

## 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 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 16. ALLOPATHIC BOARD OF MEDICAL EXAMINERS

##### PREAMBLE

**1. Sections Affected**

R4-16-101  
R4-16-103  
R4-16-109  
R4-16-402  
R4-16-403  
R4-16-409  
R4-16-410

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
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 (10) and 32-1404(D)

Implementing statutes: A.R.S. §§ 32-1405(C)(25), (26), and (27), 32-1405(E), 32-1451(A), and 32-1426(C)

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 1192, March 22, 2002

**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 E. Doubletree Ranch Rd.  
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:**

The Governor's Regulatory Review Council (G.R.R.C.) just approved a very large rulemaking in February 2002 for the Arizona Board of Medical Examiners (Board). After attempting to implement the rules it was discovered that a few oversights occurred which are now being corrected. This rulemaking is merely an attempt to fix these minor oversights and errors.

**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

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**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 E. Doubletree Ranch Rd.  
Scottsdale, AZ 85258

Telephone: (480) 551-2712

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:**

The Board of Medical Examiners will accept written comments which are received by 5:00 p.m. on June 11, 2002, or which are postmarked by that date. The comment period will end and the record will close at 5:00 p.m. on June 11, 2002.

**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 1. GENERAL PROVISIONS**

Section

R4-16-101. Continuing Medical Education  
R4-16-103. Licensure by Endorsement  
R4-16-109. Miscellaneous Fees

**ARTICLE 4. EXECUTIVE DIRECTOR DUTIES**

Section

R4-16-402. Direct Referral to Formal Interview  
R4-16-403. ~~Uncontested~~ Request for Inactive Status and License Cancellation  
R4-16-409. ~~Non-Disciplinary Limitation~~ Consent Agreement  
R4-16-410. Appealing Executive Director Actions

**ARTICLE 1. GENERAL PROVISIONS**

**R4-16-101. Continuing Medical Education**

- A.** A physician holding an active license to practice medicine in this state shall complete 40 credit hours of the continuing medical education required by A.R.S. § 32-1434 during the two calendar years preceding biennial registration. A physician may not carry excess hours over to another two-year cycle. One hour of credit is allowed for each clock hour of participation in ~~Board-approved~~ continuing medical education activities, unless otherwise designated in subsection (B).
- B.** A physician may claim continuing medical education for the following:
1. Participating in an internship residency, or fellowship at a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician

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may claim one credit hour of continuing medical education for each day of training in a full-time approved program, or for a less than full-time training on a pro rata basis. In this subsection teaching institutions define "full-time."

2. Participating in an education program for an advanced degree in a medical or medically-related field in a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each day of full-time study or less than a full-time study on a pro rata basis. In this subsection teaching institutions define "full-time".
  3. Participating in full-time research in a teaching institution approved by the American Medical Association, ~~or~~ the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each day of full-time research, or less than full-time research on a pro rata basis. In this subsection teaching institutions define "full-time".
  4. Participating in an education program certified as Category 1 by an organization accredited by the Accreditation Council for Continuing Medical Education, 515 North State Street, Suite 2150, Chicago, Illinois 60610.
  5. Participating in a medical education program designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of medicine, that is provided by an organization or institution accredited by the Accreditation Council for Continuing Medical Education.
  6. Serving as an instructor of medical students, house staff, other physicians, or allied health professionals from a hospital or other health care institution with a formal training program, if the instructional activities provide the instructor with understanding of current developments, skills, procedures, or treatments related to the practice of allopathic medicine.
  7. Publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of allopathic medicine. The physician may claim one credit hour for each hour preparing, writing, and presenting materials:
    - a. Actually published or presented; and
    - b. After the date of publication or presentation.
  8. A credit hour may be earned for any of the following activities that provide an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic medicine:
    - a. Completing a medical education program based on self-instruction that uses videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
    - b. Reading scientific journals and books;
    - c. Preparing for specialty board certification or recertification examinations;
    - d. Participating on a staff or quality of care committee, or utilization review committee in a hospital, health care institution, or government agency.
- C. If a physician holding an active license to practice medicine in this state fails to meet the continuing medical education requirements under subsection (A) because of illness, military service, medical or religious missionary activity, or residence in a foreign country, ~~or other circumstances~~, the Board, upon written application, shall grant an extension of time to complete the continuing medical education.
- D. The Board shall mail to each physician a license renewal form that includes a section regarding continuing medical education compliance. The physician shall sign and return the form certified under penalty of perjury that the continuing medical education requirements under subsection (A) are satisfied for the two-calendar-year period preceding biennial renewal. Failure to receive the license renewal form under subsection (A) shall not relieve the physician of the requirements of subsection (A). The Board may randomly audit a physician to verify compliance with the continuing medical education requirements under subsection (A).

**R4-16-103. Licensure by Endorsement**

- A. An applicant for licensure by endorsement may make a written request of the Board, for an extension of the seven-year period provided by A.R.S. § 32-1426 (B)(4) to pass one of the combinations of specified examinations. The applicant shall submit the written request to the Board with evidence that:
1. The applicant meets all requirements for licensure and for taking the United States Medical Licensing Examination,
  2. The combination of examinations cannot be passed in the time required by law, and
  3. The applicant is:
    - a. A full-time student in an approved school of medicine, as defined in A.R.S § 32-1401(5);
    - b. A participant in an approved hospital internship, residency, or clinical fellowship program, as defined in A.R.S. § 32-1401(4); or
    - c. A full-time student in a recognized medical degree program, as defined in subsection (E), concurrently or consecutively with medical school or postgraduate training.
- B. If the Board determines that the applicant satisfies the requirements of subsection (A), the Board shall grant the extension.

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- C. An extension shall not exceed 10 years from the date on which the applicant successfully completes the first part of the combination of examinations.
- D. If the Board denies the request for extension, the applicant may request a hearing by filing a written notice with the Board no later than 30 days after receipt of notice of the Board's action. A hearing shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E. In this Section, a "recognized degree program" means an education program offered by a college or university approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges or accredited by the United States Department of Education, Council on Postsecondary Accreditation, Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Medical Association.
- F. An applicant for licensure by endorsement under A.R.S. § 32-1426(C) who provides proof of passing an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of filing shall:
  - ~~1. Provide proof of passing an examination specified in A.R.S. § 32-1426(A) less than ten years before the date of filing a license application with the Board;~~
  - 2.1. Hold a current certification in an American Board of Medical Specialty ("ABMS"), or ~~and~~
  - 3.2. Take and pass the Special Purposes Examination (SPEX).

**R4-16-109. Miscellaneous Fees**

- A. The following fees are established:
  - 1. Application to practice allopathic medicine, \$500;
  - 2. For issuing an initial license, \$450, which may be prorated from date of issuance to date of license renewal;
  - 3. Two-year license renewal, \$450;
  - 4. Reactivation of an inactive license, \$450, which may be prorated from date of reactivation to date of license renewal;
  - 5. Application for a temporary license to practice medicine, \$200;
  - 6. Locum tenens registration, \$200;
  - 7. Duplicate license, \$50;
  - 8. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$25;
  - 9. Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$225;
  - 10. Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;
  - 11. Copy of the annual allopathic medical directory, \$30;
  - 12. Initial registration to dispense drugs and devices, \$200;
  - 13. Annual renewal to dispense drugs and devices, \$100;
  - 14. Penalty fee for late renewal of an active license, \$350;
  - 15. Verifying a license, \$5 per request;
  - 16. Copies of the minutes of all Board meetings during a fiscal year, \$15 per meeting;
  - 17. Copies of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page; and
  - 18. Sale of computerized tapes or diskettes not requiring programming, \$100.
  - 19. A wallet card is provided free of charge at time of licensure. additional wallet cards, \$10.

**ARTICLE 4. EXECUTIVE DIRECTOR DUTIES**

**R4-16-402. Direct Referral to Formal Interview**

The executive director shall refer a case to a formal interview on a future Board meeting agenda, ~~if the medical consultant in cases involving quality of care, the investigative staff~~ if the case involves quality of care, and the investigative staff, the medical consultant, and the lead Board member concur after review of the case that a formal interview is appropriate.

**R4-16-403. ~~Uncontested Request for Inactive Status and License Cancellation~~**

- A. If a physician requests inactive status or license cancellation and meets the requirements of A.R.S. §§ 32-1431 and 32-1433, and is not participating in the program defined under A.R.S. § 32-1452, ~~if the request is not contested,~~ the executive director shall grant the request.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the individuals granted inactive or cancelled license status since the preceding Board meeting.

**R4-16-409. ~~Non-Disciplinary Limitation~~ Consent Agreement**

The executive director may enter into a consent agreement under A.R.S. § 32-1451(F) with a physician to limit the physician's practice or rehabilitate the physician if there is evidence that a licensee is mentally or physically unable to safely engage in the



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

R17-4-310 gives the procedure for receiving personalized license plates. This rulemaking action arises from a five-year review report approved by the Governor's Regulatory Review Council on December 7, 1999 (F-99-1202). The Department plans to revise this rule for clarity.

**Note:** Since the initiation of rulemaking on this Section, the agency has recodified 17 A.A.C. The Section was formerly designated R17-4-708.

**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:**

Because this rulemaking will make the rule clearer, it will benefit the public by making the rule easier to understand and follow. The rulemaking will impose minimal costs on state agencies for rule development and regulatory review.

**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:**

Interested persons may contact the rules analyst listed in item #4 above regarding the economic, small business, and consumer impact statement.

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

No public hearing is planned for this rulemaking. Oral comments or a request for a public hearing may be made Monday through Friday, 8:00 a.m. to 5:00 p.m., at the phone number in item #4 above. Written comments may also be sent to the address in item #4. All comments must be received by 4:30 p.m. on Friday, June 14, 2002, at which time the public record will close.

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

None

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

None

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

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION**

**TITLE, REGISTRATION, AND DRIVER LICENSES**

**ARTICLE 3. VEHICLE REGISTRATION**

Section

R17-4-310. Personalized License Plates

**ARTICLE 3. VEHICLE REGISTRATION**

**R17-4-310. Personalized License Plates**

**A. Definitions:**

1. "~~Committee~~" means the Personalized Plate Committee comprised of 7 employees of the state of Arizona appointed by the Division Director to serve at the Director's pleasure, to conduct reviews of applications and/or public complaints regarding Personalized Plates.
2. "~~Division~~" means the Motor Vehicle Division of the Arizona Department of Transportation.
3. "~~Division Director~~" means the Assistant Director for the Motor Vehicle Division of the Arizona Department of Transportation.
4. "~~Format~~" means the combination of letters, numbers and spaces on vehicle number plates.
5. "~~Personalized Plates~~" means personalized number plates as defined in A.R.S. § 28-375.

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**B.** Procedures for application:

1. An applicant for issuance of Personalized Plates shall file an application form provided by the Division defining the Format requested.
2. The requested Format shall meet the criteria as set forth in A.R.S. § 28-375.
3. The Division shall review the requested Format to determine if the content violates the provisions of A.R.S. § 28-375. Prohibited Formats shall be rejected.
4. If the Format is rejected prior to review by the Committee, the Division shall inform the applicant at the time application is made or by mail. The applicant may make a written request, within 15 days of rejection, for review of the Format by the Committee.

**C.** Prohibited Format. Formats with the following contents are prohibited:

1. Combinations of letters, words or numbers with any connotation which is profane or obscene.
2. Combinations of letters, words or numbers which connote breasts, genitalia, pubic area, buttocks, or relate to sexual and eliminatory functions.
3. Combinations of letters, words or numbers which connote the substance, paraphernalia, sale, user, purveyor of, or physiological state produced by any illicit drug, narcotic or intoxicant.
4. Combinations of letters, words or numbers that express contempt, ridicule, or superiority of a defined class of persons.

**D.** Review by the Committee.

1. The Committee shall review the Format for connotations that may reasonably be detected through linguistic, numerical, or phonetic modes of communication. The review may include translation from foreign languages, an upside-down or reverse reading of the requested Format and may include the use of references such as dictionaries or glossaries of slang, foreign language, or drug terms.
2. The Committee shall consider the applicant's declared definition of the Format.
3. The Committee shall recommend to the Director whether the application be approved or disapproved.
4. The Director shall render a decision regarding the acceptability of the format. If the application is rejected, the Division shall notify the applicant in writing of the right to appeal to the Division Director pursuant to subsections (E)(5) and (6) of this rule.

**E.** Recall of Issued Personalized Plates:

1. If, after issuance of a Personalized Plate, the Division becomes aware that the Format may be prohibited by subsection (C) of this rule, the Committee shall review the Format.
2. If the Committee determines that the issued Format is prohibited, the Committee shall so advise the Director.
3. The Director will determine whether the Format is prohibited and the holder of the plates shall be notified in writing and directed to surrender the plates.
4. The holder of the plates may appeal the decision to the Division Director.
5. An appeal shall be in writing and shall be submitted to the Division Director within 15 days of the final decision. The appeal shall include any additional evidence the applicant wishes the Division Director to consider.
6. The Director shall consider the evidence presented by the applicant and render a final decision.
7. The holder of the plates shall be issued a refund for the amount of the Personalized Plate fee and the pro rata amount of the special annual renewal fee or shall be allowed to apply for replacement Personalized Plates.
8. If the holder of plates found to violate subsection (C) of this rule fails to voluntarily surrender the plates within 30 days after the mailing of the notice of the Division's final decision that the Format is prohibited, the Division shall cancel the Personalized Plates and vehicle registration.

**A.** Definitions.

1. "Division" means the Motor Vehicle Division of the Arizona Department of Transportation.
2. "Division Director" means the Assistant Division Director for the Motor Vehicle Division of the Arizona Department of Transportation.
3. "Personalized plate" means a license plate with a registration number chosen by a person rather than assigned by the Division.
4. "Plate number" means the combination of letters, numbers and spaces on a vehicle license plate.

**B.** A person who wants to receive a personalized plate shall file an application with the Division. The application shall be on a form provided by the Division.

1. An applicant shall provide the following information on the form.
  - a. Name of the vehicle's owner or lessee;
  - b. Vehicle owner or lessee's mailing address;
  - c. Vehicle's make, and year;
  - d. Vehicle Identification Number;
  - e. Vehicle's current plate number;
  - f. Date the vehicle's current registration expires;
  - g. Plate number to appear on the personalized plate;

