acknowledging receipt of reprimand and disciplinary communications, and related employee objections that are not filed pursuant to Article 7; and
6. Corrective action plans or other notification to improve performance.

**~~B-C.~~** Insurance and medical records. Group insurance ~~records~~ enrollment forms may be contained in the employee's official personnel file ~~or in consolidated files~~. All medical records shall be maintained in a separate file that shall not be considered part of the employee's official personnel file.

**D.** Immigration Records. The I-9 form and other documents required by law to prove employment eligibility may be retained in an employee's official personnel file or a separate file.

**~~C-E.~~** Access. For the purpose of this subsection, an official is one who provides identification verifying that the individual is exercising powers and duties on behalf of the chief administrative head of a public body. Access to ~~any~~ an employee's official personnel file shall be limited to:

1. The employee or ~~any~~ an individual who has written authorization from the employee to review the personnel file;
2. Agency personnel designated by the agency head as having a need for ~~such~~ the information;
3. ~~A Department~~ department official in the normal line of duty;
4. ~~An Officials~~ official acting in response to a court ~~orders~~ order or ~~subpoenas~~ subpoena;
5. ~~An Officials~~ official of an agency to which the employee has applied; and
6. An official of an agency of the federal government, state government or ~~any of their political subdivisions~~ subdivision, but only when ~~it is deemed by~~ the agency head of the employing agency deems it to be appropriate to a proper function of the official requesting access.
7. ~~For purposes of subsection (C) of this Section, an official is one who provides identification verifying that he is exercising powers and duties on behalf of the chief administrative head of a public body.~~

**~~D-E.~~** Disclosure in of information: The following information ~~will~~ shall be provided to any person pursuant to Article 2, Chapter 1, Title 39, A.R.S.:

1. Name of employee;
2. Date of employment;
3. Current and previous class titles and dates received;
4. Name and location of current and previous agencies to which the employee has been assigned;
5. Current and previous salaries and dates of each change; and
6. Name of employee's current or last known supervisor.

**~~E-G.~~** Access to other files: The presence of copies of any item listed in ~~subsection (A) (B)~~ in ~~any other~~ another informational file ~~concerning an employee~~ shall not ~~in itself~~ confer upon ~~such~~ an employee ~~any~~ a right of access to ~~such~~ the file.

**~~F-H.~~** Control:

1. When an employee moves from ~~+~~ one state service agency to another, the losing agency ~~will~~ shall forward the employee's official personnel file to the gaining agency within 10 days of the effective date of the move.
2. When an employee returns to state service ~~after a separation~~ to an agency other than the agency in which the employee was last employed, the gaining agency ~~will~~ shall request that the last agency forward the employee's official personnel ~~files~~ file. The last agency shall forward the ~~personnel files~~ file within 10 days of the receipt of the request.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES**

**HEALTH CARE INSTITUTIONS: LICENSURE**

**PREAMBLE**

**1. Sections Affected**

Article 12  
R9-10-1211  
R9-10-1212  
R9-10-1213  
R9-10-1214  
R9-10-1215  
R9-10-1216  
R9-10-1217  
R9-10-1218  
R9-10-1219  
R9-10-1220  
R9-10-1221  
R9-10-1222  
R9-10-1223  
R9-10-1224  
R9-10-1226  
R9-10-1227  
R9-10-1228  
R9-10-1230

**Rulemaking Action**

Repeal  
Repeal

**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. §§ 36-104(3), 36-132(A), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-404, 36-405, 36-406, 36-421, 36-424, and 36-425(D)

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 1736 April 5, 2002

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

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services  
1740 W. Adams, Suite 102  
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

or

Name: Kathy McCanna, Program Manager

Address: Department of Health Services  
1647 E. Morten Ave., Suite 160  
Phoenix, AZ 85020

Telephone: (602) 674-9750

Fax: (602) 395-8913

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E-mail: kmccann@hs.state.az.us

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

In accordance with the five-year review report of 9 A.A.C. 10, Article 12, approved by the Governor's Regulatory Review Council as number F-00-0905 on September 12, 2000, the Department is repealing the infirmary rules.

In 1981 when the infirmary rules became effective, Arizona colleges and universities maintained on-campus infirmaries to provide some student and staff inpatient health care. Maintaining a state-of-the-art infirmary now is cost-prohibitive, and hospitals generally provide the inpatient care.

Fewer than five infirmaries currently operate in Arizona, licensed by the Department as unclassified health care institutions under R9-10-115. Because the infirmary rules are no longer followed, repeal is appropriate.

**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, and any analysis of the study and other supporting material:**

Not applicable

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

Not applicable

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

Under A.R.S. § 41-1055(D)(3) this rulemaking is exempt from the economic, small business, and consumer impact statement requirement. Repealing the infirmary rules imposes no costs on the regulated community or the general public. The regulated community, the general public, and the Department benefit from repeal of no-longer-followed 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:**

Not applicable

**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 oral proceeding is scheduled on the repeal of the infirmary rules. Written comments will be accepted at the addresses listed in item #4 until the close of the record 31 days after *Arizona Administrative Register* publication of this notice, unless a person requests an oral proceeding before the close-of-record date.

**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 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES**

**HEALTH CARE INSTITUTIONS: LICENSURE**

**ARTICLE 12. INFIRMARY REPEALED**

Section

R9-10-1211.	<del>Definitions</del> <u>Repealed</u>
R9-10-1212.	<del>Administration</del> <u>Repealed</u>
R9-10-1213.	<del>Personnel</del> <u>Repealed</u>
R9-10-1214.	<del>Medical staff</del> <u>Repealed</u>
R9-10-1215.	<del>Nursing services</del> <u>Repealed</u>
R9-10-1216.	<del>Surgical services</del> <u>Repealed</u>
R9-10-1217.	<del>Dietetic services</del> <u>Repealed</u>
R9-10-1218.	<del>Emergency services</del> <u>Repealed</u>
R9-10-1219.	<del>Disaster preparedness</del> <u>Repealed</u>

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- R9-10-1220. ~~Environmental services~~ Repealed
- R9-10-1221. ~~Medical records services~~ Repealed
- R9-10-1222. ~~Laboratory services~~ Repealed
- R9-10-1223. ~~Pharmaceutical services~~ Repealed
- R9-10-1224. ~~Rehabilitation services~~ Repealed
- R9-10-1226. ~~Radiology services~~ Repealed
- R9-10-1227. ~~Respiratory care services~~ Repealed
- R9-10-1228. ~~Obstetrical services~~ Repealed
- R9-10-1230. ~~Physical plant construction standards~~ Repealed

**ARTICLE 12. INFIRMARY REPEALED**

**R9-10-1211. General Repealed**

- ~~**A.** Infirmaries to which these requirements apply are subject to inspection as provided in A.R.S. §§ 436-406 and 36-424. Department personnel are prohibited by A.R.S. § 36-404 from disclosing patient records or any information from which a patient or his family might be identified, or sources of information which cause the Department to believe that an inspection is needed to determine whether an institution is in compliance with the provisions of this Chapter and the regulations thereunder.~~
- ~~**B.** The infirmary's administration shall assure that contract suppliers meet the same standards of quality the infirmary would have to meet if services were provided by the infirmary.~~
- ~~**C.** Regulations contained in this Article shall not be construed to compel any patient to submit to any examination or treatment provided all requirements for control of communicable disease and sanitation are met.~~

**R9-10-1212. Definitions Repealed**

~~Unless the context otherwise requires:~~

- ~~1. "Attendant population" means the staff and students of a school, the members of an association or the clients or wards of a public agency.~~
- ~~2. "Chief executive officer" means a qualified person appointed by the governing authority to act in its behalf in the overall management of the infirmary.~~
- ~~3. "Food service director" means a person who is a dietitian or a graduate of a dietetic technician, dietetic assistant or food service supervisor training program, correspondence school or classroom, approved by the American Dietetic Association, or who has training and experience in food service supervision and management equivalent to 1 of these programs.~~
- ~~4. "Infirmary" is a class of health care institution having 30 or fewer inpatient beds and providing limited hospital services to the staff and students of a school, the members of an association or the clients or wards of a public agency.~~
- ~~5. "Licensed bed capacity" means the number of beds specified on the infirmary's license.~~

**R9-10-1213. Administration Repealed**

- ~~**A.** Governing authority: The governing authority shall adopt policies which identify the purposes of the infirmary and the methods of fulfilling them. The governing authority shall appoint a chief executive officer who shall be appropriately qualified for the management of the facility. The chief executive officer shall have authority and responsibility for the operation of the infirmary.~~
- ~~**B.** The chief executive officer shall be directly responsible for the management and operation of the infirmary and shall, when there is an organized medical staff, provide liaison between the governing body and the medical staff.
  - ~~1. When there is a planned change of the chief executive officer or ownership, the governing authority shall notify the Department at least thirty days prior to the effective date of change. Such changes that cannot be planned in advance shall be reported in writing to the Department immediately.~~
  - ~~2. There shall be written admission and discharge policies which are consistent with the established purposes of the infirmary.~~
  - ~~3. Upon admission inpatients shall be provided a suitable device or method for identification.~~
  - ~~4. The following documents or copies shall be available in the infirmary:
    - ~~a. Policies of the governing authority,~~
    - ~~b. By-laws and rules and regulations of the medical staff,~~
    - ~~c. Policies and procedures for all established infirmary services,~~
    - ~~d. Reports of all inspections and reviews related to licensure for the preceding 5 years together with corrective actions taken.~~
    - ~~e. Contracts related to licensure to which the infirmary is bound,~~
    - ~~f. Appropriate documents evidencing control and ownership,~~
    - ~~g. A current copy of Title 9 Health Care Regulations available from the Office of the Secretary of State which includes:  
Chapter 1, Article 4 Codes and Standards Referenced~~~~~~

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Chapter 8, Article 1 Food and Drink

Chapter 9, Articles 1,2,3 Health Care Institutions: Establishment and Modification

Chapter 10, Article 1 Health Care Institutions: Licensure

Chapter 10, Article 12 Health Care Institutions: Infirmaries

5. ~~The Department recognizes that emergency situations do occur in which the infirmary may temporarily need to exceed its licensed bed capacity. The medical need to admit patients in excess of the licensed bed capacity shall be monitored by a physician, and only a physician shall admit patients until the census is reduced to the licensed bed capacity.~~
6. ~~Personnel~~
  - a. ~~Personnel records:~~
    - i. ~~A record of each employee shall be maintained which includes the following:~~
      - (1) ~~Employee's identification, including name, address and next of kin,~~
      - (2) ~~Resume of education and work experience,~~
      - (3) ~~Verification of valid license if required, education and training.~~
    - ii. ~~Payroll and attendance records for the preceding 12-month period shall be available for review by Department personnel.~~
    - iii. ~~Every position shall have a written description of the duties of the position.~~
  - b. ~~New employees shall receive orientation to familiarize them with the facility, its policies, and the responsibilities of the new employee.~~
  - c. ~~An in-service training program shall be conducted on a continuing basis for all nursing personnel and shall be available for others. Records shall be maintained that include at least subject matter, attendance, and date of training.~~
  - d. ~~An employee whose duties during his normal work shift require him to be awake while on the job shall not be scheduled to work consecutive shifts.~~
  - e. ~~Pre-employment and annual medical screenings shall be conducted. These shall include a medical history and an appropriate tuberculosis screening test. A physical examination shall be accomplished of those persons whose medical screening indicates such a need.~~
7. ~~Miscellaneous~~
  - a. ~~There shall be no pets allowed in the infirmary. For the purpose of these regulations, seeing eye dogs and hearing ear dogs are not considered pets.~~
  - b. ~~The person on duty and in charge of the infirmary shall have reasonable access to all areas of the infirmary.~~
  - c. ~~Reasonable privacy shall be provided for all patients.~~

**R9-10-1214. Medical staff Repealed**

- ~~**A.** The infirmary shall not be required to have an organized medical staff. However, if there is an organized medical staff, they shall be responsible to the governing authority for the quality of medical care provided to patients and for the professional and ethical practices of its members.~~
- ~~**B.** Patients may be admitted to the infirmary by the person on duty. In infirmaries with organized medical staff, admittance shall be in accordance with medical staff by-laws. In all infirmaries Medical Services to Patients shall be under the direction of a physician. (See R9-10-113 for definitions of "Medical Services" and "Direction".)~~
- ~~**C.** The organized medical staff subject to final approval of the governing authority shall adopt by-laws, rules and regulations, and policies for the proper conduct of its activities. The medical staff shall recommend to the governing authority, physicians and other licensed practitioners considered eligible for new and continued membership on the medical staff, as delineated in medical staff by-laws. Clinical privileges of each medical staff member shall be delineated in writing.~~
- ~~**D.** In those infirmaries having an organized medical staff, the by-laws shall state the type, purpose, composition and organization of standing committees.~~
- ~~**E.** The medical staff shall be responsible to assure the availability of inpatient and outpatient physician services in the event of an emergency.~~

**R9-10-1215. Nursing services Repealed**

- ~~**A.** Organization~~
1. ~~The infirmary shall have an organized nursing service to provide nursing care to meet the needs of each patient, and the attendant population.~~
2. ~~Administrative and patient care policies and procedures for all nursing services provided shall be developed, periodically reviewed, and revised as necessary.~~
- B.** Staffing
1. ~~The nursing department shall be adequately staffed at all times based upon the number of patients and their acuity.~~
  - a. ~~A registered nurse shall be in charge of the nursing service at all times.~~

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- b. ~~There shall be at least 1 registered nurse present in the infirmary at all times. When there are 25 or more inpatients, there shall be an additional licensed nurse on duty. In addition, there shall be at least 1 other staff person immediately available to the infirmary within 5 minutes.~~
- 2. ~~A staffing schedule shall be maintained.~~

**R9-10-1216. Surgical services Repealed**

~~An infirmary shall not provide surgical services.~~

**R9-10-1217. Dietetic services Repealed**

- ~~A. If the infirmary has a dietetic department, it shall meet the requirements of general hospital dietetic services regulations R9-10-217.~~
- ~~B. If the infirmary does not maintain a dietetic department, it shall meet the requirements of food service sanitation in accordance with the Department's regulations contained in 9 A.A.C. 8, Article 1, "Food and Drink".~~

**R9-10-1218. Emergency services Repealed**

- ~~A. An infirmary is not required to staff or equip a full-time emergency department, but necessary emergency medical services shall be provided in a designated area of the infirmary to meet the needs of the attendant population.~~
- ~~B. Emergency services shall be provided to any of the attendant population in need of them. If the infirmary offers only a partial range of services and elects to transfer the patient for further care, essential life-saving measures and emergency procedures shall be instituted that will minimize aggravation of the condition during transportation. A patient shall be transferred only to a receiving institution that has consented to accept that patient. A record of the immediate medical problem and treatment provided shall accompany the patient.~~
- ~~C. There shall be written policies adopted by the governing authority establishing the extent of treatment to be carried out by the infirmary. These written policies shall provide for transfer to facilities offering more comprehensive care.~~
- ~~D. An infirmary that desires to provide full emergency room services shall meet the requirements of R9-10-218.~~

**R9-10-1219. Disaster preparedness Repealed**

~~Disaster plan: There shall be a written plan of operation with procedures to be followed in the event of a disaster.~~

**R9-10-1220. Environmental services Repealed**

- ~~A. Policies and procedures for investigating, controlling and preventing infections in the infirmary shall be adopted which shall include specific isolation procedures. All cases of reportable diseases shall be reported in accordance with applicable rules and regulations adopted by the Department. There shall be a policy requiring sterile supplies to be reprocessed at specified time periods.~~
- ~~B. The infirmary shall be kept clean, free of insects, rodents, litter and rubbish. All areas shall be regularly and appropriately cleaned in accordance with administrative policies and procedures.~~
- ~~C. The infirmary physical plant, including equipment, shall be periodically inspected and, where appropriate, tested, calibrated, serviced or repaired to assure that all equipment is free of fire and electrical hazards and is functioning properly. Records shall be maintained to assure that appropriate inspections and maintenance of equipment are periodically accomplished by qualified personnel.~~
- ~~D. There shall be available at all times clean linen essential to the proper care and comfort of the patients. Linens shall be handled, stored, processed or transported in a manner which will prevent the spread of infection.~~
- ~~E. All potentially hazardous wastes such as waste from isolation rooms and disposable materials contaminated with secretions, excretions or blood and patient care wastes, laboratory wastes and the like shall be sterilized by autoclaving and buried in a Department approved sanitary landfill or may be disposed of by incinerating in an incinerator approved by the Air Pollution Control Officer having jurisdiction. If only 1 autoclave is available and an incinerator is not available, the waste shall be double bagged, clearly marked and shall be taken to a Department approved landfill. The operator of the landfill shall be notified and immediate burial assured. Provisions of 9 A.A.C. 8, Article 4 pertaining to disposal of such material shall be observed.~~
- ~~F. When oxygen is being used, the following precautions shall be taken:
  - 1. A warning sign shall be placed at each entrance to the room.
  - 2. Ash trays, matches, and other smoking material shall be removed from the room.
  - 3. Oxygen tanks shall be secured at all times. Additional precautions shall be taken in accordance with the Life Safety Code adopted by reference in A.A.C. R9-1-412(B) and the Inhalation Anesthetics Code adopted by reference in A.A.C. R9-1-417(A).
  - 4. Hydrocarbon greases shall not be used.~~
- ~~G. Electrical safety
  - 1. Extension cords shall not be used except for maintenance services.
  - 2. Additional precautions shall be taken in accordance with the National Electrical Code adopted by reference in A.A.C. R9-1-412(E).~~
- ~~H. There shall be written policies concerning syringe and needle storage, handling and disposal.~~

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- ~~I.~~ Water supply shall be in accordance with the Department's regulations contained in 9 A.A.C. 8, Article 2.
- ~~J.~~ Sewage systems shall be in accordance with the Department's regulations contained in 9 A.A.C. 8, Article 3.

**R9-10-1221. Medical records services Repealed**

- ~~A.~~ There shall be a medical records department under the direction of a designated person and with adequate staff and facilities to perform all required functions. If the designated person is not qualified in medical records management, consultation or training from a qualified person shall be provided.
- ~~B.~~ A medical record shall be established and maintained for every person receiving treatment as an inpatient, outpatient, or on an emergency basis in any unit of the infirmary. The records shall be available to other units engaged in care and treatment of the patient.
- ~~C.~~ Only authorized personnel shall have access to the records.
- ~~D.~~ Medical records shall be released only with the written consent of the patient, the legal guardian, or in accordance with the law.
- ~~E.~~ For licensing purposes, medical records shall be readily retrievable for a period of not less than 3 years except that A.R.S. § 36-343 requires retention of vital records and statistics for 10 years.
- ~~F.~~ The original or signed copy of all clinical reports shall be filed in the medical record.
- ~~G.~~ Within 48 hours of admission, a current or updated history and physical examination or nursing evaluation shall be in the record.
- ~~H.~~ When a patient is readmitted within 30 days for the same problem, there shall be at least a reference to the previous history by an interval note.
- ~~I.~~ When authorized by the medical staff, physician's assistants and nurse practitioners may write or dictate medical histories and results of physical examinations. Such entries shall be countersigned by the attending physician.
- ~~J.~~ All entries in the record must be dated and signed or initialed by the person making the entry. If initials are used, a method must be established to identify authorship.
- ~~K.~~ Medical records of discharged patients shall be completed within time limits established by policies of the infirmary.
- ~~L.~~ Inpatient medical records shall contain the following information, if applicable:
  - 1. Patient's identification sheet, including name, address, date of birth, sex, person to be notified in an emergency, and a unique identifying number.
  - 2. History and physical examination or nursing evaluation.
  - 3. Physician's orders and progress notes.
  - 4. Laboratory and diagnostic reports.
  - 5. Nursing notes.
  - 6. Medication and treatment records.
  - 7. Admitting diagnosis.
  - 8. Disposition and discharge diagnosis.
  - 9. Record of informed consent.
  - 10. Discharge summary.
- ~~M.~~ The outpatient's medical record shall be accessible and contain the following information:
  - 1. Patient's identification.
  - 2. That information pertaining to the patient's chief complaint including but not limited to physician's orders, treatment or services provided, and disposition.
- ~~N.~~ Emergency service records shall contain the following:
  - 1. Patient's identification.
  - 2. Record of any treatment patient received prior to arrival.
  - 3. History of disease or injury.
  - 4. Physical findings.
  - 5. Laboratory and x-ray reports, if applicable.
  - 6. Diagnosis.
  - 7. Record of treatment.
  - 8. Disposition.
  - 9. Name of physician who ordered the emergency treatment.
- ~~O.~~ All deaths, abortifacient acts, post-mortem procedures and births shall be reported in accordance with 9 A.A.C. 19.
- ~~P.~~ A list of symbols or abbreviations shall be compiled by the staff and approved by the chief executive officer. A current copy shall be maintained at each nursing unit, at each department making entries in the record, and in the medical record department.

**R9-10-1222. Laboratory services Repealed**

If laboratory services are performed, the laboratory shall be licensed as an independent clinical laboratory.

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**R9-10-1223. Pharmaceutical services Repealed**

The infirmary shall maintain pharmaceutical services which comply with A.R.S. Title 36, Chapter 9, and A.R.S. Title 32, Chapter 18 and all applicable regulations adopted by the Board of Pharmacy pursuant thereto:

1. Procedures shall be established to assure that drugs are administered only by persons authorized by state statutes and regulations.
2. Procedures shall be established to ensure that drugs are checked against physician's orders, that the patient is identified prior to administration of the drug, that each patient has an individual medication record, and that the dose of a drug administered to that patient is properly recorded therein by the person who administers the drug.
3. Drugs and biologicals shall be administered as soon as possible by a physician or a licensed nurse.

**R9-10-1224. Rehabilitation services Repealed**

~~A. For purposes of this Section rehabilitation services include physical therapy, occupational therapy, speech therapy, or audiology services.~~

~~B. The following provisions shall be met in infirmaries that provide rehabilitation services:~~

- ~~1. Rehabilitation services shall be provided by a qualified therapist and only when ordered by a physician. Rehabilitation services may be provided by qualified aides and assistants only when there is a qualified therapist on the premises.~~
- ~~2. There shall be written administrative and patient care policies and procedures for each of the rehabilitation services offered.~~
- ~~3. There shall be a written plan for each patient indicating the modality or type of treatment provided and the frequency of treatment. This plan shall be based on the written order or referral of a physician.~~
- ~~4. There shall be written documentation in the patient's medical record of the rehabilitation services provided.~~

**R9-10-1226. Radiology services Repealed**

~~If the infirmary provides radiology services:~~

- ~~1. A physician shall be responsible for the medical direction of the radiology services.~~
- ~~2. There shall be a radiologic procedure manual available to radiology service personnel.~~
- ~~3. X-ray examinations shall be performed only when ordered by a person authorized by law. The request for x-ray shall contain a concise statement of the reason for the examination.~~
- ~~4. The radiology services shall be staffed, equipped and operated in accordance with A.R.S. Title 30, Chapter 4 and regulations adopted thereunder.~~

**R9-10-1227. Respiratory care services Repealed**

~~Infirmaries that provide respiratory care services shall meet the following provisions:~~

- ~~1. Respiratory care services shall include therapeutic procedures and may include diagnostic procedures.~~
- ~~2. Respiratory care services shall be provided in accordance with the written order of a physician. The order shall state the modality to be used, the type, frequency and duration of treatment and type and dose of medication including dilution ratio.~~
- ~~3. Reports of respiratory care services shall be made a part of the patient's medical record.~~
- ~~4. Respiratory therapy shall be administered by qualified personnel.~~

**R9-10-1228. Obstetrical services Repealed**

~~An infirmary shall not provide obstetrical services.~~

**R9-10-1230. Physical plant construction standards Repealed**

~~A. Documentation submittals:~~

- ~~1. The chief executive officer shall provide annually with his license application a certificate of compliance with safety standards as adopted by the fire department having jurisdiction or a plan of corrective action as required.~~
- ~~2. Physical plant drawings shall be submitted to the Department prior to initial licensing. Drawings shall be of such scope and detail as to enable determination of complete compliance of this Article.~~

~~B. Minimum safety standards for infirmaries in continuous operation as infirmary on and after May 1, 1980:~~

- ~~1. Exiting:~~
  - ~~a. Each patient room shall have direct exit access through corridors, stairways, lobbies, or lounges to the exterior. Patients shall not exit through another patient room.~~
  - ~~b. Exit access passageways shall be kept clear at all times to permit emergency evacuation.~~
  - ~~c. Patient bedroom shall be equipped with swing type doors which when closed will effectively resist the passage of smoke. Doors shall not be blocked by any object to prevent closing.~~
  - ~~d. Wheel chair patients shall be housed only in patient bedrooms where 32 inch (81.28 cm) wide doors permit access to exterior exits and to toilet facilities.~~
  - ~~e. At least 2 remote exterior exits shall be accessible by persons in wheelchairs.~~

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- f. A written procedure shall be established for the safe relocation or evacuation of the patients when doors to patient rooms and exit doors are required to be locked (e.g., penal institutions).
- g. Interior stairways shall be enclosed by construction having 1-hour fire resistive materials.
- 2. Safety:
  - a. A functioning sprinkler head or products of combustion detectors shall be located in patient bedrooms, corridors, and interior stairways.
  - b. An appropriate number of sprinkler heads, products of combustion detectors, or heat detectors shall be located to provide adequate protection in kitchens, furnace or boiler rooms, utility rooms, attic spaces, and storage areas.
  - c. Each floor of a building, with a gross floor area exceeding 22,500 square feet (2090.75 square meters) which houses an infirmary shall have a smoke barrier partition installed in accordance with the standards adopted by regulation A.A.C. R9-1-412(B) (Life Safety Code). The smoke barrier partition shall divide the infirmary into separate compartments to provide areas of refuge on both sides of the barrier.
  - d. Portable fire extinguishers shall be provided in corridors, kitchens, and mechanical unit rooms, and maintained in accordance with the standard adopted by regulation A.A.C. R9-1-412(B).
  - e. The physical plant shall be maintained to ensure a safe and healthful environment for patients and staff.
  - f. An approved fire alarm system shall be provided in each facility. Pull boxes shall be located at the exit doors. The sprinkler system, products of combustion detectors, heat detectors, and magnetic hold-open door releases, where provided, shall be electrically interconnected to the fire alarm system.
- 3. Toilet and bath accommodations:
  - a. Access to toilet and bathrooms shall not require a patient to pass through another patient room.
  - b. At least 1 toilet and 1 lavatory shall be provided for each 8 beds or fraction thereof.
  - c. Toilets and lavatories for staff shall be separate from patients' accommodations.
  - d. At least 1 tub or 1 shower shall be provided for each 15 beds or fraction thereof.
  - e. Tubs and showers shall be equipped with grab bars.
- 4. Electrical:
  - a. Electrical systems shall be routinely inspected by a qualified person to ensure maximum safety. No exposed wiring shall be permitted other than appliance electrical cords.
  - b. Exit signs, surface illuminated or illuminated from within, shall be located at each exit and where directional signs are necessary.
  - c. Automatic emergency power, supplied by generator or battery, shall be available to provide lighting in corridors, exits, nurses' station, exit signs, and power to fire alarms and smoke detectors.
- 5. Ventilation:
  - a. All patient bedrooms shall have a window to the exterior. The window shall be screened and operable for ventilation.
  - b. Toilet rooms and bathrooms shall be ventilated by means of mechanical exhaust fans, gravity vents to the exterior, or operable window.
  - c. Heating and cooling shall be adequate to ensure comfort of patient and staff.
  - d. Mechanical units for heating or cooling shall be designed to prevent patient and staff injury.
- C. Minimum standards for infirmaries commencing operation after May 1, 1980 and for additions and alterations to licensed facilities:
  - 1. Exiting:
    - a. Exit corridors shall be at least 6 feet (1.83 m) in clear width.
    - b. Exit doors and patient bedroom doors shall be at least 36 inches (91 cm) in clear width and be of swing type.
    - c. Patient bedroom doors shall be a minimum of 1 3/4 inch (3.45 cm) solid wood core construction, or equal.
  - 2. Toilet and bathroom accommodations:
    - a. At least 1 toilet and 1 lavatory shall be provided for each 4 beds, or fraction thereof.
    - b. At least 1 tub or shower shall be provided for each 10 beds, or fraction thereof.
  - 3. Construction:
    - a. Construction shall consist of a minimum of 1-hour fire resistivity as determined by the code adopted by regulation A.A.C. R9-1-412(A) (Uniform Building Code).
    - b. Smoke barrier partitions shall be installed in accordance with the standard adopted by regulation A.A.C. R9-1-412(B).
    - c. Provisions for handicapped persons shall be provided in accordance with the standard adopted by regulation A.A.C. R9-1-412(I) (Handicapped Standards ANSI A117.1).
  - 4. Electrical:
    - a. Electrical systems shall conform to the standard adopted by regulation A.A.C. R9-1-412(E) (National Electrical Code).
    - b. Smoke detectors shall be installed in accordance with the standard adopted by regulation A.A.C. R9-1-412(B).
  - 5. An automatic fire extinguishing system shall be provided throughout the facility in accordance with the standards adopted by regulation A.A.C. R9-1-412(G) (National Fire Protection Association, Standard 13).