

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY EXAMINERS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-24-101 | Amend |
| R4-24-204 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 32-2003(2) and 32-2003(5)
Implementing statutes: A.R.S. §§ 32-2022(A)(4), 32-2022(B)(10), 32-2022(D)(4), and 32-2024
- 3. The effective date of the rules:**
January 13, 2003. The Board is requesting an immediate effective date under A.R.S. § 41-1032(A)(4). The rules will provide a benefit to the public by increasing the number of qualified persons who are available to provide physical therapist or physical therapist assistant services to consumers seeking such services in Arizona and a penalty is not associated with a violation of the rules. The Board is currently turning away many out-of-state applicants who are currently practicing in other states and would like to begin licensing them if they are otherwise qualified. Consumers, particularly in rural areas, benefit from the increased availability of physical therapists and physical therapist assistants.
- 4. A list of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 3257, August 2, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 4042, September 27, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Heidi Herbst Paakkonen, Executive Director
Address: 1400 W. Washington, Suite 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
E-mail: heidi.herbst-paakkonen@ptboard.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
Currently R4-24-204 permits only those applicants who took a national examination given by the Federation of State Boards of Physical Therapy after March 14, 1996 to be licensed or certified by the Board. This has caused the Board to turn away many qualified applicants who have taken a national examination before March 14, 1996 and are practicing in other states. Thus, the Board is amending the definition of national examination to include an examination produced by the American Physical Therapy Association and taken before March 14, 1996, in addition to an examination produced by the Federation of State Boards of Physical Therapy. R4-24-204 is being amended to set the minimum standards for examination scores that must be obtained by applicants who have taken either of the national examinations.
- 7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None

8. 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 the state:

Not applicable

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

Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

The rulemaking impacts applicants, consumers seeking physical therapy, and the Board.

Cost Bearers

The costs to promulgate the rules will be borne by the Board. Rule-related costs involve writing the rules and related economic, small business, and consumer impact statement, mailing the new rules to interested persons, processing applications, and enforcing the rules. If the number of applications submitted to the Board increase as a result of the rules, the Board may see a minimal to moderate increase in revenue because of the receipt of application fees. The increase in revenue is offset by the costs to process the applications.

Beneficiaries

The primary beneficiary of the rules is the applicant who has taken a national physical therapy examination before March 14, 1996 because the rules will allow the applicant to practice as a physical therapist or physical therapist assistant in Arizona if otherwise qualified. Businesses also benefit because they will have a larger pool of qualified individuals to choose from when employing a physical therapist or physical therapist assistant. Consumers, particularly in rural areas, will benefit because of the increased availability of care by physical therapists and physical therapist assistants. Costs should not increase to a consumer because of the rules.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

In R4-24-204(A) and (B), the Board inserted "or more" after "a scaled score of 600" to allow an applicant to score more than 600 in order to be licensed or certified by the Board.

11. A summary of the comments made regarding the rule and the agency's response to them:

One oral comment was received supporting the rule change during the public hearing. The reason cited for supporting the change was that physical therapists who have taken the national examination prior to March 14, 1996 would meet this qualification for licensure in Arizona.

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

None

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

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-24-101. Definitions

ARTICLE 2. LICENSING AND EXAMINATION PROVISIONS

Section

R4-24-204. Examination Scores

ARTICLE 1. GENERAL PROVISIONS

R4-24-101. Definitions

1. "Accredited educational program" No change
2. "Applicant" No change
3. "Applicant packet" No change
4. "APTA" No change
5. "Campus" No change
6. "Compliance period" No change

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7. "Continuing competence" No change
8. "Credential evaluation" No change
9. "Days" No change
10. "Endorsement" No change
11. "Facility" No change
12. "Foreign-educated applicant" No change
13. "Functional limitation" No change
14. "National disciplinary database" No change
15. "National examination" means an examination produced by the Federation of State Boards of Physical Therapy ~~and used by the Board to test an applicant for physical therapist licensing or physical therapist assistant certification~~ or an examination produced by the American Physical Therapy Association.
16. "Recognized standards of ethics" No change

ARTICLE 2. LICENSING AND EXAMINATION PROVISIONS

R4-24-204. Examination Scores

- A. To be licensed ~~by examination~~ as a physical therapist, an applicant shall obtain:
 1. ~~a A score on the national examination for physical therapists that equals or exceeds the criterion-referenced passing point. The criterion-referenced passing point is equal to a scaled score of 600 or more based on a scale ranging from 200 to 800 on a national examination for physical therapists taken on or after March 14, 1996; or~~
 2. A raw score that is no lower than 1.50 standard deviation below the national average for a national examination for physical therapists taken before March 14, 1996.
- B. To be certified as physical therapist assistant, an applicant for certification ~~by examination~~ shall obtain:
 1. ~~a A score on the national examination for physical therapist assistants that equals a criterion-referenced passing point. The criterion-referenced passing point is equal to a scaled score of 600 or more based on a scale ranging from 200 to 800 on a national examination for physical therapist assistants taken on or after March 14, 1996; or~~
 2. A raw score that is no lower than 1.50 standard deviation below the national average for a national examination for physical therapist assistants taken before March 14, 1996.

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TITLE 8. EMERGENCY AND MILITARY AFFAIRS

**CHAPTER 2. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT**

PREAMBLE

1. Sections Affected

Article 6
R8-2-601
R8-2-602
R8-2-602
R8-2-603
R8-2-603
R8-2-604
R8-2-604
R8-2-604
R8-2-605
R8-2-605
R8-2-606
R8-2-607
R8-2-608
R8-2-609
R8-2-610
R8-2-611
R8-2-612

Rulemaking Action

Amend
Amend
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
Repeal
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Repeal

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

Authorizing statute: A.R.S. § 26-306(A)(3)

Implementing statutes: A.R.S. §§ 26-305.02 and 26-306(A)(12)

3. The effective date of the rules:

March 18, 2003

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 493, February 1, 2002

Notice of Formal Rulemaking Advisory Committee: 8 A.A.R. 500, February 1, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 3994, September 20, 2002

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

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or

Name: David Ervine

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Phoenix, AZ 85008

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

The current rules establish the Department's operational procedures for the hazardous materials training program and student instructor certification. The Department no longer certifies students and instructors. This rulemaking amends R8-2-601, R8-2-604, and R8-2-605 to reflect this change of procedure and to update terminology. It adds two new Sections, R8-2-602 and R8-2-603, and repeals R8-2-602, R8-2-603, R8-2-606, R8-2-607, R8-2-608, R8-2-609, R8-2-610, R8-2-611, and R8-2-612 to eliminate duplication of text and because the Department no longer has pilot program certification and does not recertify first responders. The changes will bring the rules into accord with the operational practices of the Department.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not rely on any study.

8. 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

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

This rulemaking eliminates certification and addresses terminology and procedural changes to align the rules with the Department's operational practices. It is expected that the changes will have minimal economic, small business, or consumer impact.

10. A description of the changes between the proposed rules, including supplemental notices, and the final rules (if applicable):

Governor's Regulatory Review Council staff suggested format adjustments, edits, and grammatical corrections to simplify and improve the rules' clarity and consistency. The following definitions were added: "hazardous materials," "hazardous incident," and "release."

11. A summary of the comments made regarding the rule and the agency response to them:

The agency received no comments regarding the rule.

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

None

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

29 CFR 1910.120(Q)(6) and (Q)(8)(ii), revised July 1, 2001. This material is incorporated in R8-2-605(B). The employer is responsible to the Occupational Safety and Health Administration to maintain records of an employee's continued training and to ensure that the employee maintains competency.

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 8. EMERGENCY AND MILITARY AFFAIRS

**CHAPTER 2. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT**

**ARTICLE 6. HAZARDOUS MATERIALS TRAINING PROGRAM, STUDENT AND INSTRUCTOR
~~CERTIFICATION~~ EVIDENCE OF COMPLETION**

Section

R8-2-601.	Definitions
R8-2-602.	First on the scene program and instructor certification <u>Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Curriculum</u>
R8-2-603.	First on the scene instructor certification renewal and recertification <u>Instructor Authorization and Renewal</u>
R8-2-604.	First on the scene administrative requirements <u>Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Division Requirements</u>
R8-2-605.	First on the scene student certification <u>Hazmat First Responder Awareness Level Personnel and Hazmat First Responder Operations Level Operatives Evidence of Completion</u>
R8-2-606.	First on the scene pilot program certification <u>Repealed</u>
R8-2-607.	First responder program and instructor certification <u>Repealed</u>
R8-2-608.	First responder instructor certification renewal and recertification <u>Repealed</u>
R8-2-609.	First responder administrative requirements <u>Repealed</u>
R8-2-610.	First responder student certification <u>Repealed</u>
R8-2-611.	First responder pilot program certification <u>Repealed</u>
R8-2-612.	First responder recertification <u>Repealed</u>

**ARTICLE 6. HAZARDOUS MATERIALS TRAINING PROGRAM, STUDENT AND INSTRUCTOR
~~CERTIFICATION~~ EVIDENCE OF COMPLETION**

R8-2-601. Definitions

The following definitions shall apply in this Article 6, unless the context otherwise requires otherwise:

1. "Certification" means the act of verifying that an individual has successfully completed a standardized course of instruction.
2. "Certified instructors" means individuals who have been certified pursuant to R8-2-602 or R8-2-607, or both.
3. "Certify" means to verify that an individual has successfully completed a standardized course of instruction.
4. "Director" means the Director of the Division of Emergency Services.
5. "Division" means the Arizona Division of Emergency Services.
6. "Hazardous materials response experience" means active participation as a person responsible for response to and mitigation of hazardous materials incidents.
7. "Hazardous materials first on the scene personnel" means persons who might be first at the scene of a hazardous materials incident.
8. "Hazardous materials first responder personnel" means persons responsible for response to and mitigation of hazardous materials incidents.
1. "Authorized instructor" means an individual who the Division determines meets the criteria at R8-2-602.
2. "Director" means the director of the Division.
3. "Division" means the Arizona Division of Emergency Management.
4. "Evidence of Completion" means a document issued by the Division to an individual who successfully completes a standardized course of instruction.
5. "Hazmat First Responder Awareness Level personnel" means individuals who are likely to witness or discover a hazardous material release and who are trained to initiate an emergency response sequence by notifying the proper

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- authorities of the release.
6. “Hazmat First Responder Operations Level operatives” means individuals who are trained to respond in a defensive fashion without actually trying to stop a hazardous material release.
 7. “Hazardous materials” means:
 - a. Any material designated under the hazardous materials transportation act of 1974 (49 U.S.C. 1801);
 - b. Any element, compound, mixture, solution, or substance designated under the comprehensive environmental response, compensation, and liability act of 1980 (42 U.S.C. 9602);
 - c. Any substance designated in the emergency planning and community right-to-know act of 1986 (42 U.S.C. 11002).
 - d. Any substance designated in the water pollution control act (33 U.S.C. 1317(a) and 1321(b)(2)(A));
 - e. Any hazardous waste having the characteristics identified under or listed under A.R.S. § 49-922;
 - f. Any imminently hazardous chemical substance or mixture with respect to which action is taken under the toxic substances control act (15 U.S.C. 2606);
 - g. Any material or substance determined to be radioactive under the atomic energy act of 1954 (42 U.S.C. 2011);
 - h. Any substance designated as a hazardous substance under A.R.S. § 49-201; and
 - i. Any highly hazardous chemical or regulated substance as listed in the clean air act of 1963 (42 U.S.C. 7401-7671).
 8. “Hazardous materials incident” means an uncontrolled, unpermitted release or potential release of hazardous materials that presents an imminent and substantial danger to the public health or welfare or to the environment.
 9. “Hazardous materials response experience” means knowledge and skills gained by responding to hazardous materials incidents.
 10. “Instructor requirements” means the criteria listed at R8-2-602 for authorization as an instructor by the Division.
 11. “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:
 - a. Release that results in exposure to persons solely within a workplace, with respect to a claim that the persons may assert against their employer;
 - b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;
 - c. Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to financial protection requirements established by the Nuclear Regulatory Commission under section 170 of the Act, or for the purposes of section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978; and
 - d. Normal application of fertilizer.

R8-2-602. ~~First on the scene program and instructor certification~~ Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Curriculum

~~A. Standardized curriculum:~~

- ~~1. All certified hazardous materials first on the scene training programs shall be conducted in accordance with the standardized curriculum as maintained and on file with the Division. The Division shall promptly notify all certified instructors of any changes in the curriculum.~~
- ~~2. Hazardous materials first on the scene training program shall consist of the hazardous materials first on the scene course.~~
- ~~3. Topics covered in the hazardous materials first on the scene course are:~~
 - ~~a. Recognition and identification of hazards;~~
 - ~~b. Basic reference materials;~~
 - ~~c. Characteristics of hazardous materials;~~
 - ~~d. Personal protection and safety, and~~
 - ~~e. Planning considerations.~~

~~B. Instructors and instructor certification:~~

- ~~1. Each hazardous materials first on the scene course shall have an instructor certified by the Division.~~
- ~~2. The Division shall certify instructors for the hazardous materials first on the scene course who have submitted the following:~~
 - ~~a. Evidence of successful completion of the Division’s first on the scene instructor’s workshop by attaining a final score of 90% on the written exam and by demonstrating appropriate educational methodology and instructional techniques during an oral presentation.~~
 - ~~b. Evidence of two years’ experience in hazardous materials response and verification of a minimum of 80 hours of hazardous materials training approved by the Director.~~
 - ~~c. A letter of recommendation from the applicant’s employer.~~

- d. ~~A resume describing the applicant's experience in hazardous materials response and the applicant's experience as a trainer.~~
 - 3. ~~Certification shall be valid for two years.~~
 - A.** An authorized instructor shall conduct a Hazmat First Responder Awareness Level course or a Hazmat First Responder Operations Level course in accordance with the standardized curriculum maintained by the Division. The Division shall promptly notify all authorized instructors of any change in the curriculum.
 - B.** Topics covered in the Hazmat First Responder Awareness Level course are:
 - 1. What hazardous materials are and the risks associated with a hazardous materials incident;
 - 2. Potential outcomes associated with an emergency created when hazardous materials are present;
 - 3. How to recognize the presence of hazardous materials in an emergency;
 - 4. How to identify different hazardous materials, and
 - 5. Role of a first responder awareness individual in an employer's emergency response plan, including site security and control, and use of current resource materials.
 - C.** Topics covered in the Hazmat First Responder Operations Level course are:
 - 1. Basic hazard and risk assessment techniques;
 - 2. How to select and use proper protective equipment;
 - 3. Basic hazardous materials terms;
 - 4. How to perform basic control, containment, or confinement operations with the resources and personal protective equipment available;
 - 5. How to implement basic decontaminating procedures; and
 - 6. Standard operating and terminating procedures.
- R8-2-603. ~~First on the scene instructor certification renewal and recertification~~ Instructor Authorization and Renewal**

- A.** ~~Certified instructors may renew their certification by attending an instructor refresher workshop sponsored by the Division within six months of the expiration date of their current certification and by teaching the hazardous materials first on the scene course or a refresher course two times in a two-year certification period.~~
- B.** ~~Instructors who fail to maintain their current certification shall make application to the Division for recertification. Such instructors will be recertified if they successfully complete the first on the scene instructor workshop by attaining a final score of 90% and by demonstrating appropriate educational methodology and instructional techniques during an oral presentation.~~
- A.** Instructor authorization:
 - 1. An instructor authorized by the Division shall teach each Hazmat First Responder Awareness Level and Hazmat First Responder Operations Level course.
 - 2. To be authorized as an instructor, an individual shall submit the following to the Division:
 - a. A "Participant Application" form obtained from the Division, located at the Department of Emergency and Military Affairs, 5636 E. McDowell Road, Bldg. 101, Phoenix, Arizona 85008. The applicant shall provide the following information to take an instructor workshop:
 - i. Course number;
 - ii. Course date;
 - iii. Course title;
 - iv. Applicant's name;
 - v. SSN;
 - vi. Applicant's employer;
 - vii. Applicant's position or title;
 - viii. Phone number;
 - ix. Fax number, if any;
 - x. Work mailing address, city, state, zip code, and county;
 - xi. Electronic mail address, if any;
 - xii. Brief description of current duties and how training as an instructor will be used;
 - xiii. Applicant's signature and date; and
 - xiv. Supervisor's signature, if applicable, and date;
 - b. Evidence of two years' experience in hazardous materials incident response;
 - c. Evidence of Completion of at least 80 hours for Awareness Level or at least 240 hours for Operations Level of hazardous materials training, and a signed copy of attendance and performance records;
 - d. A letter of recommendation to take instructor training from the applicant's employer, local emergency planning committee chair, county emergency management director, or coordinator; and
 - e. A brief summary of the applicant's experience in hazardous materials response and as an instructor of adult-level courses.

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3. After an applicant submits to the Division the documentation described in subsection (A)(2)(a), the applicant shall:
 - a. Attend the instructor workshop.
 - b. Attain a score of at least 90% on the written exam, and
 - c. Successfully complete a teach back to demonstrate appropriate educational methodology and instructional techniques during an oral presentation.
4. The Division shall issue Evidence of Completion to an individual who successfully completes the instructor workshop.
5. The Division shall maintain records of instructor authorization.
6. Instructor authorization is valid for two calendar years.
- B.** To renew instructor authorization obtained from the Division, an authorized instructor shall:
 1. Submit a "Participant Application" form as described in subsection (A) to take an instructor refresher workshop;
 2. Attend an instructor refresher workshop sponsored by the Division before expiration of the current instructor authorization; and
 3. Provide evidence of having taught either a Hazmat First Responder Awareness Level course or refresher, or a Hazmat First Responder Operations Level course or refresher, two times in the current authorization period.
- C.** An instructor who fails to comply with subsection (B), may obtain instructor authorization by applying and meeting the requirements as a new instructor under subsection (A).

R8-2-604. ~~First on the scene administrative requirements~~ Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Division Requirements

- ~~**A.** Certified instructors shall notify the Division 30 days prior to the delivery of the hazardous materials first on the scene course.~~
- ~~**B.** Certified instructors shall provide the Division with the date, time, location and estimated number of students, 30 days prior to course delivery.~~
- ~~**C.** Following the delivery of the hazardous materials first on the scene course, certified instructors shall provide the Division with student attendance and performance records and a course completion report.
 1. ~~The course completion report requires the name of the instructor, date and location of the training, number of students registered and number of students successfully completing the course.~~
 2. ~~Course completion report forms are available from the Division.~~~~
- ~~**D.** Records of instructor certification and student certification will be maintained at the Division.~~
- A.** An instructor authorized by the Division shall teach each Hazmat First Responder Awareness Level course and Hazmat First Responder Operations Level course. An instructor shall notify the Division at least 30 days before course delivery by submitting a "Course Request Form" obtained from the Division, located at the Department of Emergency and Military Affairs, 5636 E. McDowell Road, Bldg. 101, Phoenix, Arizona 85008. The instructor shall provide the following information:
 1. Name of requestor;
 2. Date;
 3. Agency of requestor;
 4. Mailing address, city, state, zip code and county;
 5. Phone number;
 6. Fax number, if any;
 7. Name of agency head;
 8. Applicant signature;
 9. Electronic mail address;
 10. Type of course;
 11. Course name;
 12. Course number;
 13. Date course is offered;
 14. Training site address and county;
 15. Intended audience;
 16. Estimated number of participants;
 17. Name and signature of requestor; and
 18. County emergency management director or local emergency planning committee chairperson endorsement: name, signature, title, and date.
- B.** Within two weeks following completion of either the Hazmat First Responder Awareness Level course or refresher, or the Hazmat First Responder Operations Level course or refresher, the instructor shall provide the Division with all course records, including student application forms, course roster, completed pre- and post-exam answer sheets, and instructor and course evaluations. In addition, the instructor shall return all unused course materials to the Division.

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R8-2-605. ~~First on the scene student certification~~ Hazmat First Responder Awareness Level Personnel and Hazmat First Responder Operations Level Operatives Evidence of Completion

- A.** Persons shall be certified as hazardous materials first on the scene personnel who:
1. Successfully complete the hazardous materials first on the scene course by attaining a final score of 75% or better on the written exam; or
 2. Successfully complete the hazardous materials first on the scene challenge exam, administered by the Division, by attaining a final score of 90% or better; and
 3. Make an application on a form provided by the Division which requires the applicant's name, address and test scores.
- B.** Persons certified as hazardous materials first on the scene personnel shall receive a certification from the Division.
- A.** To receive Evidence of Completion as Hazmat First Responder Awareness Level personnel or as Hazmat First Responder Operations Level operative, an individual shall:
1. Submit a "Participant Application" form as described in R8-2-603(A) for Division-sponsored courses. For non-Division-sponsored courses, the individual shall submit the course application contained in the student manual:
 - a. Course number: U100 (First Responder Awareness Course) or U200 (First Responder Operations Level Course);
 - b. Course date;
 - c. Course name: First Responder Awareness Course or First Responder Operations Level Course;
 - d. Applicant's name;
 - e. SSN;
 - f. Title;
 - g. Phone number;
 - h. Fax number, if any;
 - i. Organization;
 - j. Electronic address; and
 - k. Work mailing address, city, state, zip and county; and
 2. Successfully complete the Hazmat First Responder Awareness Level course, or the Hazmat First Responder Operations Level course, and attain a score of at least 75% on the written exam.
- B.** The Division shall issue Evidence of Completion to an individual who successfully completes the Hazmat First Responder Awareness Level course or the Hazmat First Responder Operations Level course. The employer of an individual issued Evidence of Completion shall maintain evidence of the individual's competency under 29 CFR 1910.120(Q)(6) and (Q)(8)(ii), published by the United States Government Printing Office and revised July 1, 2001, with no later editions or amendments. This regulation is incorporated by reference and on file with the Division and the Office of the Secretary of State.

R8-2-606. ~~First on the scene pilot program certification~~ Repealed

~~Persons having successfully completed the Division's hazardous materials first on the scene course in its pilot form between January 1985 and July 1988 shall be certified as hazardous materials first on the scene personnel.~~

R8-2-607. ~~First responder program and instructor certification~~ Repealed

- A.** ~~Standardized curriculum:~~
1. ~~All certified hazardous materials first responder training programs shall be conducted in accordance with the standardized curriculum as maintained and on file with the Division. The Division shall promptly notify all certified instructor of any changes in the curriculum.~~
 2. ~~Hazardous materials first responder training programs shall consist of the hazardous materials first responder course.~~
 3. ~~Topics covered in the hazardous materials first responder course are:~~
 - a. ~~Hazard recognition and identification;~~
 - b. ~~Reference materials;~~
 - c. ~~Basic chemical and physical properties of hazardous materials;~~
 - d. ~~Personnel protection and safety;~~
 - e. ~~Scene management; and~~
 - f. ~~Planning considerations.~~
- B.** ~~Instructors and instructor certification:~~
1. ~~Each hazardous materials first responder course shall have an instructor certified by the Division.~~
 2. ~~The Division shall certify instructors for the hazardous materials first responder course who have submitted the following:~~
 - a. ~~Evidence of successful completion of the Division's first responder instructor workshop by attaining a final score of 90% on the written exam and by demonstrating appropriate educational methodology and instructional techniques during an oral presentation.~~
 - b. ~~Evidence of two years' experience in hazardous materials response and verification of a minimum of 240 hours of hazardous materials training approved by the Director.~~
 - c. ~~A letter of recommendation from the applicant's employer.~~

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- d. ~~A resume describing the applicant's experience in hazardous materials response and the applicant's experience as a trainer.~~

3. ~~Certification shall be valid for two years.~~

R8-2-608. ~~First-responder instructor certification renewal and recertification~~ Repealed

- ~~A. Certified instructors may renew their certification by attending an instructor refresher workshop sponsored by the Division within six months of the expiration date of their current certification.~~
- ~~B. Instructors who fail to maintain their current certification shall make application to the Division for recertification and shall successfully complete the first responder instructor workshop by attaining a final score of 90% on the written exam and by demonstrating appropriate educational methodology and instructional techniques during an oral presentation.~~

R8-2-609. ~~First-responder administrative requirements~~ Repealed

- ~~A. Certified instructors shall notify the Division 30 days prior to the delivery of the hazardous materials first-responder course.~~
- ~~B. Certified instructors shall provide the Division with the date, time, location and estimated number of students, 30 days prior to course delivery.~~
- ~~C. Following the delivery of the hazardous materials first-responder course, certified instructors shall provide the Division with student attendance and performance records and a course completion report.
 - 1. ~~The course completion report requires the name of the instructor, date and location of the training, number of students registered and number of students successfully completing the course.~~
 - 2. ~~Course completion report forms are available from the Division.~~~~
- ~~D. Records of instructor certification and student certification shall be maintained at the Division.~~

R8-2-610. ~~First-responder student certification~~ Repealed

- ~~A. Persons shall be certified as hazardous materials first-responder personnel who:
 - 1. ~~Successfully complete the hazardous materials first-responder course by attaining a final score of 75% or better on the written exam; or~~
 - 2. ~~Successfully complete the hazardous materials first-responder challenge exam administered by the Division by attaining a final score of 90% or better; and~~
 - 3. ~~Make application on a form provided by the Division which requires the applicant's name, mailing address and test scores.~~~~
- ~~B. A person certified as a hazardous materials first-responder shall receive a certificate from the Division and list of recommended equipment for each hazardous materials first-responder vehicle or unit.~~
- ~~C. Certification shall be valid for two years.~~

R8-2-611. ~~First-responder pilot program certification~~ Repealed

- ~~A. Persons having successfully completed the Division's first-responder course in its pilot form between January 1987 and July 1988 shall be awarded certification as hazardous materials first-responder personnel.~~
- ~~B. This certification shall be valid for two years.~~

R8-2-612. ~~First-responder recertification~~ Repealed

- ~~A. Applicants for recertification as hazardous materials first-responder personnel shall successfully complete a first-responder refresher course, sponsored by the Division, by attaining a final score of 75% or better on a written examination and shall make application to the Division within six months of the expiration date of their current certification on a form provided by the Division which requires the applicant's name, mailing address and test scores.~~
- ~~B. Recertification is valid for two years.~~

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

8. 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

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

This rulemaking is exempt from the need for an economic, small business, and consumer impact summary under A.R.S. § 41-1055(D)(3).

10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):

The Notice of Proposed Rulemaking was published on February 1, 2002. No changes have been made in the text of the adopted rule from that in the proposed rule, except grammatical and organizational changes suggested by the staff of the Governor's Regulatory Review Council.

11. A summary of the comments made regarding the rules and the agency response to them:

The Department held a public hearing on the proposed rulemaking on June 5, 2002. During the comment period of February 1, 2002 through the close of record on June 5, 2002, the Department received three written comments and one oral comment on the proposed rulemaking. The comments and evaluation are as follows:

Comment (Written Comment #1): On February 28, 2002, a staff nutritionist employed by the Arizona Department of Economic Security stated that while she is sensitive to the economic burden compliance with 9 A.A.C. 8, Article 1 would have on small businesses, she is also mindful of protecting the senior population. She stated that by exempting hospice inpatient facilities from the "Arizona Food Code," there is little formal oversight of the sanitation of food production in these facilities. She also expressed concern that there would be no regulation of the serving of foods that cause food-borne illness, such as "raw eggs and meats, unpasteurized milk, etc." to hospice patients who are part of a "highly susceptible population." She suggested that if the exemption is allowed, the Department should include regulations from the Arizona Food Code in the hospice rules in 9 A.A.C. 10, Article 8 and impose other requirements to ensure that sanitation of food preparation is properly monitored in hospices.

Comment (Written Comment #2): On March 4, 2002, the Arizona Dietetic Association submitted a written statement opposing the rulemaking. The Association stated, "because hospice patients are frail, vulnerable, and often immune compromised, such patients deserve to have the protection afforded by the Arizona Food Code." In addition, the Association stated "when balancing the economic, regulatory burden on small businesses with the quality of care for patients at the end of their lives, dying patients especially need the protections afforded by the Arizona Food Code." The Association also requested a public hearing on the rulemaking.

Comment (Written Comment #3 and Oral Comment #1): At the June 5, 2002 public hearing on the rulemaking, the President of the Arizona Dietetic Association made an oral statement and submitted a written statement. The Association's president withdrew the Association's opposition to the rulemaking, since the Department is adding significant food handling, food preparation, and sanitation requirements to new hospice and hospice inpatient facility rules being proposed by the Department. The Association's president thanked the Department for involving the Association in the rulemaking process and for taking appropriate action to ensure hospice inpatient safety.

Evaluation: The Department is not making any changes to the rule in response to these comments. The Department agrees with the commenters that the health and safety of the hospice patients must be protected. The safety and welfare of these patients is and will continue to be the Department's first and foremost consideration. However, the Department does not believe that requiring the hospice inpatient facilities to comply with 9 A.A.C. 10, Article 8 in its entirety is the best way to accomplish this goal.

Compliance with 9 A.A.C. 8, Article 1 is a new requirement for hospice inpatient facilities. Due to an oversight, small hospice inpatient facilities with 20 or fewer patients were not exempted from 9 A.A.C. 8, Article 1 when it was revised effective October 2, 2001. In setting regulatory standards, the Department is required to do two things. First, the Department must explore all regulatory alternatives available to reduce the economic impact of regulation on small businesses such as hospice inpatient facilities. Second, the Department must be certain that a rule's benefit to the public outweighs the rule's economic burden on the regulated community. The Department believes that blanket compliance with 9 A.A.C. 8, Article 1 in its entirety requires compliance that exceeds the regulation necessary to ensure that hospice patients receiving care in these small, non-institutional facilities are kept safe from food-borne illness and infection. As a regulatory alternative, the Department proposes to include in the administrative rules that govern hospice inpatient facilities significant food handling, food preparation, and sanitation requirements that ensure hospice patient safety. Since a viable regulatory alternative exists, requiring hospice inpatient facilities with 20 or fewer patients, which are not currently and have never been licensed as food establishments, to comply with 9 A.A.C. 8, Article 1 would impose an unnecessary economic and regulatory burden on these small businesses.

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

Not applicable

13. Incorporations by reference and their location in the rule:

None

14. Was the rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

ARTICLE 1. FOOD AND DRINK

Section

R9-8-102. Applicability

ARTICLE 1. FOOD AND DRINK

R9-8-102. Applicability

This Article does not apply to the following:

1. Beneficial use of wildlife meat authorized in A.R.S. § 17-240 and 12 A.A.C. 4, Article 1;
2. Milk and milk products;
3. Group homes, as defined in A.R.S. Title 36, Chapter 5.1, Article 1;
4. Child care group homes, as defined in A.R.S. Title 36, Chapter 7.1, Article 4;
5. Residential group care facilities, as defined in 6 A.A.C. 5, Article 74, that have 20 or fewer clients;
6. Assisted living homes, as defined in 9 A.A.C. 10, Article 7;
7. Adult day health care services, as defined in 9 A.A.C. 10, Article 7, that have 15 or fewer clients; ~~and~~
8. Behavioral health service agencies, licensed under 9 A.A.C. 20, that provide residential or partial care services for 10 or fewer clients - ; and
9. Hospice inpatient facilities, licensed under 9 A.A.C. 10, Article 8, that have 20 or fewer patients.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSURE**

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 8	Amend
R9-10-801	Amend
R9-10-802	Amend
R9-10-803	Renumber
R9-10-803	New Section
R9-10-804	Repeal
R9-10-804	Renumber
R9-10-804	Amend
R9-10-805	Repeal
R9-10-805	New Section
R9-10-806	Amend
R9-10-807	Amend
R9-10-808	Amend
R9-10-809	Renumber
R9-10-809	New Section
R9-10-810	Renumber

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R9-10-810	New Section
R9-10-811	Renumber
R9-10-811	New Section
R9-10-812	Repeal
R9-10-812	Renumber
R9-10-812	Amend
R9-10-813	Renumber
R9-10-813	Amend
R9-10-814	Renumber
R9-10-814	Amend
R9-10-815	New Section
R9-10-816	New Section
R9-10-817	New Section
R9-10-818	New Section
R9-10-819	New Section

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. §§ 36-132(A) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-405(A) and 36-405(B)(1)

3. The effective date of the rules:

March 14, 2003

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 7 A.A.R. 2084, May 18, 2001

Notice of Proposed Rulemaking: 8 A.A.R. 2296, May 31, 2002

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

Name: Kathy McCanna, Program Manager
Address: Department of Health Services
Division of Assurance and Licensure, Office of Medical Facilities
1647 E. Morten, Suite 160
Phoenix, AZ 85020

Telephone: (602) 674-9750

Fax: (602) 395-8913

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

or

Name: Kathleen Phillips, Rules Administrator
Address: Arizona 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

6. An explanation of the rules, including the agency's reasons for initiating the rules:

The rulemaking is specifically authorized under A.R.S. Title 36, Chapter 4, which requires the licensure and regulation of health care institutions, and classes and subclasses of health care institutions, by the Arizona Department of Health Services (Department). 9 A.A.C. 10, Article 8, adopted effective October 30, 1989, contains the minimum standards and requirements for hospices and hospice inpatient facilities. In addition, hospices and hospice inpatient facilities are subject to the general requirements set forth in 9 A.A.C. 10, Article 1. Article 1 addresses general licensure requirements, approval of architectural plans and specifications, initial health care institution license application, health care institution license renewal, time-frames, changes affecting a health care institution license, enforcement actions, provisional health care institution license, and denial, revocation, or suspension of a health care institution license.

The Department has amended 9 A.A.C. 10, Article 8 to update hospice rules and to address issues identified in the 1998 Five-year Review Report approved by the Governor's Regulatory Review Council on October 6, 1998. Specifically, the rules are amended to better protect the public, accurately reflect industry standards and practices, be consis-

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tent with state and federal statutes and rules, reflect current Department policy, and conform to current rulemaking format and style requirements.

The rulemaking sets forth definitions and general requirements and prescribes specific standards for:

- General requirements for hospices;
- Licensure and relicensure of hospices;
- Hospice administration and staff;
- Patient admissions and patient plan of care;
- Required hospice services at a patient's residence and while a patient is receiving inpatient services;
- Hospice pharmaceutical services, including the administration of drugs and biologicals;
- Hospice dietary counseling and nutrition services;
- Hospice infection control, environmental safety, and sanitation;
- Recordkeeping and quality assurance;
- General requirements for hospice inpatient facilities;
- Licensure and relicensure of hospice inpatient facilities; and
- Hospice inpatient facilities physical plant standards, food service requirements, additional environmental safety and sanitation standards, and disaster preparedness.

The rulemaking also repeals the current R9-10-812, which allows a hospice to request a variance from any rule in 9 A.A.C. 10, Article 8. The rule is repealed because there is no specific statutory authority permitting the Department to approve a rule variance and because every hospice and hospice inpatient facility should comply with the requirements and standards established by the Department to protect the health, safety, and well-being of hospice patients and their families.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

8. 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

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

The rulemaking directly impacts the 40 currently licensed hospices and the 20 currently licensed hospice inpatient facilities operating in Arizona. Of these, 32 are private for-profit businesses and 28 are private non-profit businesses. All can be considered small businesses. The rulemaking also directly impacts the thousands of patients annually served by these hospices and hospice inpatient facilities and their families.

The overall economic impact of the rulemaking on hospices and hospice inpatient facilities is expected to be minimal, with the benefits of the rulemaking outweighing the costs. There will be no new or additional costs to hospice patients or their families as a result of this rulemaking.

The retention of requirements and practices already in rule should have little or no direct impact. The impact of any requirements or practices that have been in place and are now incorporated in rule will be mitigated to the extent that those affected have already incorporated these requirements and practices into their general operations. New requirements and changes in existing requirements designed to improve and better regulate hospices and hospice inpatient facilities and to better protect the public should also have a minimal to moderate economic impact.

Hospices, hospice inpatient facilities, patients, and the general public will benefit from updated rules that are consistent with federal and state statutes and rules, that accurately reflect industry standards and practices, that better protect the public, and that conform to current rulemaking format and style requirements.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Notice of Proposed Rulemaking was published on May 31, 2002. No substantial changes have been made in the text of the adopted rules from that in the proposed rules. Text references were revised to ensure consistency with other state statutes and rules. In addition, grammatical, technical, and organizational changes suggested by the staff of the Governor's Regulatory Review Council were made.

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11. A summary of the comments made regarding the rules and the agency response to them:

The Department held an oral proceeding on the proposed rulemaking on July 3, 2002. During the comment period of May 31, 2002 through the close of record on July 3, 2002, the Department did not receive any written comments on the proposed rulemaking. At the oral proceeding, the Department received two oral comments on the proposed rulemaking. The comments pertained to format and procedural issues only. The comments and responses are as follows:

Comment (Oral Comment #1): At the July 3, 2002 public hearing on the rulemaking, an individual asked if the strikethrough marks in the rule text found in the Notice of Proposed Rulemaking meant that the language was being deleted.

Response: The Department explained that a strikethrough mark does indicate rule text that is being deleted.

Comment (Oral Comment #2): At the July 3, 2002 public hearing on the rulemaking, an individual asked if the public would be notified if any substantive changes were made to the proposed rules before the rules went into effect.

Response: The Department explained that if the Department proposed making a substantial change to the proposed rule, a Notice of Supplemental Proposed Rulemaking would be published in the *Arizona Administrative Register* for additional public review and comment.

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

Not applicable

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

None

14. Were the rules previously adopted as emergency rules?

No

15. The full text of the rules follow:

TITLE 9. HEALTH SERVICES

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSURE**

ARTICLE 8. HOSPICES; HOSPICE INPATIENT FACILITIES

Section

R9-10-801.	Definitions
R9-10-802.	Hospice General requirements Requirements
R9-10-803.	Application for an Initial Hospice License; Application for Renewal of a Hospice License
R9-10-804.	Medical advisor-
R9-10-803.	R9-10-804. Hospice Administration
R9-10-805.	Policies and procedures Hospice Staff
R9-10-806.	Patient Admissions
R9-10-807.	Patient care plan Plan of Care
R9-10-808.	Hospice services Services
R9-10-809.	Hospice Pharmaceutical Services
R9-10-810.	Hospice Dietary Counseling and Nutrition Services Required For a Patient Receiving Inpatient Services
R9-10-811.	Hospice Infection Control, Environmental Safety, and Sanitation
R9-10-812.	Variancees
R9-10-809.	R9-10-812. Clinical record Hospice Recordkeeping; Patient Clinical Record
R9-10-810.	R9-10-813. Hospice Quality assurance Assurance
R9-10-811.	R9-10-814. Inpatient service requirements Hospice Inpatient Facility General Requirements
R9-10-815.	Application for an Initial Hospice Inpatient Facility License; Application for Renewal of a Hospice Inpatient Facility License
R9-10-816.	Hospice Inpatient Facility Physical Plant Standards
R9-10-817.	Hospice Inpatient Facility Food Service
R9-10-818.	Hospice Inpatient Facility Environmental Safety and Sanitation
R9-10-819.	Hospice Inpatient Facility Disaster Preparedness

ARTICLE 8. HOSPICES; HOSPICE INPATIENT FACILITIES

R9-10-801. Definitions

In this Article, unless the context otherwise requires:

1. ~~“Bereavement services” means social and emotional support offered to the family for at least 1 year following the~~

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~~death of a patient.~~

1. “Abuse” has the meaning in A.R.S. § 46-451.
2. “Adverse reaction” means an unexpected outcome that threatens the health or safety of a patient as a result of a hospice service provided to the patient.
3. “Admission” or “admitted” means documented acceptance by a hospice of an individual as a patient.
4. “Assessment” means an analysis of a patient’s hospice service needs.
5. “Attending physician” means an individual licensed under A.R.S. Title 32, Chapter 13 or 17 and designated by a patient or a patient representative to participate in the hospice care the patient receives.
6. “Biohazardous medical waste” has the meaning in R18-13-1401.
7. “Biologicals” has the meaning in R18-13-1401.
8. “Clinical record” has the same meaning as “medical records” in A.R.S. § 12-2291.
9. “Communicable disease” has the meaning in R9-6-101.
10. “Conspicuously post” means to make visible to patients, patients’ families, staff, and hospice visitors by displaying on an object, such as a wall or bulletin board.
11. “Continuing education” means instruction that satisfies a requirement for renewing an individual’s certification or licensure.
12. “Counseling” means advice or guidance provided to a hospice patient by a counselor.
13. “Counselor” means a qualified individual who offers advice or guidance to a patient or a patient’s family.
14. “Department” means the Arizona Department of Health Services.
15. “Direction” has the meaning in A.R.S. § 36-401.
16. “Disaster” means an unexpected occurrence that adversely affects a hospice’s ability to provide hospice services.
17. “Discarded drug” has the meaning in R18-13-1401.
18. “Document” means to create, sign, and date information in written, photographic, electronic, or other permanent form.
19. “Documentation” or “documented” means signed and dated information in written, photographic, electronic, or other permanent form.
20. “Drug” has the meaning in A.R.S. § 32-1901.
21. “Electronic” has the meaning in A.R.S. § 44-7002.
22. “Evacuation drill” means a response to a planned, simulated event.
23. “Exploitation” has the meaning in A.R.S. § 46-451.
- ~~2-24. “Family” means a hospice patient’s immediate family consisting of a spouse, sibling, child, parent, or grandparent and/or those individuals or an individual designated as caregivers by the patient.~~
3. “Home health aide services” means the performance of simple procedures as an extension of therapy services, personal care, ambulation and exercise, and household services essential to health care at home.
4. “Hospice care team” means a physician, a registered nurse, a counselor, and volunteers.
5. “Hospice respite services” means care provided to the patient when necessary to relieve the family caring for the patient. The care may be provided in the patient’s residence or an inpatient facility.
6. “Hospice service plan” means a detailed plan which identifies the services offered by the hospice and the staff who will provide the services.
7. “Inpatient services” means hospice services provided to a patient in a hospital, nursing care institution or other facility which meets the requirements of this Article.
25. “Garbage” has the meaning in R18-13-302.
26. “Governing authority” has the meaning in A.R.S. § 36-401.
27. “Health care institution” has the meaning in A.R.S. § 36-401.
28. “Highly susceptible populations” has the meaning in § 1-201.10 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107.
29. “Home health aide services” means assistance with bathing, dressing, grooming, eating, ambulating, or toileting.
30. “Homemaker services” means assistance with food preparation, cleaning, laundry, and housekeeping provided to a patient or a patient’s family.
31. “Hospice” has the meaning in A.R.S. § 36-401.
32. “Hospice inpatient facility” means a health care institution licensed under this Article that provides hospice services to a patient requiring inpatient services.
33. “Hospice service” means an action identified in R9-10-808 that hospice staff provide for a hospice patient.
34. “Incident” means an unexpected occurrence that harms or has the potential to harm a patient during the provision of a hospice service.
35. “Informed consent” means documented authorization by a patient or a patient’s representative for the provision of hospice services to the patient after a hospice staff member informs the patient or the patient’s representative of the following:

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- a. A description of the hospice services;
 - b. A description of the expected benefits of the hospice services;
 - c. Alternatives to the hospice services;
 - d. Associated risks of the hospice services, including potential side effects and complications; and
 - e. The patient's right to withdraw authorization for the hospice services at any time.
36. "Inpatient beds" or "resident beds" has the meaning in A.R.S. § 36-401.
37. "Inpatient services" means sleeping accommodations and assistance, such as personal care and food preparation, provided to a patient at one of the following health care institutions:
- a. A hospice inpatient facility licensed under A.R.S. Title 36, Chapter 4 and this Article; or
 - b. A hospital or nursing care institution licensed under A.R.S. Title 36, Chapter 4 and 9 A.A.C. 10.
38. "In-service education" means organized instruction or information related to hospice services provided to hospice staff under the direction of a hospice licensee.
39. "Interdisciplinary group" means a team composed of a physician, registered nurse, counselor, and social worker.
40. "Medical history" means the part of a patient's clinical record consisting of an account of the patient's health, including past and present illnesses or diseases.
41. "Neglect" means a pattern of conduct, without informed consent as defined in A.R.S. § 46-451(A), resulting in deprivation of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health.
42. "Nonprescription drug" has the meaning in A.R.S. § 32-1901.
43. "Nurse" means an individual licensed to practice practical or professional nursing under A.R.S. Title 32, Chapter 15.
44. "Nursing services" means hospice services provided according to R9-10-808(B)(2).
45. "Order" means a documented instruction given by a physician to provide a hospice service to a patient.
46. "Orientation" means initial instruction, information, and palliative care training provided to a new hospice staff member.
47. "Palliative" means care of a terminally ill patient that is not curative and is designed for pain control or symptom management.
- ~~8-48.~~ "Patient" means a terminally ill person individual who is receiving hospice services from a hospice.
49. "Pharmacist" has the meaning in A.R.S. § 32-1901.
50. "Physician" means an individual licensed under A.R.S. Title 32, Chapter 13 or 17.
51. "Prescription drug" has the same meaning as "prescription" in A.R.S. § 32-1901.
52. "Provider pharmacist" means a pharmacist who supplies medication to a long-term care facility and maintains patient profiles.
53. "Qualified" means meeting the requirements specified in a hospice's written job description for a staff position.
54. "Refuse" has the meaning in R18-13-302.
55. "Registered nurse" means an individual licensed to practice professional nursing under A.R.S. Title 32, Chapter 15.
56. "Representative" means a legal guardian, an individual acting on behalf of another individual under written authorization from the individual, or a surrogate as defined in A.R.S. § 36-3201.
- ~~9-57.~~ "Research" means the use of a human subjects subject in the systematic study, observation, or evaluation of factors related to the prevention, assessment, treatment, and understanding of an illness.
58. "Residence" means a place where a patient is living or regularly staying, other than a health care institution at which a patient is receiving inpatient services.
59. "Respite" has the same meaning as "respite care services" in A.R.S. § 36-401.
60. "Service area" means the geographical boundary surrounding a hospice's administrative office in which the hospice provides hospice services, including inpatient services.
61. "Social worker" means an individual with a baccalaureate degree in social work in a program accredited or approved by the Council on Social Work Education.
- ~~10-62.~~ "Staff" or "staff member" means employees and volunteers of a hospice an employee of a hospice, a volunteer for a hospice, or an agency or individual under contract with a hospice to provide a hospice service.
63. "Supervise" or "supervised" has the same meaning as "supervision" in A.R.S. § 36-401.
- ~~11-64.~~ "Terminally ill" means a medical diagnosis by a physician that a person an individual has a specific, progressive, normally irreversible disease which that will cause the person's individual's death in the foreseeable future six months or less.
65. "Therapeutic diet manual" means a written guidebook that designates the kind and amount of food intended to treat or ease a specific human disease or medical disorder.
- ~~12-66.~~ "Volunteer" means a person who provides services to a hospice without compensation.

R9-10-802. Hospice General requirements Requirements

- ~~A.~~ No agency or organization shall establish, conduct or maintain a hospice without first obtaining a license from the Department.
- ~~B.~~ Application for licensure as a hospice shall be made on forms provided by the Department.

- ~~C.~~ The hospice service plan shall be submitted with the licensure application and shall contain:
 - 1. The name of the governing authority and the person responsible for administering the hospice;
 - 2. The estimated average monthly patient census;
 - 3. The proposed geographic area to be served by the hospice;
 - 4. A listing of services provided by the staff of the hospice and those services provided through contractual agreement;
 - 5. The names and qualifications of persons or entities under contract to provide hospice services;
 - 6. The names and qualifications of the hospice care team;
 - 7. A description of how the hospice will utilize volunteers;
 - 8. A description of the hospice's recordkeeping system; and
 - 9. The current annual operating or proposed budget.
- ~~D.~~ The license shall not be transferable to a new location or a new owner and shall be the property of the Department. The license shall be returned to the Department immediately upon suspension or revocation of the license or upon termination of the hospice by the licensee.
- ~~E.~~ A hospice shall submit a new application for a change of ownership. A new application shall also be submitted when there is a change of location of the inpatient facility which is specified on the license. A hospice shall not be operated at the new location or under new ownership prior to the issuance of a new license for such location or owner. Hospice services which are to be provided at locations other than at the inpatient facility specified on the license shall give 30 days notice prior to a change in location of the agency or organization.
- ~~F.~~ The licensee shall notify the Department, in writing, at least 30 days prior to any change in:
 - 1. Contracts with providers of hospice services;
 - 2. Geographic service area; or
 - 3. Hospice services.
- ~~G.~~ The Department shall be notified at least 14 days prior to a change of Administrator.
- ~~H.~~ A license shall be valid for a period of 1 year. The hospice shall submit an application for renewal on a form provided by the Department which is delivered to the Department in a manner which documents receipt by the Department at least 90 days prior to expiration of the existing license.
- A. A person shall not operate a hospice without a hospice license from the Department.
- B. A hospice licensee shall comply with:
 - 1. The requirements in 9 A.A.C. 10, Article 1 and Article 8; and
 - 2. Federal and state laws, rules, and local ordinances related to the operation of a hospice.
- C. A hospice licensee shall:
 - 1. Have a governing authority.
 - 2. Provide hospice services required in R9-10-808, and
 - 3. Operate only in the hospice's service area.
- D. A hospice licensee engaged in medical research shall develop, implement, follow, review, and update written policies and procedures for:
 - 1. Securing informed consent, before involving the patient in medical or experimental research;
 - 2. Conducting medical or experimental research;
 - 3. Ensuring that a patient's participation in medical or experimental research remains confidential; and
 - 4. Disclosing research data.
- E. A hospice licensee shall establish in writing and enforce a patient rights policy that includes the right to:
 - 1. Be treated with dignity, respect, and consideration;
 - 2. Receive individualized treatment according to a patient plan of care;
 - 3. Be free from:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Retaliation for submitting a complaint against the hospice; and
 - e. Discrimination based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, diagnosis, or source of payment;
 - 4. Be afforded privacy in correspondence, communication, visitation, financial affairs, hygiene, and receipt of hospice services;
 - 5. Be photographed only with authorization from the patient or the patient's representative; and
 - 6. File a complaint against the hospice.
- F. A hospice licensee shall conspicuously post in the reception area of the hospice's administrative office:
 - 1. The current Department-issued license;
 - 2. The current telephone number of the Department; and
 - 3. The location at which the following are available for review:
 - a. A copy of the most recent Department inspection report;

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- b. A list of hospice services;
- c. A written copy of rates and charges, as required in A.R.S. § 36-436.03; and
- d. The written patient rights policy required in subsection (E).

R9-10-803. Application for an Initial Hospice License; Application for Renewal of a Hospice License

- A.** In addition to complying with the initial license application requirements in 9 A.A.C. 10, Article 1, an applicant for an initial hospice license shall submit to the Department an application form provided by the Department that includes:
- 1. The hours of operation for the hospice's administrative office;
 - 2. A description of the hospice's service area;
 - 3. For each hospice service required in R9-10-808, other than inpatient services, whether a hospice employee, a hospice volunteer, or an agency or individual under contract with the hospice provides the hospice service;
 - 4. For each health care institution providing inpatient services:
 - a. The name, address, and telephone number of the health care institution;
 - b. Whether the health care institution is:
 - i. A hospice inpatient facility operated by the applicant and licensed under this Article, or
 - ii. A hospital or nursing care institution licensed under 9 A.A.C. 10;
 - c. A copy of the health care institution's current Department license; and
 - d. The number of hospice inpatient beds; and
 - 5. Acknowledgment that a copy of each contract for provision of a hospice service, including inpatient services, is available for review by the Department.
- B.** In addition to complying with the license renewal application requirements in 9 A.A.C. 10, Article 1, an applicant for renewal of a hospice license shall submit to the Department a renewal application form that includes:
- 1. The information required in R9-10-803(A)(1) through R9-10-803(A)(5);
 - 2. The applicant's current hospice license number; and
 - 3. For the 12 months before the date on the renewal application, the total number of patients served.

~~R9-10-804. Medical advisor-~~

- ~~A.~~** ~~Each hospice shall have a medical advisor who is a physician and who shall have overall responsibility for the medical component of the hospice.~~
- ~~B.~~** ~~The duties of the medical advisor shall be to:~~
- 1. ~~Serve as a consultant to the hospice care team;~~
 - 2. ~~Assist in the development and review of patient and family care policies and procedures; and~~
 - 3. ~~Serve as a resource to the patient's attending physician.~~

~~R9-10-803. R9-10-804. Hospice Administration~~

- ~~A.~~** ~~Each hospice shall be organized and administered under 1 governing authority. The governing authority shall be ultimately responsible for the agency, establishing its policies and overseeing its operation.~~
- ~~B.~~** ~~An advisory board shall be appointed. The members of the advisory board shall:~~
- 1. ~~Reside in the geographic service area defined in the hospice service plan;~~
 - 2. ~~Have no direct or indirect financial interest in the hospice;~~
 - 3. ~~Assist in adopting, annually reviewing and revising, as necessary, the written philosophy, policies and procedures for operation and administration of the hospice; and~~
 - 4. ~~Meet at least annually.~~
- ~~C.~~** ~~The governing authority shall appoint an administrator who shall either be:~~
- 1. ~~A physician;~~
 - 2. ~~A registered nurse with a baccalaureate degree in nursing and at least 1 year of administrative or supervisory experience in community health programs; or~~
 - 3. ~~A person with a baccalaureate degree in human services or administration and at least 1 year of administrative or supervisory experience in community health programs, or a person with 5 years of administrative supervisory experience with at least 1 year experience in community health programs.~~
- ~~D.~~** ~~The administrator shall:~~
- 1. ~~Be responsible for the daily administration, supervision, maintenance and operation of the hospice;~~
 - 2. ~~Designate, in writing, a qualified person, to act as administrator for those periods when the administrator is absent. If the administrator is absent for more than 30 continuous days, the designee shall have the qualifications prescribed by these rules for an administrator.~~
- A.** A hospice licensee shall:
- 1. Appoint in writing a chief administrative officer, who may be the same individual as the governing authority, and who is either:
 - a. A physician;
 - b. A registered nurse with at least one year of experience in health care administration;
 - c. An individual with a baccalaureate degree in human services or administration and at least one year of health

- iv. ~~Record of assignments and work hours.~~
- 3. ~~Patient rights; Each hospice shall establish a written policy regarding the rights and responsibilities of patients and develop procedures for the implementation of such policies. Each patient and family shall:~~
 - a. ~~Be treated with consideration, respect and full recognition of his dignity and individuality;~~
 - b. ~~Receive individualized treatment;~~
 - e. ~~Be provided adequate and humane services;~~
 - d. ~~Be assured personal privacy, including right not to be photographed without written consent;~~
 - e. ~~Be assured confidential handling of personal and medical records;~~
 - f. ~~Be informed of charges for services provided by the hospice program; and~~
 - g. ~~Have the right to refuse to participate in experimental research;~~
- 4. ~~Admissions;~~
- 5. ~~Hospice services offered; and~~
- 6. ~~Inpatient services.~~
- B.** ~~A hospice which conducts research shall have written policies and procedures which shall provide for:~~
 - 1. ~~Written, informed consent of each participant;~~
 - 2. ~~Protocols for conducting the research;~~
 - 3. ~~Establishment of an interdisciplinary committee to review and approve research;~~
 - 4. ~~Confidentiality of participant's identity; and~~
 - 5. ~~Methods for disclosure of research data.~~
- C.** ~~The policies and procedures shall be:~~
 - 1. ~~Annually reviewed and, if necessary, revised; and~~
 - 2. ~~Available to staff, patients, families and the public.~~
- A.** A hospice licensee shall:
 - 1. Form at least one interdisciplinary group;
 - 2. Ensure that each patient receives the services designated in the patient's plan of care;
 - 3. Have staff to meet the hospice needs of a patient and the patient's family 24 hours a day, seven days a week;
 - 4. Have at least one registered nurse physically present 24 hours a day, seven days a week at a health care institution where a patient receives inpatient services;
 - 5. Have a written job description for each staff position that identifies duties, skills, and qualification and education requirements;
 - 6. Provide a staff orientation program;
 - 7. Provide each staff member a minimum of two clock hours of annual in-service education in palliative care;
 - 8. Have a written statement identifying the philosophy, objectives, and scope of the hospice's volunteer services; and
 - 9. Maintain a personnel record for each staff member containing:
 - a. A copy of the staff member's license or certificate, if applicable;
 - b. A completed application form or contract for the provision of services;
 - c. A job description;
 - d. A record of all orientation, in-service education, and continuing education; and
 - e. Evidence of compliance with subsection (B)(2).
- B.** A hospice staff member shall:
 - 1. Complete orientation and in-service education required in subsections (A)(6) and (A)(7);
 - 2. Before initially providing hospice services and every 12 months thereafter, submit one of the following as evidence of being free from infectious pulmonary tuberculosis:
 - a. A report of a negative Mantoux skin test or other test for tuberculosis recommended by the U.S. Centers for Disease Control and Prevention or the tuberculosis control officer, as defined in A.R.S. § 36-711, administered within the last six months; or
 - b. If the staff member has had a positive test for tuberculosis, a physician's written statement dated within the last six months, verifying that the staff member is free from infectious pulmonary tuberculosis.

R9-10-806. Patient Admissions

- A.** ~~Admission to a hospice shall be limited to individuals who have been diagnosed by their attending physician as terminally ill.~~
- B.** ~~Upon admission, each patient shall be oriented to the hospice's philosophy, policies, procedures, services, and patient rights. Each patient shall be provided a written copy of the patient rights. A written copy of the philosophy, policies, procedures, and services shall be provided upon request.~~
- C.** ~~Each patient admitted to a hospice shall have an attending physician.~~
- D.** ~~An assessment of the patient's medical, social, and psychological needs shall be made upon admission.~~
- A.** Before admitting an individual as a patient, a hospice's chief administrative officer or designee shall require that the hospice obtain:
 - 1. The name of the individual's attending physician;

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2. Documentation that the individual is terminally ill, provided by:
 - a. The individual's attending physician, and
 - b. The hospice medical director or a physician member of a hospice interdisciplinary group; and
 3. Documentation from the individual or the individual's representative acknowledging that:
 - a. Hospice care is palliative rather than curative;
 - b. The individual or individual's representative has received:
 - i. A list of hospice services, and
 - ii. The written patient rights policy required in R9-10-802(E); and
 - c. The individual or individual's representative knows that a written copy of rates and charges, as required in A.R.S. § 36-436.03, may be requested.
- B.** At the time of patient admission, a hospice physician or a registered nurse shall:
1. Assess a patient's medical, social, nutritional, and psychological needs; and
 2. Obtain informed consent.

R9-10-807. Patient care plan ~~Plan of Care~~

- ~~**A.** A written care plan based upon the assessment of the patient's needs shall be prepared by the hospice care team upon admission of each patient. The patient and family shall be involved in preparing the care plan.~~
- ~~**B.** Each care plan shall be reviewed by the hospice care team at least monthly.~~
- ~~**C.** The plan of care shall contain:~~
1. ~~A complete assessment of the patient's care needs;~~
 2. ~~Identification of appropriate living arrangements, and~~
 3. ~~Types and frequency of prescribed therapy to be administered~~
- A.** For each patient, the medical director, the patient's interdisciplinary group, and the patient's attending physician shall:
1. Establish a documented plan of care based upon an assessment of the patient's medical, social, nutritional, and psychological needs;
 2. Attempt to involve the patient and the patient's family in the preparation of the plan of care;
 3. Review the plan of care as often as necessary, but at least monthly; and
 4. Revise the plan of care as necessary to meet the patient's care needs.
- B.** The plan of care shall contain:
1. A complete assessment of the patient's care needs, and
 2. Types and frequencies of planned hospice services.

R9-10-808. Hospice services ~~Services~~

- ~~**A.** Hospice services shall include nursing services, respite services, volunteer and bereavement services. Each hospice shall:~~
1. ~~Provide services either directly or by written contractual agreements with other providers or through the use of community resources;~~
 2. ~~Maintain administrative control and responsibility for the provision of all services;~~
 3. ~~Be responsible for ensuring that all services are provided in accordance with the patient's plan;~~
 4. ~~Be available on call to patients and/or families services 24 hours a day, 7 days a week; and~~
 5. ~~Have a registered nurse on staff who shall serve as coordinator of the hospice care team. The registered nurse shall be responsible for assessment of the patient, follow-up visits with the patient, development and implementation of the therapeutic plan as prescribed by the physician and supervision of nursing care provided to the patient.~~
- ~~**B.** Hospice services may include social services, counseling services, dietary services, homemaker services, home health aide services, habilitation services and inpatient services.~~
- A.** A hospice licensee shall provide a hospice service:
1. Through an employee of the hospice, a volunteer for the hospice, or an agency or individual under contract with the hospice to provide a hospice service;
 2. Specified in a patient's plan of care; and
 3. Twenty-four hours a day, seven days a week as necessary to meet the needs of a patient and the patient's family.
- B.** A hospice licensee shall provide the following hospice services:
1. Physician services that are within the scope of practice of a physician, provided by a physician;
 2. Nursing services that are within the scope of practice of a nurse, provided by:
 - a. A registered nurse; or
 - b. An individual:
 - i. Licensed or certified under A.R.S. Title 32, Chapter 15 and 4 A.A.C. 19; and
 - ii. Operating under the direction of a registered nurse;
 3. Pharmaceutical services, including the administration of drugs or biologicals, provided according to R9-10-809;
 4. Dietary counseling services, including menu planning and the designation of the kind and amount of food appropriate for a patient, provided by a registered dietitian approved to work as a dietitian by the American Dietetic Association's Commission on Dietetic Registration;

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5. Home health aide services provided:
 - a. Through a home health agency licensed under 9 A.A.C. 10, Article 1 and Article 11; or
 - b. By a qualified individual authorized to provide nursing assistant services under A.R.S. Title 32, Chapter 15;
 6. Homemaker services, provided by a qualified individual;
 7. Occupational therapy services provided by an occupational therapist licensed under and operating within the scope of practice authorized by A.R.S. Title 32, Chapter 34 and 4 A.A.C. 43;
 8. Physical therapy services provided by a physical therapist licensed under and operating within the scope of practice authorized by A.R.S. Title 32, Chapter 19 and 4 A.A.C. 24;
 9. Social services, including advocacy, referral, problem-solving, and intervention functions related to personal, family, business, and financial issues, provided by a social worker;
 10. Speech and language pathology services provided by a speech and language pathologist licensed under and operating within the scope of practice authorized by A.R.S. Title 36, Chapter 17 and 9 A.A.C. 16;
 11. Spiritual counseling services, consistent with a patient's customs, religious preferences, cultural background, and ethnicity, provided by a qualified individual;
 12. Volunteer services, supervised by a designated hospice staff member;
 13. Counseling services other than spiritual and dietary counseling, provided by a qualified individual; and
 14. Inpatient services as defined in R9-10-801 provided to a patient for respite purposes, pain control, or symptom management.
- C.** A hospice licensee shall ensure that the following services are provided to a patient's family:
1. Hospice respite services at the patient's residence or through inpatient services;
 2. Bereavement counseling, including social and emotional support, provided by a qualified individual for at least one year after the death of the patient; and
 3. Counseling determined by the interdisciplinary group to be:
 - a. Necessary while the patient is receiving services from the hospice, and
 - b. Related to the patient's illness.

R9-10-809. Hospice Pharmaceutical Services

- A.** Drugs or biologicals may be administered to a patient by:
1. A physician;
 2. A registered nurse;
 3. A physician assistant licensed under A.R.S. Title 32, Chapter 25 and acting within the physician assistant's scope of practice;
 4. A practical nurse licensed under A.R.S. Title 32, Chapter 15 and acting within the practical nurse's scope of practice;
 5. The patient, if pre-approved by the patient's attending physician; or
 6. Any other individual according to applicable state and local laws, if the patient's plan of care specifies:
 - a. That the individual may administer a drug or biological, and
 - b. The drug or biological the individual may administer.
- B.** For each dose of drug or biological a hospice staff member administers to a patient, the hospice staff member shall document in the patient's clinical record:
1. The date and time of administration;
 2. The name, strength, dosage, amount, and method of administration;
 3. The ordering physician's name;
 4. The signature of the individual administering the drug or biological;
 5. Any contraindications, such as symptoms or circumstances, that render the use of the drug or biological for the patient inadvisable because of risk; and
 6. Any adverse reaction of the patient.
- C.** A registered nurse shall:
1. Report to the interdisciplinary group physician and the attending physician a patient's adverse reaction to a drug or biological or an error in administering a patient's drug or biological no later than 24 hours after identifying the adverse reaction or the error, and
 2. Submit an incident report to the hospice's medical director no later than 24 hours after identifying the adverse reaction or the error.
- D.** A hospice licensee shall ensure that a health care institution providing inpatient services:
1. Has a documented agreement with a pharmacist or provider pharmacist to assist in ordering, storing, administering, and disposing of and recordkeeping for drugs or biologicals according to A.R.S. Title 32, Chapter 18, A.R.S. Title 36, Chapter 27, and 4 A.A.C. 23, Article 7;
 2. Stores nonprescription drugs or biologicals in the original manufacturer's package;
 3. Stores a patient's prescription drugs or biologicals in the original prescription containers, labeled for the patient, in a separate storage space reserved for the patient;
 4. Writes on a package or container in which a drug or biological is stored the date the package or container is first

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opened:

5. Stores drugs or biologicals according to the manufacturer's recommended temperatures;
 6. Stores drugs or biologicals in a locked:
 - a. Room,
 - b. Cabinet,
 - c. Refrigerator, or
 - d. Box that is securely fastened within a refrigerator; and
 7. Stores drugs or biologicals for external use and eye, ear, and rectal medications separate from other drugs and biologicals.
- E.** A hospice licensee shall dispose of discarded drugs according to 18 A.A.C. 13, Article 4.

R9-10-810. Hospice Dietary Counseling and Nutrition Services Required For a Patient Receiving Inpatient Services

- A.** A hospice licensee shall ensure that a registered dietitian or a staff member under the direction of a registered dietitian plans menus for a patient that:
1. Meet the nutritional needs of the patient based upon the patient's age, health needs, and patient plan of care;
 2. Are developed with consideration for the patient's:
 - a. Food preferences,
 - b. Customs,
 - c. Religious background,
 - d. Cultural background, and
 - e. Ethnic background;
 3. Are conspicuously posted at the health care institution providing inpatient services at least 24 hours before the meal is served; and
 4. Are maintained at the health care institution providing inpatient services for at least 30 days after the meal is served.
- B.** A hospice licensee shall ensure that, unless otherwise required by a patient's plan of care and specified in a patient's menu, the patient is provided 48 to 64 ounces of water, three meals, and one snack a day, with not more than a 14-hour time span between the evening meal and the morning meal, including:
1. Three servings of at least one-half cup of vegetables or six ounces of vegetable juice;
 2. Two servings of at least one-half cup of fruit or six ounces of fruit juice;
 3. Six servings of whole grain or enriched grain products, such as cereal, bread, rice, or pasta, with a serving consisting of one slice of bread or one-half to one cup of cereal or other grain product;
 4. Two servings of milk, yogurt, cottage cheese, or cheese, with a serving consisting of one cup of milk or yogurt, one and one-half ounces of cheese, or six ounces of cottage cheese; and
 5. Two servings of protein, neither of which can be the same as a serving in subsection (B)(4), such as meat, fish, poultry, cheese, egg, peanut butter, peas, beans, or lentils, with a serving consisting of two to three ounces of lean meat without bone, one cup dry beans or legumes, four tablespoons of peanut butter or other nut butter, or two eggs.

R9-10-811. Hospice Infection Control, Environmental Safety, and Sanitation

- A.** A hospice licensee shall develop and implement communicable disease and infection control policies and procedures including:
1. Using standard and contact precautions that comply with the control measures in 9 A.A.C. 6, Article 3;
 2. Reporting communicable diseases according to 9 A.A.C. 6;
 3. For patients receiving inpatient services, isolating a patient who has a communicable disease from other patients;
 4. Transporting and processing soiled linens and clothing;
 5. Sterilizing equipment and supplies;
 6. Maintaining and storing sterile equipment and supplies; and
 7. Ensuring that a staff member is free from communicable diseases when providing a hospice service.
- B.** A hospice licensee shall dispose of biohazardous medical waste according to 18 A.A.C. 13, Article 14.
- C.** A hospice licensee shall ensure that a reusable item:
1. Is sterilized before the item is assigned to a patient for use,
 2. Is assigned to only one patient for continuous personal use, and
 3. Is cleaned after each use.
- D.** A staff member providing hospice services shall wash the staff member's hands and exposed arms with soap and water:
1. Immediately before and after providing hospice services to a patient,
 2. After using the toilet, and
 3. As often as necessary to remove soil and contamination;
- E.** A hospice licensee shall ensure that food is free from spoilage, filth, or other contamination and is safe for human consumption when served to a patient by a staff member.

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E. A staff member handling food shall:

1. Clean the staff member's hands and forearms as required in subpart 2-301 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107; and
2. Keep the staff member's hair from contacting food or food-contact surfaces.

~~R9-10-812.~~ Variiances

- ~~A.~~** ~~A hospice may submit to the Department a written request for a variance from any rule in this Article, accompanied by documentation justifying the proposed alternative means of meeting the requirements which shall not adversely affect the health and safety of its patients.~~
- ~~B.~~** ~~An approved variance shall be for a period not to exceed 1 year and may be renewed upon reapplication with documented justification. Reapplication shall be made at least 60 days prior to the expiration of the current variance.~~

~~R9-10-809.~~ R9-10-812. Clinical record Hospice Recordkeeping; Patient Clinical Record

~~A.~~ ~~A clinical record shall be established and maintained for each patient receiving hospice services.~~

~~B.~~ ~~The clinical record shall contain:~~

1. ~~Identification data;~~
2. ~~Consent and authorization forms;~~
3. ~~Pertinent medical history;~~
4. ~~Physician orders;~~
5. ~~Initial and subsequent assessments;~~
6. ~~Plan of care; and~~
7. ~~Documentation of all services provided.~~

~~C.~~ ~~Records shall be safeguarded against loss, destruction and unauthorized use.~~

A hospice licensee shall:

1. Develop, implement, follow, and annually review and update documented policies and procedures for recordkeeping, including electronic recordkeeping, if applicable;
2. Maintain confidentiality of patient records, as required in A.R.S. Title 12, Chapter 13, Article 7;
3. Establish and maintain a clinical record for each patient containing:
 - a. Name and age;
 - b. Drug or biological allergies or sensitivities;
 - c. Informed consent forms and authorization forms;
 - d. Medical history;
 - e. Physician orders, signed and dated by the physician;
 - f. Documentation of the assessment required in R9-10-806(B)(1) and R9-10-807(B)(1);
 - g. Plan of care; and
 - h. Documentation of all hospice services provided to the patient; and
4. Maintain for Department review and inspection documentation or verification required by this Article.

~~R9-10-810.~~ R9-10-813. Hospice Quality assurance Assurance

~~A.~~ ~~Each hospice shall establish a written quality assurance plan.~~

~~B.~~ ~~The quality assurance plan shall provide for an ongoing assessment of the quality and appropriateness of care provided.~~

~~C.~~ ~~The hospice shall use the findings to correct identified problems and to revise hospice policies, if necessary.~~

~~D.~~ ~~Documentation shall be maintained showing evidence that the findings and means of correcting problems were reviewed by the governing authority.~~

A hospice licensee shall have a documented quality assurance plan that identifies procedures for:

1. Collecting data on the hospice services provided;
2. Interpreting the data collected to determine the:
 - a. Adequacy of the hospice services provided,
 - b. Efficiency of the systems used by the hospice to deliver hospice services, and
 - c. Effectiveness of hospice staff in meeting the needs of a patient and the patient's family;
3. Identifying, documenting, and evaluating an incident; and
4. As a result of the data collected or the incidents identified:
 - a. Making changes or taking corrective action;
 - b. Reporting findings, changes made, and corrective actions taken to the governing authority; and
 - c. Evaluating the effectiveness of the changes made.

~~R9-10-811.~~ R9-10-814. Inpatient service requirements Hospice Inpatient Facility General Requirements

~~A.~~ ~~General~~

1. ~~A hospice providing inpatient services shall comply with all applicable federal, state and local laws, rules, and codes pertaining to physical plant, health, and safety.~~

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2. ~~Twenty-four hour nursing services, which are sufficient to meet total nursing needs and which are in accordance with the patient care plan, shall be provided. Each patient shall receive treatments, medications and diet as prescribed and shall be kept comfortable, clean, well-groomed and protected from accident, injury and infection.~~
3. ~~There shall be at least 1 registered nurse on each tour of duty to supervise direct patient care.~~
4. ~~The visitation policy shall provide for visiting hours which are flexible and shall include visitation by infants, children, and pets.~~

B. Pharmaceutical services

1. ~~Administration of medications~~
 - a. ~~Self-administration of medications by patients is not permitted unless ordered by the patient's physician or performed in a pre-discharge training program under the supervision of a licensed nurse.~~
 - b. ~~Adverse drug reactions shall be reported by a licensed nurse immediately to the attending physician and an entry shall be made in the patient's medical record.~~
 - e. ~~Medication errors shall be reported to the attending physician and an incident report prepared.~~
 - d. ~~Medications shall be administered only by a licensed nurse or physician.~~
 - e. ~~Drugs and/or biologicals shall be administered as soon as possible after the dose is prepared by the same licensed nurse who prepared the dose for administration, except that a physician may administer a drug that has been prepared at his direction by a licensed nurse.~~
2. ~~Storage and disposition of medications~~
 - a. ~~Except for unit dosages, each patient's medications shall be stored in original prescription containers in a separate storage space reserved for each patient.~~
 - b. ~~A record shall be maintained which lists on a separate sheet for each type of controlled drug the date and quantity received, signature of nurse accepting delivery, date and time of administration, name of patient, dose, physician's name, signature of person administering the dose, and the balance of drug remaining.~~
 - e. ~~All medications shall be kept under secure conditions such as in a locked drug room or cabinet.~~
 - d. ~~Medications requiring refrigeration shall be kept in a separate locked box which is securely fastened within the refrigerator, unless the refrigerator is locked or is located in a locked drug room. Temperature of the refrigerator shall not exceed 45° F.~~
 - e. ~~Medications for external use, and eye, ear, and rectal medications shall be kept separate from other medications.~~
 - f. ~~Medications which have exceeded their expiration dates, those which are unusable or which are not to be released to the patient upon discharge and those which have an illegible or missing label shall be separated from other medications and disposed of by a pharmacist. If medications are destroyed by a pharmacist who is not an employee of the Arizona State Board of Pharmacy, the administrator or his designee shall witness the destruction.~~

C. Nutrition services

1. ~~A registered dietitian or a food service supervisor under the direction of a registered dietitian shall:~~
 - a. ~~Assess the nutritional status and needs of the patients; and~~
 - b. ~~Assist in the development, implementation and evaluation of the patient care plan.~~
2. ~~Planning of menus and food supplies~~
 - a. ~~Menus shall be planned to meet the nutritional needs of patients in accordance with physician's orders.~~
 - b. ~~The meals for each day shall contain:~~
 - i. ~~Four servings of fruits and vegetables;~~
 - ii. ~~Four servings of whole grain or enriched cereals and breads;~~
 - iii. ~~Two servings of milk or dairy products; and~~
 - iv. ~~Two servings of protein: meat, fish, poultry, cheese, egg, peanut butter, peas, beans, lentils, or equivalent.~~
 - e. ~~At least 1 serving of at least 1 of the following 4 food components shall be offered at the first snack of the day, and at least 1 serving each of at least 2 of the following 4 food components shall be offered for the bedtime snack:~~
 - i. ~~Fruit and/or vegetable or full-strength fruit or vegetable juice;~~
 - ii. ~~Whole grain or enriched cereal or bread;~~
 - iii. ~~Milk or other dairy product; and~~
 - iv. ~~Meat, fish, poultry, cheese, egg, or peanut butter.~~
 - d. ~~When a therapeutic diet is prescribed for the patient, snacks provided shall comply with the diet prescription.~~
 - e. ~~Menus and snacks shall be planned at least 1 week in advance.~~
3. ~~Food shall be prepared by methods that conserve nutritive value, flavor, and appearance and shall correspond with the items on the menu.~~

D. Sanitation and infection control

1. ~~The facility shall be kept clean, safe and free from hazards, offensive odors, accumulations of dirt, miscellaneous debris, dust, lint, discarded equipment, and materials.~~
2. ~~Written procedures shall be established to prevent the transmission of infection. The procedures shall provide for:~~

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- a. Investigation, control and prevention of infections in the facility;
 - b. Aseptic and isolation techniques to be followed by all personnel; and
 - c. Daily environmental cleaning procedures, including type of cleaning material and equipment, to be used.
3. Contaminated dressings and other similar materials shall be disposed of in a sanitary landfill approved by the Department of Environmental Quality. Where such an approved sanitary landfill is not available, contaminated wastes shall be disposed of by incineration facilities approved by the county air quality control agency. In those counties which have no county air quality control agency, the incineration facilities shall meet the standards of the Arizona Department of Environmental Quality.
 4. Bedpans, urinals, emesis basins, wash basins, and other personal nursing items shall be thoroughly cleaned after each use and sanitized. All such equipment shall not be used if chipped or otherwise damaged.
 5. All catheters, irrigation sets, drainage tubes or other supplies or equipment for internal use which cannot be autoclaved or otherwise sterilized shall be used only once and discarded.
 6. Each lavatory in the facility shall have a soap dispenser and a dispenser with disposable paper towels or a hand-drying device.
 7. Tubs, portable commodes, showers and shower chairs shall be thoroughly cleaned after each patient's use.
 8. Linens shall be handled, stored, processed and transported in such a manner as to prevent the spread of infection.
 9. Staff shall wash their hands immediately after providing personal or nursing care to each patient.
- E. Physical requirements**
1. The inpatient facility shall be maintained in good repair.
 2. The temperature in the patient care areas shall be maintained between 70–82° F.
 3. Patient care areas shall be designated and equipped for the comfort and privacy of each patient and family members.
 4. The inpatient facility shall have:
 - a. Designated space for private patient and family visits;
 - b. Accommodations for family members to remain with the patient throughout the night;
 - c. Accommodations for family privacy after a patient's death;
 - d. Decor which is homelike in design and function; and
 - e. Patient rooms which shall:
 - i. Be equipped with, or conveniently located near, toilet and bathing facilities;
 - ii. Be at or above ground level;
 - iii. Contain a bed, bedside table, bedside chair, and reading light for each patient;
 - iv. Have closet space that provides security and privacy for clothing and personal belongings;
 - v. Be clean and well ventilated;
 - vi. Contain no more than 4 beds;
 - vii. Measure at least 100 square feet for a single patient room or 80 square feet for each patient for a multi-patient room; and
 - viii. Be equipped with an audio-visual system for calling the staff member on duty.
- F. Disaster preparedness**
1. There shall be a current written plan of operation with procedures to be followed in the event of fire, explosion or other disaster or threat to patient safety. The plan shall:
 - a. Contain procedures for prompt transportation of patients and records, instructions regarding the location and use of alarm systems and fire-fighting equipment, information regarding methods of containing fires, procedures for notification of the appropriate persons and agencies and specifications, routes, and procedures for evacuation.
 - b. Designate the specific place to which patients may be evacuated, and the detailed arrangements to provide adequate shelter, beds, food and water, and nursing care, including medications and other services critical to the well-being of patients who must be moved.
 2. Employees shall be oriented to disaster preparedness within the first week of employment. If an employee has not received such orientation, the employee shall not be permitted to be the only employee in the facility until such orientation is completed. The disaster program shall include ongoing training and a drill for disaster other than fire, at least semiannually, for personnel so that each employee can promptly and correctly perform specific duties in case of disaster.
 3. There shall be at least 1 fire drill per shift during each calendar quarter.
- A. A person shall not operate a hospice inpatient facility without a hospice license and a hospice inpatient facility license from the Department.**
- B. A hospice inpatient facility licensee shall:**
1. Have one governing authority that is the same as the governing authority of the hospice;
 2. Provide hospice services only to a patient admitted to the hospice according to R9-10-806;
 3. Conspicuously post in the reception area of the hospice inpatient facility:
 - a. The current Department-issued license;
 - b. The current telephone number of the Department; and

- c. The location at which the following are available for review:
 - i. A copy of the most recent Department inspection report;
 - ii. A list of hospice services;
 - iii. A written copy of rates and charges, as required in A.R.S. § 36-436.03; and
 - iv. The written patient rights policy required in R9-10-802(E); and
 - 4. Comply with all applicable requirements in R9-10-802, R9-10-804, R9-10-805, R9-10-807, R9-10-808, R9-10-809, R9-10-810, R9-10-811, R9-10-812, and R9-10-813.
- C.** A hospice inpatient facility licensee shall:
- 1. Establish and implement a visitation policy that allows individuals of all ages to visit a patient 24 hours a day, and
 - 2. Allow a visitor to bring a domesticated animal to visit a patient.

R9-10-815. Application for an Initial Hospice Inpatient Facility License; Application for Renewal of a Hospice Inpatient Facility License

- A.** In addition to complying with the initial license application requirements in 9 A.A.C. 10, Article 1, an applicant for an initial hospice inpatient facility license shall submit to the Department the applicant's current hospice license number.
- B.** In addition to complying with the license renewal application requirements in 9 A.A.C. 10, Article 1, an applicant for renewal of a hospice inpatient facility license shall submit to the Department:
- 1. The applicant's current hospice inpatient facility license number.
 - 2. The applicant's current hospice license number, and
 - 3. The number of inpatient beds.

R9-10-816. Hospice Inpatient Facility Physical Plant Standards

- A.** A hospice inpatient facility licensee shall comply with:
- 1. All applicable local, state, and federal physical plant codes and standards; and
 - 2. Life Safety Code requirements in R9-1-412(A)(8).
- B.** A hospice inpatient facility licensee shall ensure that the hospice inpatient facility has a design and decor that:
- 1. De-emphasizes the institutional character of the hospice inpatient facility.
 - 2. Has characteristics that are comparable to those found in domestic settings, and
 - 3. Allows the patient to use and display personal belongings.
- C.** A hospice inpatient facility licensee shall provide a patient a sleeping area that:
- 1. Is shared by no more than four patients;
 - 2. Measures at least 80 square feet per patient;
 - 3. Has walls from floor to ceiling and at least one doorway;
 - 4. Is at or above ground level;
 - 5. Is vented to the outside of the hospice inpatient facility;
 - 6. Has a working thermometer for measuring the temperature in the sleeping area;
 - 7. For each patient, has a:
 - a. Bed.
 - b. Bedside table.
 - c. Bedside chair.
 - d. Reading light.
 - e. Privacy screen or curtain, and
 - f. Closet or drawer space;
 - 8. Is equipped with a bell, intercom, or other mechanical means for a patient to alert a staff member;
 - 9. Has at least one doorway no more than 20 feet from a room containing a toilet and a sink;
 - 10. Is not used as a passageway to another sleeping area, a toilet room, or a bathing room;
 - 11. Contains one of the following to provide sunlight:
 - a. A window to the outside of the hospice inpatient facility, or
 - b. A transparent or translucent door to the outside of the hospice inpatient facility; and
 - 12. Has coverings for windows and for transparent or translucent doors that provide patient privacy.
- D.** A hospice inpatient facility licensee shall provide:
- 1. For every six patients, a toilet room that contains:
 - a. At least one working toilet that flushes;
 - b. At least one sink with running water;
 - c. Grab bars;
 - d. A mirror;
 - e. Space for staff to assist a patient;
 - f. A bell, intercom, or other mechanical means for a patient to alert a staff member; and
 - g. An operable window to the outside of the hospice inpatient facility or other form of ventilation;

2. For every 12 patients, at least one working bathtub or shower accessible to a wheeled shower chair, with a slip resistant surface, located in a toilet room or in a separate bathing room;
3. For a patient occupying a sleeping area with one or more other patients, a separate room in which the patient can meet privately with family members;
4. Space in a lockable closet, drawer, or cabinet for a patient to store the patient's private or valuable items;
5. A room other than a sleeping area that can be used for social activities;
6. Sleeping accommodations for family members;
7. For staff and visitors, a designated toilet room other than a patient toilet room that contains:
 - a. At least one working toilet that flushes, and
 - b. At least one sink with running water;
8. If the hospice inpatient facility has a kitchen with a cooking unit, a cooking unit vented to the outside of the hospice inpatient facility; and
9. Space designated for administrative responsibilities that is separate from sleeping areas, toilet rooms, bathing rooms, and drug storage areas.

R9-10-817. Hospice Inpatient Facility Food Service

A. A hospice inpatient facility licensee shall:

1. Prepare and serve meals to a patient as specified in the patient's menu required in R9-10-810(A), or
2. Contract with a food establishment licensed under 9 A.A.C. 8, Article 1 to prepare and deliver meals to be served to a patient as specified in the patient's menu required in R9-10-810(A).

B. If a hospice inpatient facility with more than 20 patients prepares and serves food to a patient, the hospice inpatient facility licensee shall:

1. Be licensed under 9 A.A.C. 8, Article 1; and
2. Maintain at the hospice inpatient facility a copy of the hospice inpatient facility's food establishment license.

C. If a hospice inpatient facility with 20 or fewer patients prepares and serves food to a patient, the hospice inpatient facility licensee shall:

1. Have a therapeutic diet manual with a copyright date not more than five years old available for use by a staff member who prepares food;
2. Maintain at least a one-day supply of perishable food and at least a three-day supply of non-perishable food;
3. If canned food is served, serve only commercially canned food;
4. Rinse raw fruits and raw vegetables with water before cooking or serving;
5. Maintain a thermometer accurate to $\pm 3^{\circ}$ F in each refrigerator;
6. Maintain foods requiring refrigeration at 41° F or below.
7. Maintain frozen foods as required in §§ 3-402.11, 3-501.11, and 3-501.12 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107;
8. Cook food as required in §§ 3-401.11, 3-401.12, and 3-401.13 and reheat food as required in § 3-403.11 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107;
9. Thaw food as required in § 3-501.13, cool food as required in §§ 3-501.14 and 3-501.15, and maintain hot and cold holding temperatures as required in § 3-501.16 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107;
10. Follow the requirements for highly susceptible populations in subpart 3-801 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107;
11. Store food that has been opened or removed from its original container in a dated covered container, a minimum of six inches off the floor, and protected from contamination; and
12. Keep tableware and eating utensils clean and in good repair.

D. If a hospice inpatient facility contracts for the preparation and delivery of patient meals to the hospice inpatient facility, the hospice inpatient facility licensee shall:

1. Maintain at the hospice inpatient facility a copy of the food establishment's license; and
2. Maintain at the hospice inpatient facility equipment necessary to store, refrigerate, and reheat a patient's meal to meet the dietary needs of the patient.

R9-10-818. Hospice Inpatient Facility Environmental Safety and Sanitation

A hospice inpatient facility licensee shall:

1. Store a toxic substance as defined in A.R.S. § 49-961 or a hazardous material as defined in A.R.S. § 26-301 in a labeled container in a locked area other than a food preparation or storage area, a dining area, a medication storage area, or a sleeping area;

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2. Except for medical supplies needed for a patient, such as oxygen, store a flammable liquid as defined in A.R.S. § 28-601:
 - a. In the original labeled container or a safety container.
 - b. In a locked area inaccessible to a patient, and
 - c. Outside of the hospice inpatient facility;
3. Provide water sufficient to meet the hygiene needs of each patient;
4. Provide hot water at a temperature between 90° F and 120° F for patient use;
5. Maintain the temperature of the hospice inpatient facility between 70° F and 82° F;
6. Keep garbage and refuse in covered containers lined with plastic bags while inside the hospice inpatient facility;
7. Remove garbage and refuse from the inside of the hospice inpatient facility at least once every 24 hours;
8. Dispose of garbage and refuse according to 18 A.A.C. 13, Article 3;
9. Keep the hospice inpatient facility free from:
 - a. A condition or situation that may cause a patient or an individual to suffer physical injury;
 - b. Accumulations of dirt, debris, dust, lint, or discarded equipment and materials; and
 - c. Insects and rodents;
10. Develop and implement policies and procedures specifying:
 - a. A cleaning schedule for at least the following:
 - i. Laundry,
 - ii. Toilet rooms,
 - iii. Bathing rooms,
 - iv. Sleeping areas, and
 - v. Kitchens; and
 - b. Types of cleaning products and equipment to be used;
11. Store, launder, and transport linens away from food storage, kitchen, and dining areas; and
12. Provide, continuously stock, and maintain a working soap dispenser and either a dispenser with disposable paper towels or a working hand-drying device in each toilet room located in the hospice inpatient facility.

R9-10-819. Hospice Inpatient Facility Disaster Preparedness

A hospice inpatient facility licensee shall:

1. Develop and maintain on the premises a written evacuation plan for staff to follow in the event of fire, explosion, or other disaster or threat to patient safety that includes:
 - a. Assigned staff responsibilities;
 - b. Procedures for transportation of patients and, if possible, records;
 - c. Location of and instructions for use of alarm systems;
 - d. Location of and instructions for use of fire-fighting equipment, including methods of containing fires;
 - e. Procedures for notification of local, state, or federal agencies appropriate to respond to the disaster;
 - f. An evacuation map;
 - g. Procedures for arranging adequate shelter, beds, food, water, and essential nursing care, including drugs and biologicals, for patients at an alternative location; and
 - h. Location and list of emergency supplies on the premises;
2. Conspicuously post written evacuation maps at the hospice inpatient facility;
3. Require that staff review an evacuation plan and conduct an evacuation drill, without patient participation, at least once every six months during each shift;
4. Maintain for 24 months at the hospice inpatient facility records of each evacuation drill including:
 - a. The date and time of the evacuation drill;
 - b. The names of staff participating in the evacuation drill;
 - c. A critique of the drill; and
 - d. Recommendations for improvement, if applicable;
5. Train all staff on the evacuation plan during the first seven days of employment; and
6. Require one staff member who has received evacuation plan training to be present at the hospice inpatient facility at all times.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSURE

PREAMBLE

1. Sections Affected

Rulemaking Action

R9-10-901	Amend
R9-10-902	Repeal
R9-10-902	New Section
R9-10-903	Repeal
R9-10-903	New Section
R9-10-904	Repeal
R9-10-904	New Section
R9-10-905	Repeal
R9-10-905	New Section
R9-10-906	Repeal
R9-10-906	New Section
R9-10-907	Repeal
R9-10-907	New Section
R9-10-908	Repeal
R9-10-908	New Section
R9-10-909	Repeal
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R9-10-911	New Section
R9-10-912	Repeal
R9-10-912	New Section
R9-10-913	Repeal
R9-10-913	New Section
R9-10-914	Repeal
R9-10-914	New Section
R9-10-915	Repeal
R9-10-915	New Section
R9-10-916	Repeal
R9-10-916	New Section
R9-10-917	Repeal
R9-10-917	New Section
R9-10-918	New Section
R9-10-919	New Section

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

Authorizing statutes: A.R.S. §§ 36-132(A) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-405 and 36-406

3. The effective date of the rules:

March 16, 2003

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 8 A.A.R. 3582, August 16, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 4159, October 4, 2002

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

Name: Judy Sgrillo, Program Manager

Address: Division of Assurance and Licensure Services
1647 E. Morten, Suite 130
Phoenix, AZ 85020

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Telephone: (602) 674-9705
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or
Name: Kathleen Phillips, Rules Administrator
Address: Office of Administrative Rules
1740 W. Adams, Suite 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
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E-mail: kphilli@hs.state.az.us

6. An explanation of the rules, including the agency's reasons for initiating the rules:

A.R.S. § 36-136(F) provides the general statutory authority for the Department of Health Services (Department) to make and amend rules. A.R.S. § 36-405(A) requires the Director of the Department to adopt rules establishing minimum standards and requirements for the construction, modification and licensure of health care institutions necessary to assure the public health, safety and welfare. It further requires that the standards and requirements relate to the construction; equipment; sanitation; staffing for medical, nursing, and personal care services; and recordkeeping pertaining to the administration of medical, nursing, and personal care services in accordance with generally accepted practices of health care. A.R.S. § 36-405(B) allows the Department to, by rule, classify and subclassify health care institutions according to character, size, and range of services provided. A.R.S. § 36-425.02 requires the Department to issue a quality rating to each nursing care institution based on the results of a licensure survey, or inspection. The final rules replace and update current nursing care institution rules by setting forth the Department's requirements for applications, contracted services, administration, staff and volunteers, nursing services, resident rights, admission, transfer or discharge, medical services, medication, food services, medical records, physical plant standards, environmental and equipment standards, safety standards, infection control, quality management, and quality rating.

There are currently 142 nursing care institutions in Arizona. The Department's Office of Long Term Care Licensure, which licenses Arizona's nursing care institutions, receives approximately 75% of its budget from the federal Centers for Medicare and Medicaid Services to inspect and certify nursing care institutions for Medicare. While all of Arizona's nursing care institutions are licensed by the Department, 137 or 96% of the state licensed nursing care institutions meet federal Medicare requirements, are certified by the Department, and receive federal Medicare dollars. Both the current and the final rules are consistent with the federal Medicare requirements so that consumers, as well as applicable nursing care institutions, will benefit from consistent standards.

The final rules parallel many of the Medicare requirements for nursing care institutions. The final rules also incorporate recent changes in state statutes that impact nursing care institutions, reflect changes that have occurred in the delivery of services in nursing care institutions, restructure and clarify Arizona requirements for a nursing care institution's quality rating, and conform to current rulemaking style and format requirements.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. 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

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

There are currently 142 nursing care institutions in Arizona. While all of Arizona's nursing care institutions are licensed by the Department, 137 or 96% of the state licensed nursing care institutions meet federal Medicare requirements and are certified by the Department to receive Medicare dollars. Implementing the final rules will impose one-time moderate costs to the Department. The Department's initial implementation costs include training surveyors and support staff, notifying nursing care institutions of the new rules, offering training to nursing care institution staff members and other stakeholders, and updating the Department's database and forms to reflect the changes in the state licensure rules for nursing care institutions. The Department does not anticipate incurring ongoing annual costs resulting from changes from the final rules. The Department, under agreement with the U.S. Department of Health and Human Services, also inspects nursing care institutions for Medicare certification, investigates complaints as directed by Medicare, and receives federal dollars accordingly. Therefore, the Department benefits by rules that are consistent with Medicare requirements.

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The rules should not result in additional benefits or impose additional costs on any political subdivision.

Many of the changes to the rules are current nursing care institution practice and thus the economic impact to a nursing care institution is minimal. Nursing care institutions could experience moderate cost savings as a result of the proposed rulemaking. Cost savings are realized by allowing medical practitioners, other than physicians, such as physician assistants and nurse practitioners, to perform annual physical examinations on residents, considering each resident's unique health and nutritional needs in the provision of food services; eliminating the minimum age requirement of 18 for performance of direct care on residents; and reducing ambiguity in the quality rating. Additionally, a resident who is hospitalized and returned to the nursing care institution will not receive another assessment unless the resident has a significant change in condition, as determined by a registered nurse or medical practitioner. This requirement is consistent with Medicare's Conditions of Participation and will result in cost savings. Additionally, the rules have been changed to expand the length of time that tuberculosis tests are valid for new staff, volunteers, and residents. The change from three months to six months is still well within the period of time necessary to protect the health and safety of staff, volunteers, and residents.

Nursing care institutions may experience minimal to moderate costs resulting from a new rule requiring that equipment be calibrated every 12 months or according to the manufacturer's recommendations, and a requirement that physicians perform a medical history and physical examination on a resident within 10 days rather than 14 days after the resident's date of admission. Most nursing care institutions currently calibrate equipment on a regular basis or according to manufacturer's recommendations to ensure the accuracy of the equipment for health and safety. Additionally, most new admissions to a nursing care institution have already received a medical history and physical examination in a physician's office, which may have precipitated admission to the nursing care institution. If a medical history and physical examination were performed within 30 days before admission, a new medical history and physical examination are not required at the time of admission. A physician may provide a copy of the medical history and physical examination to the nursing care institution for the resident's medical records and include an interval note, indicating any changes that may have occurred to the resident's health between the time the medical history and physical examination were conducted and the date of admission to the nursing care institution.

The final rules benefit private and public employment by allowing physician assistants and nurse practitioners to perform annual physical examinations. This may also benefit physician assistants and nurse practitioners by increasing their employment opportunities. The addition of Laws 2001, Ch. 342, § 1, prohibits the Department from making a rule that prohibits an administrator of a nursing care institution from employing a person who is sixteen years of age or older, who provides direct care to residents and who otherwise meets the requirements of A.R.S. § 32-1645 (the licensing and regulation of nursing assistants). The current rules require that personnel employed by a nursing care institution to provide direct care to residents be at least 18 years of age. A nursing care institution is no longer restricted from employing those nursing assistants who are between the ages of 16 and 18. As of June, 2002, there were 156 nursing assistant training programs in Arizona approved by the State Board of Nursing.

The final rules benefit the consumers of nursing care institution services and their families by providing clear, understandable, and user-friendly rules. For those few nursing care institutions that are not Medicare certified, these rules will serve as a safety net for the community. The final rules provide similar, consistent, health and safety standards so there is a consistent enforcement mechanism for nursing care institutions that may not be Medicare certified.

The final rules should not benefit, cost, or otherwise impact state revenues.

The Department does not have precise data on the number of Arizona's 142 licensed nursing care institutions that are small businesses as defined in A.R.S. § 41-1001. The Department estimates that the majority of Arizona's nursing care institutions are not small businesses. The economic impact of the final rules is the same for a small business as it is for a large business and the Department does not differentiate between small businesses and large businesses from a health and safety standpoint.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

A Notice of Rulemaking Docket Opening was published in the *Arizona Administrative Register* on August 16, 2002. A Notice of Proposed Rulemaking was published October 4, 2002. The Department conducted oral proceedings on the proposed rules on November 5 and 6, 2002. The Department received several oral and written comments as described in number 11 below. The Department has made technical and grammatical changes to the rules based on comments received from the Governor's Regulatory Review Council's staff.

The Department made a change to the final rulemaking as a result of the oral proceeding conducted in Phoenix, Arizona on November 6, 2002. An administrator pointed out that the requirements in Section R9-10-902(B), Application Requirements, places the responsibility on the administrator to notify the Department if there is a change in administrator, a planned change in ownership, or termination of operation of the facility. It is unclear, in the case of a change in administrator, whether the outgoing or the incoming administrator is responsible for this notification. Additionally, the current rule places the responsibility on the governing authority. The Department has clarified the rule by requiring the governing authority to notify the Department in the event of these changes and, because technically these requirements are not application requirements, they have been moved to the Administration Section.

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R9-10-905(A)(8) Staff and Volunteers and R9-10-908(6) Admission

Both Sections contain requirements for infectious pulmonary tuberculosis (TB) testing. These Sections have been rewritten to clarify the requirements. In addition, language has been added to allow for “other tests recommended by the U.S. Centers for Disease Control and Prevention or the tuberculosis control officer” by request of the Department’s Bureau of Epidemiology and Disease Control Services TB Control Officer to not limit testing to the Mantoux skin test. A blood test is now available to determine an individual’s TB status. The Department is not mandating the use of the blood test but the rules will allow this method of testing to be used in the future. The definition “tuberculosis control officer” has been added to R9-10-901 Definitions.

R9-10-904(F)(7) Administration

Language was added to clarify that a transfer and a discharge of a resident, in addition to the death of a resident, would necessitate a return of the resident’s money and a final accounting of the money to either the individual or to the probate jurisdiction administering the estate.

R9-10-907(2)(f) Resident Rights

For clarification purposes, the Department has added “from a nursing care institution’s staff member or volunteer” to the requirement that a resident or a resident’s representative may submit a grievance without retaliation.

11. A summary of the comments made regarding the rules and the agency response to them:

The following table summarizes the comments received by the Department and provides the Department’s response to each comment.

Comment	ADHS Response
<p>An administrator from a Tucson facility asked if the TB screening for volunteers would apply to staff member’s children who are in the facility on a daily basis interacting with residents while the children are waiting for the school bus. The administrator stated that some of the children are as young as six and asked whether the Department should consider including in rule an age requirement for the TB screening of volunteers.</p>	<p>The Department is not making any changes in response to this comment. The Department staff explained to the individual that these children are not providing care to the residents and that children are a very low risk population for the transmission of TB. As a follow-up to this question, the Department staff contacted the ADHS Bureau of Epidemiology and Disease Control Services TB Control Officer who confirmed that there is no need to TB screen the children described in the scenario for the following reasons: 1) It would not protect the residents because children with TB almost never transmit to others, especially young children; 2) It is not necessary for the protection of the children because the residents and staff have all been TB screened and are unlikely to have infectious disease; and 3) The contact is still brief. These children should be regarded as visitors who are not TB screened.</p>
<p>A comment was received from an administrator of a nursing care institution in Prescott, Arizona, who is also the President of the Arizona Health Care Association, requesting clarification to R9-10-902 Application Requirements, which requires an administrator to notify the Department if there is a change in administrator. The current rule designates the governing authority (administration) to notify the Department. Additionally, the commenter asked whether it would be more appropriate to require the governing authority or, if not, to clarify whether the responsibility would be that of the outgoing administrator or the incoming administrator.</p>	<p>The Department agrees with the commenter and has changed the rule to require the governing authority to notify the Department if there is a change in administrator, if there is a planned change in ownership, and if the facility intends to terminate operations. Additionally, these requirements have been moved from the Application Requirements Section to the Administration Section, which is the more appropriate location.</p>

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<p>A comment was received from the Executive Director of the Arizona Health Care Association commending the Department for the inclusive manner in which the rules were revised. The commenter stated that the long-term care profession has been actively involved throughout the process, was included in early discussions, and received timely communication. The Department solicited input which the commenter stated was essential to the successful implementation of these rules. The commenter also stated that the Association pledged its' support to educate providers about the new rules and encouraged the Department to communicate these opportunities in the future.</p>	<p>The Department appreciates the comments and support from the Arizona Health Care Association.</p>
<p>A comment was received from an administrator of a Phoenix nursing care institution also commending the Department on the cooperative nature of the rulemaking process and stated that she was very appreciative of the ability to provide input and to be a part of the process.</p>	<p>The Department appreciates the support.</p>
<p>Comments were received from an administrator and co-owner of a nursing care institution in Globe, Arizona, regarding concerns with R9-10-904(C). This commenter feels the Department should place more restrictions on allowing one administrator to manage two facilities to protect against abuses by providers. The commenter suggested placing a limit on the aggregate total number of beds in the two facilities to 150, or include a time limit of 30 to 60 days, subject to the approval of the Department. During the oral proceeding conducted in Phoenix on November 6, 2002, the commenter stated that he did not want to delay this rulemaking with a substantial change at this time and that he was amenable to the Department moving forward with this rulemaking (see transcript).</p>	<p>The Department is not making changes to this requirement at this time. Discussions took place at the oral proceeding conducted in Phoenix on November 6, 2002. The issue of allowing one administrator to manage two facilities will require further discussions to determine if the rule should include a limit on the number of combined beds, a maximum length of time that an administrator can manage two facilities, such as while a new administrator is being recruited, or whether the Department should specify a process in rule that whereby the Department reviews the circumstances, the regulatory compliance history of the facility, or other considerations and determines whether to approve or reject a shared administrator. This particular requirement has been in rule for many years and has not been an issue. The previous rule provided a distance limit of 40 miles. This rulemaking decreased the distance to 25 miles. There is currently only one administrator in the state managing two facilities. There have not been any negative outcomes. The Department staff explained that a change to this Section as discussed is a substantial change and would require a Notice of Supplemental Rulemaking and delay this rulemaking by several months. The individuals present at the oral proceeding did not feel that this issue was sufficiently urgent to warrant a delay. The Department stated that after this rulemaking is effective, the requirement can be discussed in detail with interested persons and an amendment to the rule could be filed.</p>

<p>A letter was received from an administrator of a nursing care institution in Chandler, Arizona, following the discussions during the oral proceeding conducted in Phoenix concerning one administrator managing two facilities. The commenter stated that the success or failure of a shared administrator is not related to the combined size or distance between the two facilities, but rather, the quality of service to the residents, the experience of the administrator, and the dedication of the governing authority to provide support resources and quality oversight. The commenter also stated that in the overall best interest of the nursing care institutions and the communities served, commenter recommended that future consideration be given to eliminating the distance rule and substitute with an application process that would allow the Department to approve or reject a shared administrator based on a number of factors.</p>	<p>The Department appreciates the support to delay consideration of changing this requirement until full discussions with interested persons can take place in the near future.</p>
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12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

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

R9-10-912: Food and Nutrition Board of the National Research Council, National Academy of Sciences, "Recommended Dietary Allowances," 10th Edition, 1989, available from the National Academy Press, 2101 Constitution Avenue, N.W., P. O. Box 285, Washington, DC 20055.

R9-10-912: "The Food Guide Pyramid," revised 1996, in Home and Garden Bulletin No. 252, available from the U.S. Department of Agriculture, Center for Nutrition Policy and Promotion, 1120 20th Street, N.W., Suite 200, North Lobby, Washington, DC 20036-3475.

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSURE**

ARTICLE 9. NURSING CARE INSTITUTIONS

Section	
R9-10-901.	Definitions
R9-10-902.	Administration <u>Application Requirements</u>
R9-10-903.	Personnel <u>Contracted Services</u>
R9-10-904.	Staffing <u>Administration</u>
R9-10-905.	Nursing Services <u>Staff and Volunteers</u>
R9-10-906.	Resident Rights <u>Nursing Services</u>
R9-10-907.	Admissions <u>Resident Rights</u>
R9-10-908.	Transfers or Discharges <u>Admission</u>
R9-10-909.	Service Standards <u>Transfer or Discharge</u>
R9-10-910.	Medications <u>Medical Services</u>
R9-10-911.	Food Services <u>Medication</u>
R9-10-912.	Resident Records <u>Food Services</u>
R9-10-913.	Physical Plant Standards <u>Medical Records</u>
R9-10-914.	Environmental Standards <u>Physical Plant Standards</u>
R9-10-915.	Safety Standards <u>Environmental and Equipment Standards</u>
R9-10-916.	Quality Management <u>Safety Standards</u>
R9-10-917.	Quality Rating <u>Infection Control</u>

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- R9-10-918. Repealed Quality Management
R9-10-919. Repealed Quality Rating

ARTICLE 9. NURSING CARE INSTITUTIONS

R9-10-901. Definitions

In this Article, unless the context otherwise requires:

1. "Abuse" means the same as defined in A.R.S. § 46-451(A)(1) and includes corporal punishment, involuntary seclusion, and mental, physical, sexual, and verbal abuse.
2. "Accident" means an unexpected occurrence that causes harm to a resident.
3. "Activities of daily living" means ambulating, bathing, toileting, shaving, brushing teeth, combing hair, dressing, eating, getting in or out of a bed or chair, cleaning the resident's room, laundering, shopping, using public transportation, writing letters, communicating, making telephone calls, obtaining appointments, recreation, and leisure activities.
4. "Administrator" means the same as defined in A.R.S. Title 36, Chapter 4, Article 6.
5. "Advance directive" means a written expression of a resident's wishes relating to the provision of health care when the resident is incapacitated and includes a living will, prehospital medical care directive, or health care power of attorney.
6. "Biologicals" mean medicinal compounds that include serums, vaccines, antigens, and antitoxins prepared from living organisms and their products.
7. "Care plan" means a written program of action for each resident which includes measurable objectives and timetables for meeting a resident's physical, medical, nursing, mental, and psychosocial needs that have been identified in the resident's assessment.
8. "Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat a resident's medical symptoms.
9. "Cognitive status" means an individual's level of awareness with perception, reasoning, judgment, intuition, and memory.
10. "Corporal punishment" means the infliction of a physical penalty causing suffering, pain, or loss that serves as retribution.
11. "Disaster" means an unforeseen event, including a flood or fire, which may result in a facility, or a portion thereof, becoming uninhabitable and which necessitates evacuation of residents to another location.
12. "Hospital-based nursing care institution" means a department, division, or unit of a licensed hospital that provides nursing and health-related services within the hospital, on a contiguous portion of the hospital's campus, or not more than 300 yards from the hospital to allow the coordination of services.
13. "Interdisciplinary team" means a group consisting of the attending physician, a registered nurse responsible for the resident, and other appropriate staff as determined by the resident's needs.
14. "Involuntary seclusion" means the separation of a resident from other residents against the will of the resident or the resident's representative unless the separation is necessary in treating the resident's medical symptoms.
15. "Licensed nurse" means an individual licensed pursuant to A.R.S. Title 32, Chapter 15.
16. "Medical director" means a physician licensed pursuant to A.R.S. Title 32, Chapters 13 and 17.
17. "Medication" means any drug or medicine used in the maintenance of health and prevention or treatment of disease and illness.
18. "Medication error" means any of the following:
 - a. A medication ordered but not administered and the omission not recorded;
 - b. The wrong medication administered, or
 - c. A medication administered:
 - i. In the wrong dosage;
 - ii. More than 60 minutes from the ordered time of administration;
 - iii. By the wrong route of administration, or
 - iv. To the wrong resident.
19. "Mental abuse" means humiliation, harassment, threats of punishment, or deprivation.
20. "Neglect" means the lack of supervision, failure to provide care or services necessary to ensure the health, safety and well-being of a resident, failure to determine what care or services are necessary for the well-being of a resident or failure to provide a safe and sanitary environment.
21. "Physical abuse" means beating, inflicting physical pain or causing injury to a resident, or endangering a resident's health or well-being, including withholding food or medical care.
22. "Physical restraint" means confinement in a locked room or the use of any article, device, or garment that interferes with freedom of movement, that cannot be easily removed by the resident, or that is used to control the resident's behavior.
23. "Resident" means an individual admitted into a facility and includes any person who is receiving respite care services.

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24. ~~“Resident group” means a number of individuals who reside in a facility and meet to discuss issues related to facility operation.~~
25. ~~“Resident’s representative” means a person acting on behalf of a resident with the written consent of the resident or resident’s legal guardian.~~
26. ~~“Significant change in condition” means a deterioration in health, mental, or psychosocial status in either life-threatening circumstances or clinical complications.~~
27. ~~“Significant medication error” means the administration of medications, or omission thereof, which causes the resident severe discomfort or jeopardizes a resident’s health and safety.~~
28. ~~“Treatment” means medical, surgical, dental, or psychiatric management of a resident, and any specific procedure used for the prevention, cure, or amelioration of a disease or pathological condition.~~
29. ~~“Unnecessary drug” means medication that is used:~~
 - a. ~~When there is no indication for its use;~~
 - b. ~~In excessive dose, including duplicate therapy;~~
 - e. ~~Without adequate monitoring to assess the effectiveness of the medication; or~~
 - d. ~~Under adverse consequences that indicate the dose should be reduced or discontinued.~~
30. ~~“Verbal abuse” means any use of disparaging or derogatory comments that describe residents or their relatives, regardless of the resident’s age, disability, or ability to comprehend.~~

In addition to the definitions in A.R.S. § 36-401 and Title 9, Chapter 10, Article 1, the following definitions apply in this Article:

1. “Abuse” has the meaning in A.R.S. § 46-451 and includes emotional abuse as defined in A.R.S. § 13-3623.
2. “Activities of daily living” means ambulating, bathing, dressing, grooming, toileting, eating, and getting in or out of a bed or a chair.
3. “Administrator” has the meaning in A.R.S. § 36-446.
4. “Admission” or “admitted” means documented acceptance by a nursing care institution of an individual as a resident of the nursing care institution.
5. “Adverse reaction” means an unexpected outcome that threatens the health and safety of a resident as a result of medical services or nursing services provided to the resident.
6. “Attending physician” means a physician designated by a resident or the resident’s representative who is responsible for the coordination of medical services provided to the resident.
7. “Authenticate” means to establish authorship of a document or an entry in a medical record by:
 - a. A written signature;
 - b. An individual’s initials, if the individual’s written signature appears on the document or in the medical record;
 - c. A rubber-stamp signature; or
 - d. An electronic signature code.
8. “Available” means:
 - a. For an individual, the ability to be contacted by any means possible such as by telephone or pager;
 - b. For equipment and supplies, physically retrievable at a nursing care institution; and
 - c. For a document, retrievable at a nursing care institution or accessible according to the time-frames in the applicable rules of this Article.
9. “Behavioral health service” has the meaning in A.A.C. R9-20-101.
10. “Biohazardous medical waste” has the meaning in A.A.C. R18-13-1401.
11. “Biological” means a medicinal compound prepared from living organisms and their products such as serums, vaccines, antigens, and antitoxins.
12. “Business day” means Monday through Friday, 8:00 a.m. to 5:00 p.m.
13. “Care plan” means a documented guide for providing nursing services to a patient that includes measurable objectives and the methods for meeting the objectives based on the resident’s comprehensive assessment.
14. “Cognitive status” means a resident’s level of awareness including perception, reasoning, judgment, intuition, and memory.
15. “Communicable disease” has the meaning in A.A.C. R9-6-101.
16. “Comprehensive assessment” means an analysis of a resident’s need for nursing care institution services that is performed according to R9-10-906(B).
17. “Conspicuously posted” means placed within a nursing care institution at a location that is visible and accessible to residents and the public.
18. “Contracted services” means nursing care institution services provided according to a written agreement between a nursing care institution and the person providing the nursing care institution services.
19. “Controlled substance” has the meaning in A.R.S. § 36-2501.
20. “Corporal punishment” means physical action that causes suffering or pain, and serves as retribution.
21. “Current” means up-to-date and extending to the present time.
22. “Dignity” means the quality or condition of esteem or worth.

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23. "Direct care" means medical services, nursing services, or medically-related social services provided to a resident.
24. "Director of nursing" means an individual who is responsible for the nursing services provided in a nursing care institution.
25. "Disaster" means an unexpected adverse occurrence that affects the nursing care institution's ability to provide nursing care institution services.
26. "Discharge" means a nursing care institution's termination of nursing care institution services to a resident.
27. "Discipline" means any verbal or physical action taken by a staff member or volunteer to punish or penalize a resident.
28. "Documentation" or "documented" means information in written, photographic, electronic, or other permanent form.
29. "Drill" means a response to a planned, simulated event.
30. "Drug" has the meaning in A.R.S. § 32-1901.
31. "Electronic" has the meaning in A.R.S. § 44-7002.
32. "Electronic signature" has the meaning in A.R.S. § 44-7002.
33. "Emergency" means an immediate threat to the life or health of a resident.
34. "Environmental services" means activities such as housekeeping, laundry, facility maintenance, or equipment maintenance.
35. "Exploitation" has the meaning in A.R.S. § 46-451.
36. "Family" means an individual related to a resident by blood, marriage, or adoption or other individual designated by the resident.
37. "Food services" means the storage, preparation, and serving of food intended for consumption in a nursing care institution.
38. "Full time" means 40 hours or more every consecutive seven days.
39. "Health care directive" has the meaning in A.R.S. § 36-3201.
40. "Highest practicable" means a resident's optimal level of functioning and well-being based on the resident's current functional status and potential for improvement as determined by the resident's comprehensive assessment.
41. "Hospital-based nursing care institution" means an area within or on a contiguous portion of a licensed hospital's premises, or not more than 250 yards from the licensed hospital premises, where nursing care institution services are provided in coordination with hospital services.
42. "Hospital services" has the meaning in R9-10-201.
43. "Incident" means an unexpected occurrence that poses a threat to the health and safety of residents.
44. "Injury" means trauma or damage to some part of the human body.
45. "In-service education" means organized instruction or information related to nursing care institution services that is provided to a staff member.
46. "Interdisciplinary team" means a group of individuals consisting of a resident's attending physician, a registered nurse responsible for the resident, and other individuals as determined in the resident's comprehensive assessment.
47. "Medical director" means a physician who is responsible for the coordination of medical services provided to residents in a nursing care institution.
48. "Medically-related social services" means assistance provided to or activities provided for a resident to maintain or improve the resident's physical, mental, and psychosocial capabilities.
49. "Medical history" means a part of a resident's medical records consisting of an account of the resident's health, including past and present illnesses, diseases, or medical conditions.
50. "Medical records" has the meaning in A.R.S. § 12-2291.
51. "Medication" has the same meaning as drug.
52. "Medication error" means:
 - a. The failure to administer an ordered medication;
 - b. The administration of a medication not ordered; or
 - c. A medication administered:
 - i. In an incorrect dosage,
 - ii. More than 60 minutes from the ordered time of administration unless ordered to do so, or
 - iii. By an incorrect route of administration.
53. "Medication error rate" means the percentage of medication errors, which is calculated by the number of medication errors divided by the opportunities for errors.
54. "Misappropriation of resident property" means the intentional use of a resident's belongings or money without the resident's consent.
55. "Monitor" means the ongoing observation of a resident's behavior or medical condition.
56. "Nurse" has the same meaning as registered nurse or practical nurse defined in A.R.S. § 32-1601.
57. "Nursing care institution services" means medical services, nursing services, medically-related social services, and environmental services.
58. "Nursing personnel" means an individual authorized under A.R.S. Title 32, Chapter 15, to provide nursing services.

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59. "Ombudsman" means a resident advocate who performs the duties described in A.R.S. § 46-452.02.
60. "Opportunities for errors" means the time during a Department survey in which a Department representative:
 - a. Observes the number of medication doses administered to residents in a nursing care institution; and
 - b. Ascertain the number of medication doses ordered but not administered.
61. "Order" means an instruction to provide medical services or nursing services to a resident in a nursing care institution by:
 - a. A physician; or
 - b. An individual licensed under A.R.S. Title 32 or authorized by the nursing care institution within the scope of the individual's license.
62. "Orientation" means the initial instruction and information provided to an individual starting work or volunteer services in a nursing care institution.
63. "Person" has the meaning in A.R.S. § 1-215 and includes governmental agencies.
64. "Pharmacist" has the meaning in A.R.S. § 32-1901.
65. "Physician" means an individual licensed under A.R.S. Title 32, Chapters 13, 14, 17, or 29.
66. "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25.
67. "Physical examination" means to observe, test, or inspect an individual's body to evaluate health or determine cause of illness or disease.
68. "Qualified" means meeting the requirements specified in a nursing care institution's written job description for a job position.
69. "Quality management program" means ongoing activities designed and implemented by a nursing care institution to improve the delivery of nursing care institution services.
70. "Reasonable accommodation" means an adaptation of a resident's environment based on the resident's preferences, comprehensive assessment, and care plan, to assist the resident in achieving or maintaining independent functioning.
71. "Registered dietitian" means an individual approved to work as a dietitian by the American Dietetic Association's Commission on Dietetic Registration.
72. "Registered nurse" has the meaning in A.R.S. § 32-1601.
73. "Registered nurse practitioner" has the meaning in A.R.S. § 32-1601.
74. "Registry staff member" means an individual licensed or certified by a regulatory agency who receives compensation from a third party to work at a nursing care institution.
75. "Regular basis" means at recurring, fixed, or uniform intervals.
76. "Resident" means an admitted individual receiving nursing care institution services.
77. "Resident advocate" means an individual who acts on behalf of a resident regarding the resident's legal or personal issues.
78. "Resident group" means residents or residents' family members who:
 - a. Plan and participate in resident activities; or
 - b. Meet to discuss nursing care institution issues and policies.
79. "Resident's representative" means a resident's legal guardian, an individual acting on behalf of a resident with the written consent of the resident, or a surrogate under A.R.S. § 36-3201.
80. "Restraint" means any chemical or physical method of restricting a resident's:
 - a. Freedom of movement,
 - b. Physical activity, or
 - c. Access to the resident's own body.
81. "Risk" means potential for an adverse outcome.
82. "Seclusion" means the involuntary solitary confinement of a resident, when not medically indicated, in a room or an area where the resident is prevented from leaving.
83. "Secured" means the use of a method, device, or structure that:
 - a. Prevents a resident from leaving an area of a nursing care institution's premises; or
 - b. Alerts a staff member of a resident's departure from a nursing care institution.
84. "Semipublic swimming pool" has the meaning in A.A.C. R18-5-201.
85. "Significant change in condition" means an improvement or a deterioration in a resident's physical or mental condition that causes the resident's need for direct care to decrease or increase.
86. "Significant medication error" means the administration of a medication, or omission of a medication, that endangers the health or safety of a resident.
87. "Social worker" means an individual who:
 - a. Has a baccalaureate degree in social work from a program accredited by the Council on Social Work Education;
 - b. Has a baccalaureate degree in a human services field such as sociology, special education, rehabilitation counseling, or psychology; or
 - c. Is certified under A.R.S. Title 32, Chapter 33;
88. "Staff member" means an individual who receives wages from a nursing care institution.

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- 89. “Survey” means a license inspection of a nursing care institution by the Department.
- 90. “Total health condition” means a resident’s overall physical and psychosocial well-being as determined by the resident’s comprehensive assessment.
- 91. “Tuberculosis control officer” has the meaning in A.R.S. § 36-711.
- 92. “Transfer” means relocating a resident from a nursing care institution to another health care institution.
- 93. “Unnecessary drug” means a medication is not required because:
 - a. There is no documented indication for its use;
 - b. The medication is excessive or duplicative;
 - c. The medication is administered before determining whether the resident requires it; or
 - d. The resident has experienced an adverse reaction from the medication indicating that the medication should be reduced or discontinued.
- 94. “Verification” means:
 - a. A documented telephone call including the date and the name of the documenting individual;
 - b. A documented observation including the date and the name of the documenting individual; or
 - c. A documented confirmation of a fact including the date and the name of the documenting individual.
- 95. “Vital signs” means an individual’s heart rate, respiratory rate, blood pressure, and body temperature.
- 96. “Volunteer” means an individual, not including a resident’s family member providing direct care to the resident, authorized by a nursing care institution to work on a regular basis who does not receive compensation.
- 97. “Work” means employment by, or providing volunteer services for, a nursing care institution.

R9-10-902. Administration Application Requirements

- A.** Each facility shall have a governing authority responsible for the organization and administration of the facility. The governing authority shall:
 - 1. Ensure facility compliance with state laws, rules and local ordinances;
 - 2. Adopt policies and procedures for the facility;
 - 3. Appoint an administrator to manage the facility. The administrator shall be appointed in accordance with 1 of the following:
 - a. By the governing authority of the facility;
 - b. By a hospital governing authority to serve a dual role, as follows:
 - i. For both the hospital and a hospital-based nursing care institution whose bed capacity does not exceed 60; or
 - ii. Two hospital-based nursing care institutions, provided 1 of the facilities operates within the hospital and its bed capacity does not exceed 60;
 - e. By the governing authority of 2 or more facilities to manage no more than 2 of the facilities under the following conditions:
 - i. The distance between the 2 facilities does not exceed 40 miles, and
 - ii. Neither facility is operating under a provisional license;
 - 4. Appoint another administrator when the administrator is absent for 30 consecutive days; and
 - 5. Notify the Department, in writing, of the following:
 - a. The name and license number of a newly appointed administrator within 5 working days after the effective date of change;
 - b. A change of ownership not less than 30 days prior to the change; and
 - c. The location and arrangements for the maintenance of records not less than 30 days prior to the cessation of facility operations
- B.** The administrator shall report to the governing authority and shall be responsible for the following:
 - 1. Staffing, which shall include the following:
 - a. Appointing a medical director to be responsible for resident medical care in the facility, which shall include: Overseeing physician practices, including any physician-delegated tasks to a physician assistant or nurse practitioner pursuant to A.R.S. Title 32, Chapters 15 and 25;
 - ii. Providing supervision of the clinical care of residents; and
 - iii. Monitoring and evaluating health care and treatment and taking corrective action for related problems;
 - b. Appointing a registered nurse to serve as a full-time director of nursing;
 - e. Appointing a social services director to develop and conduct a social services program; and
 - d. Appointing an activities director to develop and conduct an activities program;
- 2. Supervising and evaluating staff performance;
- 3. Developing and implementing written policies and procedures for the following:
 - a. Resident rights;
 - b. Nursing services;
 - e. Advance directives;
 - d. Personnel;
 - e. Orientation and inservice training;

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- f. Admission and discharge;
 - g. Safety and emergency plan;
 - h. Infection control;
 - i. Quality management plan;
 - j. Maintenance of residents' personal accounts, and
 - k. Residents' petty cash fund;
4. Designating, in writing, an individual who shall be on duty, in charge, and have access to all areas within the facility and grounds that are related to resident care and operation of the facility when the administrator is absent;
 5. Notifying, in writing, each resident or resident's representative of any change in rates or services 60 days prior to the change;
 6. Ensuring the safe and orderly transfer of residents and their clinical records if the facility ceases operation;
 7. Ensuring that all facility records are transferred to the new owner in the event of a change in ownership;
 8. Investigating and reporting all allegations involving resident neglect, abuse, or misappropriation of resident property to the Office of Long-Term Care Licensure and Adult Protective Services, if required by A.R.S. § 46-454, and preventing further neglect, abuse, or misappropriation of property while the investigation is in progress;
 9. Reporting to the Arizona State Board of Nursing, Nurse Aide Registry, or appropriate licensing board any knowledge of a criminal conviction of a nurse aide or a licensed professional;
 10. Investigating and reporting to the Office of Long-Term Care Licensure any injuries of an unknown source which may require physician intervention and any disaster or unusual occurrence of the severity that poses a threat to the health and safety of residents;
 11. Designating a staff person to act as a resident advocate to assist and act upon requests and recommendations from residents or resident and family groups, and to respond, in writing, to grievances and complaints that are submitted;
 12. Posting in a conspicuous area, the following documents:
 - a. Operating permits, licenses, and certificates;
 - b. Names, addresses, and telephone numbers of the Office of Long-Term Care Licensure, the State Long-Term Care Ombudsman Program, and Adult Protective Services;
 - c. A statement that the resident may file a complaint with the Office of Long-Term Care Licensure regarding any area of facility operation;
 - d. The results of the most recent survey of the facility and any plan of correction in effect, or a notice of its availability and location, 7 days a week, in a place that is readily accessible to residents; and
 13. Ensuring the maintenance of the following:
 - a. Schedules of rates and charges;
 - b. Policies and procedures;
 - c. Staffing records for the preceding 6 months;
 - d. Current fire inspection and sanitation reports;
 - e. Records of fire and disaster drills for the preceding licensure period;
 - f. Orientation and inservice program records;
 - g. Job descriptions which define qualifications, duties, and responsibilities; and
 - h. Personnel and resident records.
- C.** The administrator may accept, upon request of a resident or resident's representative, responsibility for managing a personal account for a resident. If the administrator accepts the responsibility, the administrator shall ensure the following:
1. A system is maintained with complete and separate accounting of each resident's personal account;
 2. A person is designated to be responsible for managing residents' personal accounts;
 3. A written authorization for expenditures is given by each resident;
 4. A resident's personal funds in excess of \$50 are deposited in an interest-bearing account and that all interest earned on the resident's funds is credited toward that account;
 5. A separate account record is maintained for each resident who authorizes expenditures;
 6. Records are maintained on all receipts and expenditures of the personal account;
 7. There is no commingling of residents' accounts with facility accounts;
 8. Each resident or resident's representative shall be given a written statement of the financial transactions made on the resident's behalf, every calendar quarter, and upon request by the resident or resident's representative; and
 9. Upon the death of a resident, the facility shall convey the resident's monies and a final accounting of those monies to the individual or probate jurisdiction administering the resident's estate within 30 days.
- D.** The administrator may establish a petty cash fund for use by residents during normal business hours, in accordance with the facility's petty cash fund policy and procedures which shall include:
1. Prescribed cash limits of the petty cash fund;
 2. Internal procedures for use of the fund; and
 3. Written acknowledgment, by the resident, of each petty cash transaction.

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In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority applying for an initial or renewal license shall submit the following to the Department:

1. A copy of the nursing care institution administrator's license under A.R.S. Title 36, Chapter 4, Article 6; and
2. A form provided by the Department that contains:
 - a. The name and the classification or subclassification of a health care institution operated by the same governing authority as the nursing care institution, if applicable; and
 - b. Whether the nursing care institution has:
 - i. A secured area for residents with Alzheimer's disease or other dementia;
 - ii. A secured behavioral health services area; or
 - iii. An area for residents on ventilators.

R9-10-903. Personnel Contracted Services

- ~~**A:** An employee, at the time of employment and annually thereafter, shall submit 1 of the following as evidence of being free from pulmonary tuberculosis:~~
- ~~1. A report of a negative Mantoux skin test taken within 3 months of submitting the report; or~~
 - ~~2. A written physician's statement indicating freedom from tuberculosis, if the individual has had a positive skin test for tuberculosis.~~
- ~~**B:** The administrator shall ensure that orientation for personnel is provided within the first week of employment which shall include:~~
- ~~1. Policies and procedures;~~
 - ~~2. Resident rights and facility rules;~~
 - ~~3. Basic infection control techniques, including hand washing, linen handling, and prevention of communicable diseases; and~~
 - ~~4. Fire, disaster, and emergency preparedness.~~
- ~~**C:** The administrator shall ensure that personnel who provide direct care to residents shall be 18 years of age or older and shall attend 12 hours of inservice education annually which may include time spent in orientation.~~
- ~~**D:** The administrator shall ensure that a personnel record for each employee is maintained on the premises and shall include the following:~~
- ~~1. Application for employment;~~
 - ~~2. Verification of training, certification or licensure;~~
 - ~~3. Initial proof of freedom from tuberculosis and annual verification statement thereafter; and~~
 - ~~4. Orientation records.~~
- ~~**E:** The administrator shall ensure that inservice records are maintained on each employee which shall include:~~
- ~~1. Date of inservice;~~
 - ~~2. Class content;~~
 - ~~3. Length of inservice;~~
 - ~~4. Instructor's name, and~~
 - ~~5. Signatures of those in attendance.~~

An administrator shall ensure that:

1. A contractor provides contracted services according to the requirements in this Article;
2. A contract includes the responsibilities of each contractor;
3. A copy of the contract is maintained at the nursing care institution;
4. A documented list of current contracted services is maintained at the nursing care institution that includes a description of the contracted services provided; and
5. A contract and the list of contracted services required in subsection (3) and (4) are provided to the Department for review within two hours of the Department's request.

R9-10-904. Staffing Administration

- ~~**A:** The administrator shall ensure that personnel provide the following:~~
- ~~1. Nursing services;~~
 - ~~2. Nutritional services;~~
 - ~~3. Activities program;~~
 - ~~4. Social services;~~
 - ~~5. Housekeeping services; and~~
 - ~~6. Maintenance.~~
- ~~**B:** The administrator for a hospital-based nursing care institution and an affiliated hospital may designate personnel to jointly provide services in each facility unless this is expressly prohibited by federal or state law. Staff time spent in each facility shall be documented.~~

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- A.** A governing authority shall:
1. Consist of one or more individuals responsible for the organization, operation, and administration of a nursing care institution;
 2. Approve or designate an individual to approve the nursing care institution policies and procedures required in subsection (E);
 3. Comply with applicable federal and state laws, rules, and local ordinances governing operations of a nursing care institution;
 4. Appoint a nursing care institution administrator licensed according to A.R.S. Title 36, Chapter 4, Article 6;
 5. Appoint an acting licensed administrator if the administrator is absent for more than 30 consecutive days;
 6. Except as permitted in subsection (A)(5), when there is a change of administrator, submit a copy of the new administrator's license under A.R.S. Title 36, Chapter 4, Article 6 to the Department;
 7. Adopt a quality management program according to R9-10-918;
 8. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 9. Approve contracted services or designate an individual to approve contracted services;
 10. Notify the Department immediately if there is a change in administrator according to A.R.S. § 36-425(E);
 11. Notify the Department at least 30 days before the nursing care institution terminates operations according to A.R.S. § 36-422(D); and
 12. Notify the Department of a planned change in ownership at least 30 days before the change according to A.R.S. § 36-422(D).
- B.** Except as provided in subsection (C), a governing authority may not appoint an administrator to provide direction in more than one health care institution.
- C.** A single governing authority may appoint an administrator to provide direction in:
1. Both a hospital and a hospital-based nursing care institution if the licensed capacity in the hospital-based nursing care institution does not exceed 60; or
 2. Not more than two nursing care institutions if:
 - a. The distance between the two nursing care institutions does not exceed 25 miles; and
 - b. Neither nursing care institution is operating under a provisional license issued by the Department under A.R.S. § 36-425;
- D.** An administrator shall:
1. Be responsible to the governing authority for the operation of the nursing care institution;
 2. Have the authority and responsibility to administer the nursing care institution;
 3. Designate an individual, in writing, who is available and responsible for the nursing care institution when the administrator is not available; and
 4. Ensure the nursing care institution's compliance with the fingerprinting requirements in A.R.S. § 36-411.
- E.** An administrator shall ensure that:
1. Nursing care institution policies and procedures are established, documented, and implemented that cover:
 - a. Abuse of residents and misappropriation of resident property;
 - b. Health care directives;
 - c. Job descriptions, qualifications, duties, orientation, and in-service education for each staff member;
 - d. Orientation and duties of volunteers;
 - e. Admission, transfer, and discharge;
 - f. Disaster plans;
 - g. Resident rights;
 - h. Quality management including incident documentation;
 - i. Personal accounts;
 - j. Petty cash funds;
 - k. The nursing care institution's refund policy;
 - l. Food services;
 - m. Nursing services;
 - n. Dispensation, administration, and disposal of medication and biologicals;
 - o. Infection control; and
 - p. Medical records including oral, telephone, and electronic records;
 2. An allegation of abuse of a resident or misappropriation of resident property is:
 - a. Investigated by an individual designated by the administrator;
 - b. Reported to the Department within five calendar days of the allegation; and
 - c. Reported to Adult Protective Services of the Department of Economic Security if required by A.R.S. § 46-454;
 3. During an investigation conducted according to subsection (E)(2), further abuse of a resident or misappropriation of resident property is prevented;
 4. Nursing care institution policies and procedures are reviewed at least once every 24 months and updated as needed;

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5. Nursing care institution policies and procedures are available to each staff member;
6. A known criminal conviction of a staff member who is licensed, certified, or registered in this state is reported to the appropriate licensing or regulatory agency;
7. An injury to a resident from an unknown source that requires medical services, a disaster, or an incident is investigated by the nursing care institution and reported to the Department within 24 hours or the first business day after the injury, disaster, or incident occurs;
8. A resident advocate assists a resident, the resident's representative, or a resident group with a request or recommendation, and responds in writing to any complaint submitted to the nursing care institution;
9. The following are conspicuously posted on the premises:
 - a. The current nursing care institution license and quality rating issued by the Department;
 - b. The name, address, and telephone number of:
 - i. The Department's Office of Long Term Care,
 - ii. The State Long Term Care Ombudsman Program, and
 - iii. Adult Protective Services of the Department of Economic Security;
 - c. A notice that a resident may file a complaint with the Department concerning the nursing care institution;
 - d. A map for evacuating the facility; and
 - e. A copy of the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect.
- F. If an administrator administers a resident's personal account at the request of the resident or the resident's representative, the administrator shall:
 1. Comply with nursing care institution policies and procedures established according to subsection (E)(1)(i),
 2. Designate a staff member who is responsible for the personal accounts,
 3. Maintain a complete and separate accounting of each personal account,
 4. Obtain written authorization from the resident or the resident's representative for each personal account transaction,
 5. Document each account transaction and provide a copy of the documentation to the resident or the resident's representative on request and at least every three months,
 6. Transfer all money from the resident's personal account in excess of \$50.00 to an interest-bearing account and credit the interest to the resident's personal account, and
 7. Within 30 days of the resident's death, transfer, or discharge, return all money in the resident's personal account and a final accounting to the individual or probate jurisdiction administering the resident's estate.
- G. If a petty cash fund is established for use by residents, the administrator shall ensure that:
 1. The nursing care institution policies and procedures established according to subsection (E)(1)(j) include:
 - a. A prescribed cash limit of the petty cash fund, and
 - b. The hours of the day a resident may access the petty cash fund; and
 2. A resident's written acknowledgment is obtained for each petty cash transaction.

R9-10-905. Nursing Services Staff and Volunteers

- A:** ~~The director of nursing shall be responsible for the management and supervision of nursing services which shall include:~~
1. ~~Developing and implementing written nursing policies and procedures for:~~
 - a. ~~Resident care, and~~
 - b. ~~Medications, including administration, storage, and disposal;~~
 2. ~~Participating in quality management activities;~~
 3. ~~Appointing, in writing, a registered nurse to act in the absence of the director of nursing;~~
 4. ~~Designating a licensed nurse to serve as a charge nurse on each shift who shall have overall supervisory authority for the provision of nursing services to no more than 64 residents during each shift;~~
 5. ~~Serving as a charge nurse only when a facility has an average daily occupancy of 60 or fewer residents;~~
 6. ~~Ensuring that the facility is staffed with nursing personnel to provide each resident the care and services identified in the resident's assessment and care plan; and~~
 7. ~~Maintaining daily staffing records for the past 6 months which include the census on each unit, name and license of each individual, and actual hours worked.~~
- B:** ~~A registered nurse shall complete an assessment of each resident's needs that describes the resident's capability to perform activities of daily living and significant impairments in functional capacity. The assessment shall include the following information:~~
1. ~~Medically defined conditions and prior medical history;~~
 2. ~~Medical status measurement, including information on vital signs, clinical laboratory values, or diagnostic tests;~~
 3. ~~Physical functional status;~~
 4. ~~Sensory and physical impairments;~~
 5. ~~Nutritional status and requirements;~~
 6. ~~Special treatments or procedures;~~
 7. ~~Mental and psychosocial status;~~

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8. Discharge potential;
 9. Dental condition;
 10. Activities potential;
 11. Rehabilitation potential;
 12. Cognitive status; and
 13. Medications.
- C.** Assessments shall be completed:
1. Within 14 days of admission;
 2. After a significant change in the resident's physical or mental condition, and
 3. Twelve months from the last complete assessment.
- D.** ~~A registered nurse shall review the resident's assessment every 3 months and, if significant changes in the resident's health status have occurred, shall revise the assessment and the care plan.~~
- E.** ~~An interdisciplinary team, in conjunction with the resident or resident's representative to the extent possible, shall develop a care plan within 7 days after the completion of a resident's assessment which shall:~~
1. ~~Be based on the resident's assessment;~~
 2. ~~Have measurable objectives and timetables to meet the resident's needs that are identified in the assessment; and~~
 3. ~~Specify the care and services necessary for the resident to maintain the highest practicable physical, mental, and psychosocial well-being.~~
- A.** An administrator shall ensure that:
1. A staff member who provides direct care is available to meet the needs of a resident based on the resident's comprehensive assessment;
 2. A staff member who provides direct care demonstrates and maintains competency and proficiency according to criteria established in the nursing care institution policies and procedures;
 3. A work schedule of each staff member who provides direct care and volunteer is:
 - a. Developed and maintained at the nursing care institution for 12 months from the date of the work schedule; and
 - b. Provided to the Department for review within two hours of the Department's request;
 4. A staff member who provides direct care attends at least 12 hours of in-service education every 12 months from the starting date of employment.
 5. A nursing care institution policy and procedure is established to provide criteria for in-service education;
 6. Documentation of in-service education required in subsection (A)(4) includes:
 - a. The date of the in-service education.
 - b. The subject matter of the in-service education.
 - c. The number of clock hours of the in-service education.
 - d. The instructor's name, and
 - e. The signature of the staff member participating in the in-service education;
 7. Orientation for a staff member or a volunteer begins in the first week of employment or volunteer service and covers:
 - a. Nursing care institution policies and procedures;
 - b. Resident rights;
 - c. Infection control including:
 - i. Hand washing.
 - ii. Linen handling, and
 - iii. Prevention of communicable diseases, and
 - d. Disaster plans;
 8. A staff member or a volunteer submits one of the following as evidence of freedom from infectious pulmonary tuberculosis at the start of employment or volunteer service and every 12 months from the starting date of employment or volunteer service:
 - a. Documentation of a negative Mantoux skin test or other test for tuberculosis recommended by the U.S. Centers for Disease Control and Prevention or the tuberculosis control officer, administered within six months of the starting date of employment or volunteer service;
 - b. If the staff member or volunteer had a test result positive for infectious pulmonary tuberculosis, a physician's written statement dated within six months of the starting date of employment or volunteer service, that the staff member is free from infectious pulmonary tuberculosis; or
 - c. Documentation of a chest x-ray negative for infectious pulmonary tuberculosis dated within six months of the starting date of employment or volunteer service;
 9. A record for a staff member and a volunteer is maintained that includes:
 - a. An application including the date of employment or volunteer service and the first working day or first day of volunteer service;
 - b. Verification of orientation and, if applicable, certification and licensure;

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- c. Documentation that the staff member or volunteer is free from infectious pulmonary tuberculosis as required in subsection (A)(8); and
- d. If applicable, documentation of compliance with the fingerprinting requirements in A.R.S. § 36-411;
- 10. A staff member or volunteer record and in-service education documentation is provided to the Department for review:
 - a. For a current staff member and volunteer, as soon as possible but not more than two hours from the time of the Department's request; and
 - b. For a staff member and volunteer who are not currently working or providing volunteer services in the nursing care institution, within two hours from the Department's request;
- 11. A staff member or volunteer record and in-service education documentation is maintained by the nursing care institution for at least two years after the last date of volunteer service or work.
- B.** An administrator shall appoint:
 - 1. A qualified individual to provide:
 - a. Medically-related social services, and
 - b. Recreational activities; and
 - 2. A full-time social worker if the nursing care institution has a licensed capacity of 120 or more;
- C.** If an administrator provides direction in a hospital and a hospital-based nursing care institution under R9-10-904(C)(1), the administrator may designate a staff member to provide direct care in both licensed health care institutions if:
 - 1. The designation is not prohibited by federal or state law; and
 - 2. The time working in each health care institution by the staff member is documented.
- D.** If the nursing care institution uses registry staff, the administrator shall ensure there is a contractual agreement with the registry that ensures:
 - 1. A registry staff member holds a current license or certificate to perform duties within the scope of the individual's license or certificate;
 - 2. A registry staff member complies with the requirements in subsection (A)(8) for providing evidence of freedom from infectious pulmonary tuberculosis;
 - 3. A registry staff member complies with the fingerprinting requirements in A.R.S. § 36-411; and
 - 4. A registry provides documentation of compliance with subsection (D)(1), (D)(2), and (D)(3) within two hours of a request by the nursing care institution or the Department.

R9-10-906. Resident Rights Nursing Services

- A.** ~~The administrator shall ensure that each resident or resident's representative is given a list of resident rights and a copy of the facility rules at the time of admission. Receipt of the documents shall be acknowledged in writing by the recipient and kept in the resident's current clinical record.~~
- B.** ~~The administrator and staff shall ensure that language barriers or physical disabilities do not prevent a resident or resident's representative from being aware of facility rules governing resident conduct and the following resident rights:~~
 - 1. ~~To be free from:~~
 - a. ~~Chemical and physical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms;~~
 - b. ~~Verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion; and~~
 - e. ~~Interference, coercion, discrimination, and reprisal from the facility in exercising the resident's rights; and~~
 - 2. ~~To be treated with respect and dignity in full recognition of the resident's individuality;~~
 - 3. ~~To receive services in the facility which accommodate, within reason, the individual needs and preference of the resident;~~
 - 4. ~~To independently manage personal financial affairs;~~
 - 5. ~~To be fully informed of the resident's total health status, including the resident's medical conditions;~~
 - 6. ~~To choose a personal physician, unless a resident's insurance or pay source dictates otherwise, at which time, a resident may choose to assume full financial responsibility for selection of a physician of the resident's choice and to be informed of the name and method of contacting the physician responsible for the resident's care;~~
 - 7. ~~To participate in planning or changes in care and treatment, unless the resident is incapacitated under state law;~~
 - 8. ~~To personal privacy in accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family or resident groups;~~
 - 9. ~~To submit grievances to facility staff and outside representatives without restraint;~~
 - 10. ~~To examine the results of the most recent survey of the facility and any plan of correction in effect;~~
 - 11. ~~To receive information from agencies acting as client advocates and to be allowed the opportunity to contact these agencies;~~
 - 12. ~~To be informed of the facility's policy regarding the implementation of advance directives;~~
 - 13. ~~To refuse treatment which includes the formulating of an advance directive or withdraw consent for treatment;~~
 - 14. ~~To refuse to participate in experimental research;~~
 - 15. ~~To perform or refuse to perform services for the facility;~~

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- ~~16. To have immediate access to, and communication with, any individuals, organizations, or agencies the resident desires;~~
- ~~17. To choose activities, schedules, and health care consistent with the resident's interests and assessment;~~
- ~~18. To organize and participate in resident and family groups within the facility;~~
- ~~19. To participate in social, religious, political, and community activities that do not interfere with the rights of other residents in the facility;~~
- ~~20. To retain and use personal possessions, including furnishings and clothing as space permits, unless it infringes on the rights or health and safety of other residents;~~
- ~~21. To share a room with the resident's spouse, if space is available, providing both spouses consent to the arrangement;~~
- ~~22. To have access to all records pertaining to the resident, including clinical records, within 24 hours of making a request;~~
- ~~23. To purchase, at a cost that does not exceed the actual cost of reproducing the photocopies, copies of the resident's records on request within 2 working days' notice to the facility;~~
- ~~24. To select and use a pharmacy of choice provided that the choice is in compliance with facility pharmacy policies and does not result in a situation hazardous to resident health and safety;~~
- ~~25. To have financial and medical records kept in confidence. The release of such records shall be by written consent of the resident or resident's representative, except as other wise required or permitted by law; and~~
- ~~26. To be informed, in writing, of rates and charges and any changes 60 days prior to the change.~~

A. An administrator shall ensure that:

1. Nursing services are provided 24 hours a day in a nursing care institution;
2. A director of nursing is appointed who:
 - a. Is a registered nurse;
 - b. Works full-time at the nursing care institution; and
 - c. Is responsible for the direction of nursing services;
3. The director of nursing or an individual designated by the administrator participates in the quality management program;
4. If the daily census of the nursing care institution is not more than 60, the director of nursing may provide direct care to residents on a regular basis.

B. A director of nursing shall ensure that:

1. Sufficient nursing personnel are on the nursing care institution premises at all times to meet the needs of a resident for nursing services;
2. At least one nurse is present and responsible for providing direct care to not more than 64 residents;
3. Documentation of nursing personnel on duty each day is maintained at the nursing care institution and includes:
 - a. The date;
 - b. The number of residents;
 - c. The name and license or certification title of each nursing personnel who worked that day; and
 - d. The actual number of hours each nursing personnel worked that day;
4. The documentation of nursing personnel required in subsection (B)(3) is maintained for 12 months from the date of the documentation and available to the Department for review within two hours from the Department's request;
5. At the time of a resident's admission, an initial assessment is performed on the resident to ensure the resident's immediate needs are met such as medication and food services;
6. A comprehensive assessment is performed by a registered nurse and coordinated by the registered nurse in collaboration with an interdisciplinary team and includes the information listed in subsection (B)(8);
7. The comprehensive assessment required in subsection (B)(6) is performed on a resident:
 - a. Within 14 days of admission to a nursing care institution; and
 - b. No later than 12 months from the date of the last comprehensive assessment;
8. A comprehensive assessment includes the resident's:
 - a. Vital signs,
 - b. Diagnosis,
 - c. Medical history,
 - d. Treatment,
 - e. Dental condition,
 - f. Nutritional condition and nutritional needs,
 - g. Medications,
 - h. Clinical laboratory reports,
 - i. Diagnostic reports,
 - j. Capability to perform activities of daily living,
 - k. Psychosocial condition,
 - l. Cognitive condition,

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- m. Impairments in physical and sensory functioning.
- n. Potential for recreational activities.
- o. Potential for rehabilitation, and
- p. Potential for discharge.
- 9. A new comprehensive assessment is not required for a resident who is hospitalized and readmitted to a nursing care institution unless a physician, a physician's designee, or a registered nurse determines the resident has a significant change in condition:
- 10. A care plan is developed, documented, and implemented for a resident within seven days of completing the comprehensive assessment required in subsection (B)(6):
- 11. The care plan required in subsection (B)(10):
 - a. Is reviewed and revised as necessary if a resident has had a significant change in condition; and
 - b. Ensures that a resident is provided nursing services to maintain the resident's highest practicable well-being according to the resident's comprehensive assessment;
- 12. A resident's comprehensive assessment is reviewed by a registered nurse at least every three months from the date of the current comprehensive assessment and revised if there is a significant change in the resident's condition and;
- 13. A nurse shall, as soon as possible but not more than 24 hours after the event occurs, notify the resident's attending physician and, if applicable, the resident's representative, if the resident:
 - a. Is injured.
 - b. Is involved in an incident that may require medical services, or
 - c. Has a significant change in condition.
- 14. A resident is free from significant medication errors; and
- 15. An unnecessary drug is not administered to a resident.

R9-10-907. Admissions Resident Rights

- ~~A. The administrator shall ensure that each resident is admitted only on a physician's order and that the resident's care needs do not exceed that for which the facility is licensed.~~
- ~~B. Within 30 days before, or 14 days after the date of admission, the administrator shall ensure that the resident has had a medical history and physical examination completed by those individuals licensed to do so pursuant to A.R.S. Title 32.~~
- ~~C. Prior to or on admission of a resident to the facility, the administrator shall ensure that the resident or the resident's representative enters into an admission agreement which shall include the per diem rate and the services covered, as well as the charges for all other services offered separately.~~
- ~~D. The administrator shall ensure that, upon admission, the resident or resident's representative is informed and provided written information concerning the right to formulate an advance directive, including the facility's policies regarding the implementation of advance directives.~~
- ~~E. At the time of a resident's admission and annually thereafter, the administrator shall ensure that each resident has provided documented evidence that the resident is free from pulmonary tuberculosis as required of personnel in R9-10-903(A)(1) or (2).~~
- ~~F. Prior to, or on admission, the administrator shall ensure that the resident or resident's representative is advised of possible third party coverage for facility services and charges, reasons for transfer or discharge from the facility and the facility's refund policy.~~

An administrator shall ensure that:

- 1. A resident:
 - a. Is treated with consideration, respect, and dignity, and receives privacy in:
 - i. Treatment.
 - ii. Activities of daily living.
 - iii. Room accommodations, and
 - iv. Visits or meetings with other residents or individuals.
 - b. Is free from:
 - i. Restraint and seclusion if not medically indicated unless necessary to prevent harm to self or others and the reason for restraint or seclusion is documented in the resident's medical records;
 - ii. Abuse and misappropriation of property; and
 - iii. Interference, coercion, discrimination, and reprisal from a staff member, the administrator, or a volunteer for exercising the resident's rights;
 - c. Is provided with reasonable accommodations unless the health or safety of the resident or another resident is at risk;
 - d. May formulate a health care directive;
 - e. May refuse to be photographed or refuse to participate in research, education, or experiments;
 - f. May consent to perform or refuse to perform work for the nursing care institution;
 - g. May choose activities and schedules consistent with the resident's interests that do not interfere with other residents;

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- h. May participate in social, religious, political, and community activities that do not interfere with other residents;
- i. May retain personal possessions including furnishings and clothing as space permits unless use of the personal possession infringes on the rights or health and safety of other residents;
- j. May share a room with the resident's spouse if space is available and the spouse consents;
- 2. A resident or the resident's representative:
 - a. Participates in the planning of, or decisions concerning treatment;
 - b. Consents to or refuses examination and treatment;
 - c. Participates in developing the resident's care plan;
 - d. May manage the resident's financial affairs;
 - e. May choose the resident's attending physician. If the resident's insurance or payor does not cover the cost of the medical services provided by the attending physician or the attending physician's designee, the resident is responsible for the costs;
 - f. May submit a grievance without retaliation from a staff member or volunteer;
 - g. May review the nursing care institution's current license survey report and, if applicable, plan of correction in effect;
 - h. Has access to and may communicate with any individual, organization, or agency;
 - i. May participate in a resident group;
 - j. May review the resident's financial records within two business days and medical records within one business day of the resident or the resident's representative's request;
 - k. May obtain a copy of the resident's financial records and medical records within two business days of the resident's request and in compliance with A.R.S. § 12-2295;
 - l. May select a pharmacy of choice if the pharmacy complies with nursing care institution policies and procedures and does not pose a risk to the resident;
 - m. Is informed of the method for contacting the resident's attending physician;
 - n. Is informed of the resident's total health condition;
 - o. Is provided with a copy of those sections of the resident's medical records that are required for continuity of care, free of charge according to A.R.S. § 12-2295, if the resident is transferred or discharged;
 - p. Is informed in writing of a change in rates and charges 60 days before the effective date of the change; and
 - q. Except in the event of an emergency, is informed orally or in writing before the nursing care institution makes a change in a resident's room or roommate assignment and notification is documented in the resident's medical records; and
- 3. Financial record information is disclosed only with the written consent of a resident or the resident's representative or as permitted by law.

R9-10-908. ~~Transfers or Discharges~~ Admission

- A.** The administrator shall ensure that:
 - 1. Notification is provided to the resident if the resident is competent, or to the resident's representative if the resident is incompetent, before instituting a change in room or roommate assignment;
 - 2. A resident is transferred or discharged pursuant to the following:
 - a. The resident's needs can no longer be met in the facility and the resident has received a written notice 30 days prior to the transfer or discharge;
 - b. The resident's urgent medical needs require immediate transfer or discharge;
 - c. The resident's behavior is a threat to the health and safety of individuals in the facility. The discharge shall be documented in the resident's clinical record to demonstrate measures taken to protect the resident and other individuals during pursuit of the discharge to a more appropriate setting; or
 - d. The resident has failed, after receiving a 30-day prior notice, to pay for a stay at the facility;
 - 3. Written notification is provided to a resident regarding transfer or discharge pursuant to subsections (2)(a) through (d) and includes the reason and the effective date of the transfer or discharge.
- B.** If an administrator transfers or discharges a resident under any of the circumstances specified in subsection (A)(2), the clinical record shall contain the following:
 - 1. Documentation regarding the resident's prior notification;
 - 2. Reason for the transfer or discharge, and
 - 3. Physician documentation that the transfer or discharge was necessary for the welfare of the resident or others in the facility or that the resident's needs cannot be met by the facility.
- C.** The director of nursing shall ensure that:
 - 1. A written discharge summary is completed which includes:
 - a. A final summary of the resident's status at the time of discharge,
 - b. Past medical or psychosocial history, and
 - c. The date and location to which the resident was transferred or discharged; and
 - 2. The resident shall be provided with a written post-discharge plan, developed with the participation of the resident or

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the resident's representative for the following purposes:

- a. To help the resident adjust to a new living environment; and
- b. To provide the resident with the name, address, and telephone number of the state long-term care ombudsman.

D. If a resident is transferred from the facility to the hospital or another nursing care institution, the director of nursing shall ensure that medical and other information needed for care and treatment of the resident is provided to the receiving facility.

An administrator shall ensure that:

1. A resident is admitted only on a physician's order;
2. The physician's admitting order includes the nursing care institution services required to meet the immediate needs of a resident such as medication and food services;
3. A resident's needs do not exceed the medical services and nursing services provided by the nursing care institution;
4. Before or at the time of admission, a resident or the resident's representative:
 - a. Signs a written agreement with the nursing care institution that includes rates and charges;
 - b. Is informed of third-party coverage for rates and charges;
 - c. Is provided a copy of the resident rights in R9-10-907;
 - d. Is informed of the nursing care institution's refund policy and facility guidelines concerning resident conduct and responsibilities; and
 - e. Receives written information concerning health care directives;
5. Within 30 days before admission or 10 days after admission, a medical history and physical examination is completed on a resident by:
 - a. A physician; or
 - b. A physician assistant or a registered nurse practitioner designated by the attending physician;
6. At the time of admission and every 12 months from the date of admission, a resident submits one of the following as evidence of freedom from infectious pulmonary tuberculosis:
 - a. Documentation of a negative Mantoux skin test or other test recommended by the U.S. Centers for Disease Control and Prevention or the tuberculosis control officer, administered within six months of the date of admission;
 - b. If the resident had a test result positive for infectious pulmonary tuberculosis, a physician's written statement dated within six months of admission, that the resident is free from infectious pulmonary tuberculosis; or
 - c. Documentation of a chest x-ray negative for infectious pulmonary tuberculosis dated within six months of admission; and
7. Compliance with the requirements in subsection (4) is documented in the resident's medical records.

R9-10-909. Service Standards Transfer or Discharge

A. ~~The administrator shall ensure that:~~

1. ~~The medical care of each resident is supervised by a physician;~~
2. ~~An attending physician designates an alternate physician when the attending physician is not available;~~
3. ~~Physician services are provided or arranged 24 hours a day in case of emergency;~~
4. ~~Each resident receives an annual physical examination by a physician;~~
5. ~~A resident's physician is consulted, and the resident's representative is notified as soon as possible, when an accident involving a resident occurs which may result in physician intervention or if the resident's health status indicates a significant change in condition; and~~
6. ~~Residents are assisted, at their own expense, in obtaining the following:~~
 - a. ~~Vision and hearing care services;~~
 - b. ~~Routine and emergency dental care;~~
 - e. ~~Clinical laboratory services from a laboratory licensed pursuant to A.R.S. Title 36, Chapter 4.1;~~
 - d. ~~Mental or psychosocial adjustment services;~~
 - e. ~~Specialized rehabilitative services, including physical, speech, and occupational therapies; and~~
 - f. ~~Special services for mental illness and mental retardation as identified in the resident's assessment.~~

B. ~~The social services director shall provide medically related social services in accordance with the resident's assessment and care plan to maintain the highest practicable physical, mental, and psychosocial well-being of each resident.~~

C. ~~The activities director shall provide for an ongoing program of activities designed to meet, in accordance with resident assessments, the interests and the physical, mental, and psychosocial well-being of each resident taking into consideration the resident's acuity and expected length of stay.~~

A. An administrator shall ensure that:

1. A resident is transferred or discharged if:
 - a. The nursing care institution is unable to meet the needs of the resident;
 - b. The resident's behavior is a threat to the health or safety of the resident or other individuals at the nursing care institution; or
 - c. The resident's health has improved and the resident no longer requires nursing care institution services; and

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2. Documentation of a resident's transfer or discharge is maintained in the resident's medical records and includes:
 - a. The date of the transfer or discharge;
 - b. The reason for the transfer or discharge;
 - c. A 30-day written notice except in an emergency;
 - d. A notation by a physician or the physician's designee if the transfer or discharge is due to any of the reasons listed in subsection (A)(1); and
 - e. If applicable, actions taken by a staff member to protect the resident or other individuals if the resident's behavior is a threat to the health and safety of the resident or other individuals in the nursing care institution.
- B.** An administrator may transfer or discharge a resident for failure to pay for residency if:
 1. The resident or resident's representative receives a 30-day written notice of transfer or discharge, and
 2. The 30-day written notice includes an explanation of the resident's right to appeal the transfer or discharge.
- C.** Except in an emergency, a director of nursing shall ensure that before a resident is transferred or discharged:
 1. A written plan is developed with the resident or the resident's representative that includes:
 - a. Information necessary to meet the resident's need for medical services and nursing services; and
 - b. The state long-term care ombudsman's name, address, and telephone number;
 2. A discharge summary is:
 - a. Developed by a staff member providing direct care and authenticated by the resident's attending physician or designee; and
 - b. Documented in the resident's medical records;
 3. The discharge summary includes:
 - a. The resident's medical condition at the time of transfer or discharge;
 - b. The resident's medical and psychosocial history;
 - c. The date of the transfer or discharge; and
 - d. The location of the resident after transfer or discharge;
 4. A copy of the written plan is provided to the resident or the resident's representative and to the receiving health care institution.
- D.** If a resident is transferred to a hospital, the director of nursing shall ensure that medical records information and any other information necessary for the treatment of the resident is provided to the hospital.

R9-10-910. Medications ~~Medical Services~~

- A.** The administrator shall ensure that:
 1. Pharmaceutical services are provided at the resident's expense, including emergency medications and biologicals, or shall be obtained through an agreement with a pharmacy licensed pursuant to A.R.S. Title 32, Chapter 18 or as otherwise provided by law;
 2. The facility complies with all drug-related rules established by the Arizona Board of Pharmacy pursuant to A.R.S. Title 32, Chapter 16;
 3. The facility stores all medications and biologicals in locked compartments under manufacturer-required temperature controls with access restricted only to authorized personnel in accordance with state and federal laws;
 4. The facility medication error rate, which is determined by calculating the percentage of errors noted during medication administration observation by the surveyor, is less than 5%;
 5. A licensed pharmacist reviews the medication regimen of each resident every quarter and reports irregularities, in writing, to the attending physician and the director of nursing;
 6. Documented medication irregularities have been acted upon by the attending physician; and
 7. A current drug reference source is available for use by staff.
- B.** The director of nursing shall ensure that:
 1. Medication policies and procedures include the following:
 - a. A system of records of receipt and disposition of all controlled substances which are reconciled in accordance with the facility's policies and procedures; and
 - b. Provisions for separately locked and permanently affixed compartments for the storage of controlled substances listed in A.R.S. § 36-2513, except if the facility uses single-unit package medication distribution systems;
 2. Residents are free from significant medication errors;
 3. Medication errors are reported to the attending physician and recorded in the resident's clinical record;
 4. Adverse medication reactions are reported immediately to the attending physician and recorded in the nurses' progress notes in the resident's clinical record; and
 5. Based on a resident's assessment:
 - a. Each resident's medication regimen is free from unnecessary drugs;
 - b. A resident who has not used antipsychotic medication is given this medication only if antipsychotic medication therapy is necessary to treat a specific condition as diagnosed or documented in the clinical record; and
 - e. A resident who uses antipsychotic medication is given gradual dose reductions and behavioral interventions including modification of the resident's behavior or environment, unless clinically contraindicated, in an effort to

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~~discontinue antipsychotic medication.~~

- ~~C.~~ A resident may self-administer medications only if the interdisciplinary team has determined that self-administration is safe and the attending physician has approved the self-administration.
- A.** A governing authority shall appoint a medical director.
- B.** A medical director shall ensure that:
1. A resident has an attending physician;
 2. An attending physician is available 24 hours a day;
 3. An attending physician designates a physician who is available when the attending physician is not available;
 4. A physical examination is performed on a resident at least once every 12 months from the date of admission by an individual listed in R9-10-908(5);
 5. As required in A.R.S. § 36-406, vaccinations for influenza and pneumonia are available to each resident at least once every 12 months unless:
 - a. The attending physician provides documentation that the vaccination is medically contraindicated;
 - b. The resident or the resident's representative refuses the vaccination or vaccinations and documentation is maintained in the resident's medical records that the resident or the resident's representative has been informed of the risks and benefits of each vaccination refused; or
 - c. The resident or the resident's representative provides documentation that the resident received a pneumonia vaccination within the last five years or the current recommendation from the U.S. Department of Health and Human Services, Center for Disease Control and Prevention; and
 6. A resident is assisted in obtaining, at the resident's expense:
 - a. Vision services;
 - b. Hearing services;
 - c. Dental services;
 - d. Clinical laboratory services from a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
 - e. Psychosocial services;
 - f. Physical therapy;
 - g. Speech therapy;
 - h. Occupational therapy;
 - i. Behavioral health services; and
 - j. Services for an individual who has a developmental disability as defined in A.R.S. Title 36, Chapter 5.1, Article 1.
- C.** If the attending physician designates a physician assistant or registered nurse practitioner to provide medical services to a resident, the attending physician is responsible for the medical services provided.

R9-10-911. Food Services Medication

- A.** The administrator shall appoint a food service supervisor who shall, in consultation with a registered dietician, ensure that:
1. Each resident receives a nourishing, flavorful, well-balanced diet that meets the resident's daily nutritional and special dietary needs, including:
 - a. Food prepared by methods that conserve nutritive value, flavor, and appearance; and
 - b. Food prepared in a texture designed to meet individual needs, including being cut, chopped, or ground;
 2. Menus are prepared 1 week in advance, followed, and are posted in an area accessible to residents;
 3. Each resident receives:
 - a. Three meals daily with not more than a 14-hour span between the evening meal and breakfast. If a substantial evening snack was consumed the previous evening, which included meat, fish, eggs, or cheese or other high quality protein, and if a resident group agrees, the 14-hour span may be extended to 16 hours. The option to have a daily bedtime snack;
 4. Food substitutions of similar nutritive value are provided to residents who refuse food served.
- B.** Meals for each day shall include:
1. A total of 5 servings of fruits and vegetables. A serving size is 1/2 (4 ounces) to 1 cup (8 ounces) of all juices, fruits, and vegetables.
 2. A total of 6 servings of whole grain or enriched cereal, bread, rice, or pasta. A serving size is 1 slice of bread, 1/2 to 1 cup of cereal, or 1/2 cup enriched grain products.
 3. A total of 2 servings of milk, yogurt, or cheese. A serving size is 1 cup of milk or yogurt, 1 1/2 ounces of cheese, or 3/4 cup (6 ounces) of cottage cheese. Cheese is considered both a dairy product and a protein and can be counted as 1 or the other but not both.
 4. A total of 2 servings of protein: meat, fish, poultry, cheese, egg, peanut butter, peas, dry beans, lentils, or equivalent. A serving size is 2 to 3 ounces of lean meat without bone, 1 cup dry beans or legumes, 4 tablespoons of peanut butter, or 2 eggs.
- C.** Residents shall eat meals in a dining area unless they choose to eat in their rooms or are confined to their rooms for per-

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sonal or medical reasons.

- D.** Residents who need help in eating shall be assisted in a manner that recognizes each individual's nutritional and social needs, including the provision of adaptive eating equipment or utensils.
- E.** Food preparation, storage, and handling shall comply with applicable food and drink rules of 9 A.A.C. 8, Article 1.
- A.** An administrator shall comply with the requirements in A.R.S. Title 32, Chapter 18, and 4 A.A.C. 23;
- B.** An administrator shall ensure that:
 - 1. A medication or a biological is provided to a resident at the resident's expense including a medication or a biological used in an emergency or obtained through contract with a pharmacy licensed under A.R.S. Title 32, Chapter 18 or otherwise provided by law;
 - 2. A medication or a biological is:
 - a. Stored in a locked compartment;
 - b. Maintained at temperatures recommended by the manufacturer; and
 - c. Accessed only by individuals authorized according to nursing care institution policies and procedures;
 - 3. The medication error rate at the nursing care institution, as determined by the Department during a license survey, is less than five percent;
 - 4. A medication or a biological administered to a resident is documented as required in R9-10-913;
 - 5. A pharmacist reviews a resident's medications every three months and provides documentation to the resident's attending physician and the director of nursing indicating potential medication problems such as incompatible or duplicative medications; and
 - 6. A drug reference source, current within one year of the publication date, is available and maintained on the nursing care institution's premises for use by a staff member, a physician, and a physician's designee.
- C.** A director of nursing shall ensure that:
 - 1. Medication policies and procedures are established, documented, and implemented that include:
 - a. A system for the receipt, disposition, and reconciliation of medications, biologicals, and controlled substances;
 - b. The administration, storage, and disposal of medications, biologicals, and controlled substances; and
 - c. Identification of individuals who are authorized to have access to controlled substances;
 - 2. A controlled substance is stored in a locked compartment separate from other medications;
 - 3. A medication administration error or an adverse reaction to a medication or biological is reported to a resident's attending physician or the attending physician's designee and documented in the resident's medical records;
 - 4. An antipsychotic medication:
 - a. Is only administered to a resident for a diagnosed medical condition;
 - b. Unless clinically contraindicated or otherwise ordered by an attending physician or the attending physician's designee, is gradually reduced in dosage while the resident is simultaneously provided with interventions such as behavior and environment modification in an effort to discontinue the antipsychotic medication unless a dose reduction is attempted and the resident displays behavior justifying the need for the antipsychotic medication, and the attending physician documents the necessity for the continued use and dosage; and
 - c. Is documented as required in R9-10-913 and includes the resident's response to the medication.
- D.** A resident may self-administer medication if the interdisciplinary team determines that the resident is capable of self-administration and the attending physician documents authorization for medication self-administration in the resident's medical records.
- E.** A nurse shall document a resident's self-administration of medication as required in R9-10-913.

R9-10-912. Resident Records Food Services

- A.** ~~The administrator shall ensure that clinical records are maintained on each resident which shall contain:~~
 - 1. ~~Full name, date of birth, social security number, and last address of the resident;~~
 - 2. ~~Admission date and initial diagnosis;~~
 - 3. ~~Names, addresses, telephone numbers of the resident's representative and family;~~
 - 4. ~~The original admission physician orders, history, and physical;~~
 - 5. ~~Written acknowledgment by the resident or resident's representative of the receipt of a copy of the resident rights and facility rules;~~
 - 6. ~~Documentation of advance directive information having been provided by the facility on admission, and a copy of advance directives executed by the resident, including a living will or medical power of attorney if one has been appointed;~~
 - 7. ~~The current address and telephone number of the attending physician;~~
 - 8. ~~Current annual physical examination;~~
 - 9. ~~Physician orders and progress notes which are signed and dated;~~
 - 10. ~~Assessment and care plan;~~
 - 11. ~~Medications and treatment record;~~
 - 12. ~~Laboratory and diagnostic reports, including consultations;~~
 - 13. ~~Progress notes;~~

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14. Documentation of freedom from pulmonary tuberculosis;
 15. Documentation of accidents or incidents involving the resident; and
 16. Other documentation regarding the resident's health status recorded in the past 90 days.
- B.** Clinical records shall be legibly recorded in ink, with entries dated and signed with the surname and title of the individual providing the service.
- C.** Clinical records shall be protected at all times from possible loss, damage or unauthorized use and shall be retained for 5 years from the date of discharge. If the resident is a minor, the records shall be retained for 3 years after a resident reaches the age of 18.
- A.** An administrator shall ensure that:
1. Food services are provided in compliance with 9 A.A.C. 8, Article 1;
 2. A copy of the nursing care institution's food establishment license required in subsection (A)(1) is provided to the Department for review upon the Department's request;
 3. If a nursing care institution contracts with a food establishment as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the nursing care institution, a copy of the contracted food establishment's license is:
 - a. Maintained on the nursing care institution's premises, and
 - b. Provided to the Department for review upon the Department's request;
 4. A registered dietitian is employed full-time, part-time, or as a consultant; and
 5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the residents.
- B.** A registered dietitian or director of food services shall ensure that:
1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
 2. A food menu is prepared at least one week in advance, conspicuously posted, and adhered to unless an uncontrollable situation requires food substitution such as food spoilage or nondelivery of specific food ordered;
 3. Meals for each day:
 - a. Meet the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, "Recommended Dietary Allowances," 10th Edition, 1989, incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available from the National Academy Press, 2101 Constitution Avenue, N.W., P. O. Box 285, Washington, DC 20055; and
 - b. Are planned using meal planning guides from "The Food Guide Pyramid" in Home and Garden Bulletin No. 252, (revised 1996), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available from the U.S. Department of Agriculture, Center for Nutrition Policy and Promotion, 1120 20th Street, N.W., Suite 200, North Lobby, Washington, DC 20036-3475;
 4. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and care plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in (B)(4)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A resident group agrees; and
 - ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 5. A resident is provided with food substitutions of similar nutritional value if:
 - a. The resident refuses to eat the food served; or
 - b. The resident requests a substitution;
 6. Recommendations and preferences are requested from a resident or the resident's representative for meal planning;
 7. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 8. A resident eats meals in a dining area unless the resident chooses to eat in the resident's room or is confined to the resident's room for medical reasons documented in the medical records.

R9-10-913. Physical Plant Standards Medical Records

- A.** Facilities licensed prior to the adoption of these rules shall conform to the requirements of A.A.C. R9-1-412(B), Life Safety Code, Chapter 13, "Existing Health Care Occupancies".
- B.** Modifications to an existing facility shall meet the same construction and safety code standards for construction of new facilities as required in A.A.C. R9-1-412.

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- ~~C.~~ All construction of new facilities shall meet the requirements of A.A.C. R9-1-412.
- ~~D.~~ Each resident room shall have a window opening to the outside. Window shades or drapes shall be provided as a means of controlling light. Windows shall be located to permit the resident a view from a sitting position.
- ~~E.~~ Facilities shall have no more than 2 beds per resident room except those facilities operating on the effective date of these rules under a license variance permitting more than 2 beds per resident room. Facilities operating under a license variance that undergo construction or modification as defined in A.R.S. § 36-401(10) and (25) shall have no more than 2 beds per resident room in any part of the facility that undergoes construction or modification.
- ~~F.~~ A resident room or a suite of resident rooms shall be accessible, without passing through another resident's room.
- ~~G.~~ A resident room or suite of rooms shall not open into any room in which food is prepared, served or stored.
- ~~H.~~ Each resident room or main entry into a suite of rooms shall be numbered.
- ~~I.~~ Cubical curtains or similar type separations shall be provided for all multi-bed rooms to ensure privacy.
- ~~J.~~ An individual resident care unit shall include a bed, nurse call system, bedside chair, bedside stand, and reading light.
- ~~K.~~ All swimming pools shall, unless otherwise required by A.R.S. § 36-1681:
 - 1. Be enclosed by a 5-foot solid wall or a 5-foot fence with openings not exceeding 4 inches, and
 - 2. Have 1 or more self-closing and self-latching gates which shall be locked when the pool is not in use.
- ~~L.~~ Swimming pools which are used by residents shall:
 - 1. Conform to the minimum requirements for semipublic pools as set forth in state and local rules for design, construction and operation of public and semipublic swimming pools;
 - 2. Have posted pool safety rules; and
 - 3. Be supervised when in use.
- A.** An administrator shall ensure that:
 - 1. A medical record is established and maintained for each resident;
 - 2. An entry in a medical record is:
 - a. Documented only by a staff member authorized by nursing care institution policies and procedures;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. If a rubber-stamp signature or an electronic signature code is used to authenticate an order, the individual whose signature the stamp or electronic code represents is responsible for the use of the stamp or the electronic code;
 - 4. A medical record is available to staff, physicians, and physicians' designees authorized by nursing care institution policies and procedures;
 - 5. Information in a medical record is disclosed only with the written consent of a resident or the resident's representative or as permitted by law;
 - 6. If a nursing care institution terminates operations:
 - a. A resident and the resident's medical records are transferred to another health care institution; and
 - b. The location of all other records and documents not transferred with residents is submitted in writing to the Department not less than 30 days before the nursing care institution services are terminated;
 - 7. If the nursing care institution has a change of ownership, all nursing care institution records and documents, including financial, personnel, and medical records, are transferred to the new owner;
 - 8. A medical record is:
 - a. Protected from loss, damage or unauthorized use;
 - b. Maintained in compliance with A.R.S. § 12-2297(D) for five years after the date of the resident's discharge unless the resident is less than 18 years of age, in which case the record is maintained for three years after the resident reaches 18 years of age or for three years after the date of the resident's transfer or discharge, whichever date occurs last; and
 - c. Provided to the Department within two hours of the Department's request;
- B.** If a nursing care institution keeps medical records electronically, an administrator shall ensure that:
 - 1. Safeguards exist to prevent unauthorized access; and
 - 2. The date and time of an entry in a medical record is recorded by the computer's internal clock.
- C.** An administrator shall require that medical records for a resident contains:
 - 1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's date of birth;
 - c. The resident's weight;
 - d. The resident's social security number;
 - e. The resident's last known address;
 - f. The home address and telephone number of a designated resident representative; and
 - g. Any known allergies or sensitivities to a medication or a biological;
 - 2. The admission date and physician admitting orders;
 - 3. The admitting diagnosis;

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4. The medical history and physical examination required in R9-10-908(5);
5. A copy of the resident's living will, health care power of attorney, or other health care directive, if applicable;
6. The name and telephone number of the resident's attending physician;
7. Orders;
8. Care plans;
9. A record of medical services, nursing services, and medically-related social services provided to a resident;
10. Documentation of any incident involving the resident;
11. Notes by a physician, the physician's designee, nursing personnel, and any other individual providing nursing care institution services to the resident;
12. Documentation of freedom from infectious pulmonary tuberculosis required in R9-10-908; and
13. Documentation of a medication or a biological administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The type of vaccine, if applicable;
 - d. The signature and professional designation of the individual administering or observing the self-administration of the medication or biological; and
 - e. Any adverse reaction a resident has to the medication or biological.

R9-10-914. Environmental Standards Physical Plant Standards

- A.** The administrator shall ensure that:
1. ~~Housekeeping and maintenance services are provided to maintain a safe and sanitary environment;~~
 2. ~~The facility maintains a pest control program to control insects and rodents;~~
 3. ~~Equipment is operational and inspected in accordance with the facility's policies and procedures, which shall include the following:~~
 - a. ~~Testing, calibrating, servicing, or repairing equipment;~~
 - b. ~~Maintaining records documenting the service and calibration; and~~
 - e. ~~Maintaining durable medical equipment in good repair and providing it to residents who may require it;~~
 4. ~~The facility complies with infection control policies and procedures that include:~~
 - a. ~~Surveillance, prevention, and control of infection;~~
 - b. ~~Disposal of waste, including blood and body fluid;~~
 - e. ~~Storage and maintenance of sterile supplies and equipment; and~~
 - d. ~~Storage, handling, processing, and transporting of linens, including:~~
 - i. ~~Separately maintained areas for soiled and clean laundry, and~~
 - ii. ~~Containers for clean linen which shall be covered and kept separate from those for soiled linen; and~~
 5. ~~Residents have adequate space and equipment to enable staff to provide the services identified in each resident's assessment and care plan, including:~~
 - a. ~~Individual and group activities;~~
 - b. ~~Community dining areas, and~~
 - e. ~~Special therapies, if provided~~
- B.** ~~Staff shall wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice and immediately after handling soiled linen or clothing.~~
- C.** ~~Staff with a communicable disease or infected skin lesions shall be prohibited from working in the facility.~~
- D.** ~~Staff shall use, maintain, and store oxygen in accordance with A.A.C. R9-1-412(B).~~
- E.** ~~Staff shall use and maintain electrical equipment in accordance with A.A.C. R9-1-412(E).~~
- F.** ~~Room designated for resident dining and activities shall be ventilated with nonsmoking areas identified.~~
- G.** ~~Each resident shall be provided with:~~
 1. ~~A separate bed;~~
 2. ~~Bed and bath linens that are clean, without holes, stains, and not in need of repair;~~
 3. ~~Closet space in the resident's bedroom with clothes racks and shelves accessible to the resident;~~
 4. ~~Lighting that is suitable for the performance of tasks by a resident or staff; and~~
 5. ~~Room temperature levels that are comfortable and safe ranging from 71° to 81° F.~~
- H.** ~~The facility shall have outside ventilation by means of windows or mechanical ventilation, or a combination of the two.~~
- I.** ~~The facility shall equip corridors with firmly secured handrails on each side.~~
- An administrator shall ensure that:
1. A nursing care institution complies with:
 - a. The physical plant health and safety codes and standards incorporated by reference in A.A.C. R9-1-412 applicable at the time of licensure; and
 - b. The requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in A.A.C. R9-1-412;

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2. Architectural plans and specifications for construction, a modification, or a change in resident beds or licensed capacity are submitted to the Department for approval according to the requirements in 9 A.A.C. 10, Article 1;
3. Construction, a modification, or a change in resident beds or licensed capacity complies with the requirements of this Article and the physical plant codes and standards incorporated by reference in A.A.C. R9-1-412 in effect at the time the construction, modification, or change in resident beds or licensed capacity and is approved by the Department;
4. A resident room has a window to the outside with window coverings for controlling light and visual privacy, and the location of the window permits a resident to see outside from a sitting position;
5. A nursing care institution has no more than two beds in a resident room unless:
 - a. The nursing care institution was operating before October 31, 1982, and
 - b. The resident room has not undergone a modification as defined in 9 A.A.C. 10, Article 1;
6. A resident room or a suite of rooms is accessible without passing through another resident's room;
7. A resident room or a suite of rooms does not open into any area where food is prepared, served, or stored;
8. A resident room that has more than one bed has a curtain or similar type of separation between the beds for privacy;
9. A resident room has a closet with clothing racks and shelves accessible to the resident;
10. A resident has a separate bed, a nurse call system and furniture to meet the resident's needs;
11. If the nursing care institution has a semipublic swimming pool on the premises for the use of residents:
 - a. The pool is enclosed by at least a five-foot-high wall, fence, or other barrier as measured on the exterior side of the wall, fence, or barrier;
 - b. An opening in the wall, fence, or barrier does not exceed four inches in diameter;
 - c. A wire mesh or chain link fence has a maximum mesh size of 1 3/4 inches as measured horizontally;
 - d. The self-closing, self-latching gates are locked when the pool is not in use;
 - e. The pool has safety rules conspicuously posted;
 - f. A resident is supervised at all times when using the pool; and
 - g. The pool conforms to state and local laws and rules for design, construction, and operation of semipublic swimming pools.

R9-10-915. Safety Standards Environmental and Equipment Standards

- A.** ~~The administrator shall ensure that the resident environment is maintained as free of accident hazards as possible.~~
- B.** ~~The administrator shall be responsible for facility compliance with the safety and emergency plan procedures developed with the assistance of qualified fire safety and emergency preparedness experts. The plan shall include procedures to be followed in the event of a fire, disaster, or other threat to resident safety and shall include the following:~~
1. ~~Procedures for prompt transportation of casualties and clinical records;~~
 2. ~~Instructions regarding the location and use of alarm systems and fire fighting equipment;~~
 3. ~~Information regarding methods of containing fires;~~
 4. ~~Procedures for notification of the appropriate persons and agencies;~~
 5. ~~Specification of evacuation routes and procedures which shall be posted throughout the facility;~~
 6. ~~Designation of the specific places to which residents may be evacuated; and~~
 7. ~~Detailed arrangements to provide shelter, beds, food, water, medication, nursing care, and any other services critical to the well-being of residents.~~
- C.** ~~Employees shall be oriented to emergency preparedness within the first week of employment. The training program shall include ongoing training and drills every 6 months so that each employee can promptly and correctly perform specific duties in case of a fire, disaster, or other threat to resident safety.~~
- D.** ~~There shall be 1 fire drill per shift during each calendar quarter. Records of fire and disaster drills shall be retained for 1 year and include the date, time, scenario, participant list, and a critique of the drill.~~
- E.** ~~The facility shall pass an annual inspection for fire safety by the fire authority having jurisdiction.~~
- F.** ~~Smoking shall be permitted only in designated areas of the facility.~~

An administrator shall ensure that:

1. A nursing care institution's premises and equipment are:
 - a. Cleaned according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a resident or an individual to suffer physical injury;
2. A pest control program is used to control insects and rodents;
3. Tobacco smoking is permitted only in designated ventilated areas;
4. Biohazardous and hazardous wastes are identified, stored, used, and disposed of according to A.A.C. R18-13-1401;
5. There is space and equipment to meet the needs of the residents for:
 - a. Individual and group activities;
 - b. Community dining; and
 - c. Any special therapies such as physical, occupational, or speech therapy;
6. There is lighting for tasks performed by a resident or a staff member;

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7. The temperature in the nursing care institution is no less than 71° or more than 84° Fahrenheit;
8. A nursing care institution is ventilated by windows or mechanical ventilation, or a combination of both;
9. The corridors are equipped with handrails on each side that are firmly attached to the walls and are not in need of repair;
10. Equipment used to provide direct care is:
 - a. Maintained in working order;
 - b. Tested and calibrated, if applicable, at least once every 12 months or according to the manufacturer's recommendations; and
 - c. Used according to the manufacturer's recommendations; and
11. Documentation of each equipment test, calibration, and repair is:
 - a. Maintained on the nursing care institution's premises for one year from the date of the testing, calibration, or repair; and
 - b. Provided to the Department for review within two hours from the Department's request.

R9-10-916. Quality Management Safety Standards

- ~~A. The administrator shall ensure the implementation and maintenance of a quality management program that monitors and evaluates the provision of all aspects of resident care including physician and contracted services.~~
- ~~B. The quality management plan shall be in writing and describe the objectives, organization, scope, and process for improving quality of care and shall include the monitoring activities.~~
- ~~C. The administrator shall maintain a record of quality management activities that includes recommendations for corrective action.~~
- A. An administrator shall ensure that:
 1. A disaster plan is developed, documented, and implemented that includes:
 - a. Procedures for protecting the health and safety of residents and other individuals;
 - b. Assigned responsibilities for each staff member;
 - c. Instructions for the evacuation, transport, or transfer of residents,
 - d. Maintenance of medical records, and
 - e. Arrangements to provide any other nursing care institution services to meet the resident's needs;
 2. If applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use;
 3. A plan exists for back-up power and water supply;
 4. A fire drill is performed on each shift at least once every three months;
 5. A disaster drill is performed at least once every six months;
 6. Documentation of a fire drill required in subsection (A)(4) and a disaster drill required in subsection (A)(5) includes:
 - a. The date and time of the drill;
 - b. The names of each staff member participating in the drill;
 - c. A critique of the drill; and
 - d. Recommendations for improvement, if applicable;
 7. Documentation of a fire drill or a disaster drill is maintained by the nursing care institution for 18 months from the date of the drill and provided to the Department for review within two hours of the Department's request.
- ~~B. A fire safety inspection is conducted in the nursing care institution every 12 months by the fire authority having jurisdiction.~~
- ~~C. Documentation of the fire safety inspection is provided to the Department for review within two hours of the Department's request.~~

R9-10-917. Quality Rating Infection Control

- ~~A. Pursuant to A.R.S. § 36-425.02(A), the Department shall issue each licensed facility, except for provisionally licensed facilities, a quality rating based on an evaluation of the quality of services provided by the facility. The evaluation shall result from the onsite visit of the facility during the licensure survey.~~
- ~~B. Each facility which has been licensed for 1 year or more shall be evaluated and assigned a quality rating score in accordance with performance criteria outlined in subsection (C). The quality rating score, which can range from 1 to 40 points maximum, shall reflect the facility's performance, as follows:~~
 1. ~~"Excellent performance", if the facility scores a total of 36 or more points resulting in a percentile of 90% to 100%;~~
 2. ~~"Standard performance", if the facility scores a total of 28 to 35 points resulting in a percentile of 70% to 88%; or~~
 3. ~~"Substandard performance," if the facility scores a total of 27 or fewer points resulting in a percentile of 68% or less.~~
- ~~C. The quality rating shall be based on the facility's compliance with specific standards in the following 5 evaluation components: This component has 8 criteria worth a total of 8 maximum points or 1 point each, as follows:~~
 - a. ~~The facility does not have any current licensure deficiencies that were cited during the last licensure survey.~~
 - b. ~~The facility investigates and reports all allegations involving neglect, abuse, or misappropriation of resident property to the Office of Long-Term Care Licensure and Adult Protective Services, if required by A.R.S. § 46-454, and takes action to prevent further neglect, abuse, or misappropriation of property after the investigations.~~

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- e. The facility has a quality management program which addresses resident care standards with documentation that recommendations for correction have been implemented.
 - d. The facility has a staff person designated to assist and respond, in writing, to grievances and concerns from residents and family groups, and provides evidence of the facility's responsiveness.
 - e. The facility provides medically related social services to maintain each resident's highest practicable physical, mental, and psychosocial well-being in accordance with the resident's assessment.
 - f. The facility provides each resident with an ongoing program of activities which meets the resident's interests and physical, mental, and psychosocial well-being in accordance with the resident's assessment.
 - g. The facility has personnel records for each employee which include documentation of freedom from tuberculosis at the time of hire and annually thereafter.
 - h. The facility has documentation that personnel, who provide direct care to residents, attend 12 hours of inservice annually.
2. Nursing. This component has 4 criteria worth a total of 8 maximum points or 2 points each, as follows:
- a. Each resident is provided care and services to maintain the resident's highest practicable physical, mental, and psychosocial well-being in accordance with the resident's assessment.
 - b. Each resident is free of significant medication errors that may adversely affect the resident's health, safety, and well-being.
 - e. Each resident's medication regimen is free from unnecessary drugs.
 - d. In the event of an accident involving a resident, the resident's representative has been notified, and the resident's attending physician has been consulted if the accident requires possible physician intervention, or if the resident's health status indicates a significant change in condition.
3. Resident rights. This component has 8 criteria worth a total of 8 maximum points or 1 point each, as follows:
- a. Each resident is free from physical and chemical restraints used for purposes other than to treat the resident's medical symptoms.
 - b. Each resident is free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.
 - e. Each resident is treated in a manner that recognizes the resident's right to a dignified existence.
 - d. Each resident is allowed to participate in the planning of, or decisions on, care and treatment, including the right to refuse treatment and to formulate an advance directive.
 - e. The facility honors each resident's right to personal privacy in accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings with family and resident groups.
 - f. The facility helps each resident communicate with resident advocacy agencies by posting the names, addresses, and telephone numbers of these agencies in a conspicuous area.
 - g. The facility accommodates each resident's needs in a manner and environment that promotes maintenance and enhancement of a resident's quality of life.
 - h. The facility provides each resident, upon discharge, a written plan with information to help the resident adjust to a new environment.
4. Food and nutrition. This component has 7 criteria worth a total of 7 maximum points or 1 point each, as follows:
- a. The facility provides evidence that a registered dietician has been consulted in determining the nutritional needs of residents; food purchasing; meal planning and production; sanitation; and staff development, training, and participation in developing food service policies.
 - b. The facility provides each resident with food that is flavorful, served at a temperature recommended by the dietician, and in a form that meets the resident's needs as specified in the resident's assessment.
 - e. Each resident who needs help in eating receives assistance, including the provision of special eating equipment and utensils, in accordance with the resident's assessment.
 - d. The facility encourages residents to eat meals in dining areas.
 - e. The facility prepares menus 1 week in advance, posts the menus, and adheres to the planned menus.
 - f. The facility provides food substitutions with similar nutritive value.
 - g. The facility complies with applicable food and drink rules regarding food preparation, storage and handling pursuant to 9 A.A.C. 8, Article 1.
5. Environment. This component has 9 criteria worth a total of 9 maximum points or 1 point each, as follows:
- a. The facility has implemented policies and procedures to investigate, control, and prevent the spread of infection.
 - b. The facility has a hazard-free environment for residents.
 - e. The facility has common dining areas that are designed, furnished, and decorated in a manner that promotes resident socialization and provides a homelike environment.
 - d. The facility has provided residents with clean bedding and linens that are in good condition and meet the needs of the residents.
 - e. Each employee washes his or her hands after each direct resident contact for which handwashing is indicated by accepted professional practice and immediately after handling soiled linen or clothing.

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- ~~f. The facility maintains an effective pest control program.~~
 - ~~g. The facility provides housekeeping and maintenance services that result in a clean, sanitary, and orderly environment.~~
 - ~~h. Each employee is oriented to emergency preparedness within the first week of employment and is able to promptly and correctly respond to emergency situations.~~
 - ~~i. The facility has corrected deficiencies identified in the annual fire inspections and has implemented recommendations on fire safety issued by the fire authority having jurisdiction for the facility.~~
 - ~~D. The facility quality rating category assignment shall remain in effect until the next licensure survey is conducted.~~
 - ~~E. If a facility receives a "substandard performance" quality rating, the Department shall review the facility's performance within 60 days to determine if the deficiencies have been corrected.~~
 - ~~F. If the Department receives a substantiated complaint that affects the health, welfare, and safety of residents, the Department may reduce the facility's quality rating. Upon correction of the deficiencies, the facility may request, in writing, another review by the Department for an amended quality rating.~~
 - ~~G. The quality rating process does not preclude the Department from seeking the assessment of a civil penalty pursuant to A.R.S. § 36-431.01, or suspension or revocation of license pursuant to A.R.S. § 36-424.~~
 - ~~H. Each facility's quality rating shall be displayed with the facility license in a public viewing area in the facility.~~
- An administrator shall ensure that:

1. There are policies and procedures:
 - a. To prevent or control, identify, report, and investigate infections and communicable diseases including:
 - i. Maintaining and storing sterile equipment and supplies;
 - ii. Disposing of biohazardous medical waste; and
 - iii. Transporting and processing soiled linens and clothing;
 - b. That establish work restriction guidelines for a staff member infected or ill with a communicable disease or infected skin lesions;
2. An infection control program is established to prevent the development and transmission of disease and infection including:
 - a. Developing a facility-wide plan for preventing, tracking, and controlling communicable diseases and infection;
 - b. Reviewing the types, causes, and spread of communicable diseases and infections; and
 - c. Developing corrective measures for improvement and prevention of additional cases;
3. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing;
4. Linens are clean before use, without holes and stains, and are not in need of repair;
5. A staff member and a volunteer washes hands or use a hand disinfection product after each resident contact and after handling soiled linen, soiled clothing or potentially infectious material; and
6. Infection control processes, policies, and information are documented and maintained in the nursing care institution for two years and are provided to the Department for review within two hours of the Department's request.

R9-10-918. Repealed Quality Management

- A. A governing authority shall ensure that a quality management program is established and implemented that evaluates the quality of nursing care institution services including contracted services provided to residents.
- B. An administrator shall require that:
 1. A plan is established, documented, and implemented for a quality management program that at a minimum includes a method to:
 - a. Identify, document, and evaluate incidents;
 - b. Collect data to evaluate nursing care institution services provided to residents;
 - c. Evaluate the data collected to identify a concern about the delivery of nursing care institution services;
 - d. Make changes or take action as a result of the identification of a concern about the delivery of nursing care institution services; and
 - e. Monitor and evaluate actions taken; and
 2. Documentation of the quality management program is maintained on the nursing care institution premises for 18 months and provided to the Department within two hours of the Department's request.

R9-10-919. Repealed Quality Rating

- A. As required in A.R.S. § 36-425.02(A), the Department shall issue a quality rating to each licensed nursing care institution based on the results of a renewal license survey.
- B. The following quality ratings are established:
 1. A quality rating of "A" for excellent is issued if the nursing care institution achieves a score of 90 to 100 points;
 2. A quality rating of "B" is issued if the nursing care institution achieves a score of 80 to 89 points;

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3. A quality rating of “C” is issued if the nursing care institution achieves a score of 70 to 79 points; and
 4. A quality rating of “D” is issued if the nursing care institution achieves a score of 69 or fewer points.
- C.** The quality rating is determined by the total number of points awarded based on the following criteria:
1. Nursing Services:
 - a. 15 points: The nursing care institution is implementing a system that ensures residents are provided nursing services to maintain the resident’s highest practicable physical, mental, and psychosocial well-being according to the resident’s comprehensive assessment and care plan.
 - b. 5 points: The nursing care institution ensures that each resident is free from significant medication errors that resulted in actual harm.
 - c. 5 points: The nursing care institution ensures the resident’s representative is notified and the resident’s attending physician is consulted if a resident has a significant change in condition or if the resident is in an incident that requires medical services.
 2. Resident Rights:
 - a. 10 points: The nursing care institution is implementing a system that ensures a resident’s quality of life, dignity, and privacy needs are met.
 - b. 10 points: The nursing care institution ensures that a resident is free from physical and chemical restraints for purposes other than to treat the resident’s medical condition.
 - c. 5 points: The nursing care institution ensures that a resident or the resident’s representative is allowed to participate in the planning of, or decisions concerning treatment including the right to refuse treatment and to formulate a health care directive.
 3. Administration:
 - a. 10 points. The nursing care institution has no repeat deficiencies that resulted in actual harm or immediate jeopardy to residents that were cited during the last survey or other survey or complaint investigation conducted between the last survey and the current survey.
 - b. 5 points. The nursing care institution is implementing a system to prevent abuse of a resident and misappropriation of resident property, investigate each allegation of abuse of a resident and misappropriation of resident’s property, and report each allegation of abuse of a resident and misappropriation of resident’s property to the Office of Long Term Care Licensure and as required by A.R.S. § 46-454.
 - c. 5 points. The nursing care institution is implementing a quality management program that addresses nursing care institution services provided to residents, resident grievances, and resident concerns, and documents actions taken for response, resolution, or correction of issues about nursing care institution services provided to residents, resident grievances, and resident concerns.
 - d. 1 point. The nursing care institution is implementing a system to provide medically-related social services and a program of ongoing recreational activities to meet the resident’s needs based on the resident’s comprehensive assessment.
 - e. 1 point. The nursing care institution is implementing a system to ensure that records documenting freedom from infectious pulmonary tuberculosis are maintained for each staff member, volunteer, and resident.
 - f. 2 points. The nursing care institution is implementing a system to ensure that a resident is free from unnecessary drugs.
 - g. 1 point. The nursing care institution is implementing a system to ensure each staff member who provides direct care to residents attends 12 hours of in-service education every 12 months from the starting date of employment.
 4. Environment and Infection Control:
 - a. 5 points. The nursing care institution environment is free from a condition or situation within the nursing care institution’s control that may cause a resident injury.
 - b. 1 point. The nursing care institution establishes and maintains a pest control program.
 - c. 1 point. The nursing care institution develops a written disaster plan that includes procedures for protecting the health and safety of residents.
 - d. 1 point. The nursing care institution ensures orientation to the disaster plan for each staff member is completed within the first scheduled week of employment.
 - e. 1 point. The nursing care institution maintains a clean and sanitary environment.
 - f. 5 points. The nursing care institution is implementing a system to prevent and control infection.
 - g. 1 point. An employee washes hands after each direct resident contact or where hand washing is indicated to prevent the spread of infection.
 5. Food Services:
 - a. 1 point. The nursing care institution complies with *Arizona Administrative Code*, Title 9, Chapter 8, Article 1, for food preparation, storage and handling as evidenced by a current food establishment license.
 - b. 3 points. The nursing care institution provides each resident with food that meets the resident’s needs as specified in the resident’s comprehensive assessment and care plan.
 - c. 2 points. The nursing care institution obtains input from each resident or the resident’s representative and imple-

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Notice of Supplemental Proposed Rulemaking: 8 A.A.R. 1802, April 12, 2002

Notice of Public Hearing on Proposed Rulemaking: 8 A.A.R. 2647, June 21, 2002

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

Name: James P. Bartlett, Legal Counsel
Address: 1810 W. Adams
Phoenix, AZ 85007
Telephone: (602) 542-4263
Fax: (602) 253-7970
E-mail: Jbartatty@AOL.COM

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

For purposes of clarity and ease of understanding, the Authority wishes to amend the Sections noted above to clarify and replace outdated language.

Also, the Authority wishes to delete language rendered unnecessary by statutory amendments. Due to a change in certain of its governing statutes, the Authority must repeal the Sections noted above.

The Authority wishes to revise but retain the provisions of R12-14-607, but change its designation to R12-14-601.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Authority did not rely upon such a study in its evaluation of or justification for the rule.

8. 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

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

Costs associated with revising the Authority's existing rules will be borne by the Authority and its customers, which include electrical and irrigation districts, certain municipalities and the Central Arizona Water Conservation District (CAWCD).

Repeal of the Authority's rules of practice and procedure will require the use of the Office of Administrative Hearings (OAH). The Authority will bear the cost of such services as assessed by OAH. The public will be indirectly and minimally impacted by the increased costs.

Whatever costs or benefits result from the simplification and clarification of the rules will be shared by the Authority's customers as well as the businesses and members of the public who are served by the customers. While there is no way to quantify these costs and benefits, any increase will be moderate.

Except as noted above, there are no direct, probable costs or benefits to political subdivisions, to businesses, or small businesses. There is no impact on public or private employment. The rules will have no impact on state revenue.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

The informal review process relating to the Authority's earlier proposed rulemaking necessitated a Notice of Supplemental Proposed Rulemaking which was published in April 2002.

As a result of informal reviews by the staff of the Governor's Regulatory Review Council and as a result of comments received from interested parties at the time of the public hearing on the supplemental proposed rules, the overall format of the earlier rules was revised (1) to more closely comport with published rulemaking guidelines and (2) to revise certain of the rules to meet technical objections and suggestions voiced by the Authority's electric power customers.

The Authority does not believe the rule changes are of a substantive nature and only one major clarification was required. As revised, the rules now clarify, as requested by the customers, the rules that refer to Power Purchase Certificates so as to make clear that the Certificates only apply to power sold under Title 30, not power sold under Title 45.

In Article 4 of the rules (Administration of Power), several changes were made to ensure that if the Authority were to attempt to recapture Long-term Power from a customer, the customer's due process rights would be protected. This same protective change is reflected in Article 6 which has been retitled "Conferences, Appeal of Agency Action." In this Article, previous R12-14-602 has been rewritten to provide that appeals of any action by the Authority that determines an entity's legal rights, duties or privileges is an "appealable agency action" under A.R.S. § 41-1092.

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11. A summary of the principal comments and the agency response to them:

In response to the Authority's Notice of Supplemental Proposed Rulemaking published on April 12, 2002, Sheryl A. Sweeney, Esq., Ryley, Carlock and Applewhite, P.C., Phoenix, Arizona, submitted written comments on May 8, 2002 asking whether the definition of "Entity" includes the Western Area Power Administration; suggesting clarification of the definitions of "Banking" and "Energy"; assuring that, as in the past, purchasers be allowed to continue to provide transmission facilities by contracting with another Entity and proposing that additional thought be given to the procedure to be utilized if the Authority seeks to "Recapture" excess Long-term Power.

On May 13, 2002, Jay I. Moyes, Esq., Moyes Storey Law Offices, Phoenix, Arizona, submitted a letter concurring with the comments given by Ms. Sweeney. In addition, Mr. Moyes questioned the accuracy of the definition of "Control Area" and suggested that various sections of the rules (in light of the definition of "Service Territory") appear to be contradictory resulting in confusion about a possible requirement for a Power Purchase Certificate for non-Title 30 Power. Mr. Moyes echoed Ms. Sweeney's concern about procedures for Recapture of excess Long Term Power and suggested that questions regarding Recapture should first be addressed administratively before the Office of Administrative Hearings becomes involved in the process.

Robert S. Lynch, Esq. of Phoenix, Arizona, provided written comments supporting the views of Ms. Sweeney and Mr. Moyes, expanding on the points they raised. Mr. Lynch also provided added insight into the issue of procedures for Recapture of excess Long-term Power.

The Authority responded, in writing, to the comments submitted by Ms. Sweeney, Mr. Moyes and Mr. Lynch and certain revisions were made to the rule as discussed below.

Attorney Bill Baker of Phoenix, Arizona and the Legal Department of the Central Arizona Project requested (and were provided) copies of the Notice of Supplemental Proposed Rulemaking as published on April 12, 2002.

Under a Notice published on June 21, 2002, the Authority, on July 29, 2002, conducted its public hearing on the Supplemental Proposed Rulemaking. Attending the meeting were Sheryl Sweeney, Esq., Jay Moyes, Esq., Robert Lynch, Esq., Douglas Miller, Esq. (representing various Authority customers), Douglas Fant, Esq. and James P. Bartlett, Esq. (representing the Authority).

During the July 29, 2002, public hearing, all of the previously submitted written comments were discussed in detail. These discussions resulted in a number of agreed language changes which were circulated in draft form among all attendees. After numerous written and telephone exchanges, all participants concurred on language changes that were approved by the Authority and which have been included in this final rulemaking. The revisions adopted by the Authority addressed all of the concerns expressed in the customers' written comments and those raised during discussions with the customers' representatives.

In particular, the following revisions were crafted:

- The definition of "Control Area" was deleted as being unnecessary (it is not used in the rule).
- Subsection (14) of R12-14-101 was revised to make it clear that Power Purchase Certificates are required only under contracts entered into under A.R.S. § 30-151, *et seq.*
- A similar revision was made to R12-14-202(D) to add a reference to A.R.S. § 30-151, *et seq.* when Power Purchase Certificates are mentioned.
- A statutory reference was added in R12-14-203(F) to ensure that the service territory covered in a Power Purchase Certificate is intended to relate only to contracts for power acquired under A.R.S. Title 30, Chapter 1.
- To ensure that rights to due process are protected, R12-14-601 (Conferences) was revised to clearly state that in addition to public notice, all interested parties would be given an opportunity to comment regarding any pending or proposed action by the Authority Commission at a Conference called by the Commission.
- Lastly, new language was added under R12-14-602 referencing appealable agency actions. Although such matters are covered in detail by existing statutes, the commentators were firm in their desire to have this language added to the rule.

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

None

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

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

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TITLE 12. NATURAL RESOURCES

CHAPTER 14. ARIZONA POWER AUTHORITY

ARTICLE 1. GENERAL

Section

R12-14-101. Definitions

**ARTICLE 2. AVAILABILITY OF LONG-TERM POWER; APPLICATION FOR ELECTRIC SERVICE;
POWER PURCHASE CERTIFICATES**

Section

R12-14-201. Availability of Long-term Power; Contract Negotiations

R12-14-202. Application for Purchase of Electric Service

R12-14-203. Power Purchase Certificates; Application

ARTICLE 3. SERVICE TO PURCHASERS

Section

R12-14-301. Authority's Service to Purchasers

R12-14-302. Systems and Operation Plans

ARTICLE 4. ADMINISTRATION OF POWER

Section

R12-14-401. Sale, Use, Transfer and Administration of Long-term Power

R12-14-402. Changing Points of Delivery; Switching of Electric Service Loads Among Points of Delivery Points

R12-14-403. Wheeling and Operating Agreements

R12-14-404. Disposition of Short-Term Power

R12-14-405. Cooperative Actions Petition for Information, Advice, or Assistance

ARTICLE 5. RECORDS

Section

R12-14-501. Purchaser's Records

ARTICLE 6. RULES OF PRACTICE AND PROCEDURE CONFERENCES; APPEAL OF AGENCY ACTION

Section

~~R12-14-601. General Procedure~~

~~R12-14-607. R12-14-601. Conferences~~

~~R12-14-602. Pleadings, Motions and Other Documents~~ Appeal of Agency Action

~~R12-14-603. Proceedings~~ Repealed

~~R12-14-604. Multiple Claims~~ Repealed

~~R12-14-605. Rehearing and Appeals~~ Repealed

~~R12-14-606. Arguments on Rehearing~~ Repealed

~~R12-14-607. Renumbered~~

ARTICLE 1. GENERAL

R12-14-101. Definitions

In this Chapter, the definitions set forth in A.R.S. Title 30, Chapter 1 and in A.R.S. Title 45, Chapter 10 shall apply and, unless the context otherwise requires, the following definitions shall also apply:

1. "Banked Energy" means the electric Energy energy held under Banking an agreement arrangements for later delivery to a Purchaser.
2. "Banking" means an agreement under which an arrangements whereby a Purchaser contracts with another Entity entity agrees to retain a portion of the Purchaser's electric Energy energy for later delivery.
3. "Capacity" means the electric capability of an Electric Power System.
- ~~3-4.~~ "Conference" means an informal proceeding before the Commission at which formal action will not be taken by the Commission does not require a hearing in order to dispose of the subject matter.
4. "Control Area" means a part of a Power system or a combination of Power systems to which a common generation control scheme is applied.
5. "District" means any Power or water organization governed comprehended by A.R.S. Title 30, Chapter 1 or A.R.S. Title ~~48~~ 45 (as renumbered and set forth in A.R.S. Title 48) and formed under pursuant to law.
6. "Hearing Officer" means a person designated pursuant to Section R12-14-602(E) to act on behalf of the Commission

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- ~~in any proceeding before the Commission.~~
6. “Electric Power System” means the electric facilities and equipment by which:
 - a. Power is made available to a Purchaser; and
 - b. Power is delivered to a Purchaser’s customer.
 7. “Energy” means electric energy made available to a Purchaser.
 8. “Entity” means any District, governmental agency, Operating Unit, or Person.
 9. “Exchange” means a transfer of electric Power by a Purchaser to another Purchaser that is obligated to return a similar amount of Power upon terms and conditions and at the time or times approved by the Authority under R12-14-401(K).
 10. “Load” means the electric Power required to meet a Purchaser’s demand for electric service.
 - ~~7-11.~~ “Long-term Power” means any a supply of Power that which is available to the Authority for a period more than in excess of 366 consecutive days and that which is subject to the jurisdiction of, and disposition by, the Authority, including any Power capacity or energy recaptured by the Authority and any Power capacity or energy Tendered tendered or Relinquished relinquished by a any Purchaser.
 - ~~8.~~ “Party” means any entity which is authorized by statute or by these rules to participate in an Authority proceeding.
 - ~~9.~~ “Pleading” means any application, petition, complaint, protest, objection, or motion required or permitted to be filed with the Authority.
 12. “Point of Delivery” means the point or points on a transmission system where the Authority makes Power available for delivery to a Purchaser.
 - ~~10-13.~~ “Power Pooling” Agreement” means an agreement for aggregating or commingling the Long-term Power supplies of two or more Purchasers.
 - ~~11-14.~~ “Power Purchase Certificate” means the certificate required of a Purchaser by A.R.S. § 30-151 et seq. before a prior to the date upon which the Purchaser enters into a Power Sales Contract under A.R.S. § 30-151, et seq.
 - ~~12-15.~~ “Power Sales Contract” means a contract under which the Authority sells Long-term Power to a Purchaser.
 - ~~13-16.~~ “Preference” means the priority of entitlement to Power according pursuant to A.R.S. § 30-125 or A.R.S. § 45-1708.
 - ~~14-17.~~ “Purchaser” means any Qualified Entity that which holds a Power Purchase Certificate and contracts has entered into a Power Sales Contract to purchase Power from the Authority under A.R.S. Title 30, Chapter 1; or which has entered into a Power Sales Contract contracted to purchase Power from the Authority under A.R.S. Title 45, Chapter 10.
 - ~~15-18.~~ “Qualified Entity” means any Entity District, Operating Unit, person or other entity that which is eligible privileged to purchase Power from the Authority under pursuant to A.R.S. Title 30, Chapter 1 or A.R.S. Title 45, Chapter 10.
 - ~~16-19.~~ “Recapture” means the recovery or retaking by the Authority from a Purchaser of Long-term Power by the Authority from a Purchaser that exceeds is excess to the Purchaser’s needs, for reallocation among other Qualified Entities.
 20. “Relinquish” means a Purchaser’s return of unneeded Power to the Authority.
 - ~~17-21.~~ “Secretary” means the person designated by the Commission to act as the official Secretary or as the Assistant Secretary of the Authority.
 - ~~18.~~ “Service Territory” means the area defined by the legal descriptions and boundaries described in a Power Purchase Certificate, or any amendment to the that Power Purchase Certificate thereto, in which the holder may use utilize Long-term Power purchased under a Power Sales Contract according pursuant to A.R.S. Title 30, Chapter 1.
 22. “Service Territory” means the geographic area in which Power is sold or used by a Purchaser and is described in a Power Purchase Certificate or an amendment to a Power Purchase Certificate.
 - ~~19-23.~~ “Short-Term Power” means any supply of Power made available by or through the Authority for a period of no more than 366 consecutive days. or less.
 24. “Tender” means a Purchaser’s offer to return unneeded Power to the Authority.
 - ~~20-25.~~ “Wheeling” means delivery of Power over the transmission system of another Entity party.

**ARTICLE 2. AVAILABILITY OF LONG-TERM POWER; APPLICATION FOR ELECTRIC SERVICE;
POWER PURCHASE CERTIFICATES**

R12-14-201. Availability of Long-term Power; Contract Negotiations

- A. Except as provided in R12-14-401(B), ~~if when~~ the Authority decides that a supply of Long-term Power is available, the Authority shall give public notice ~~that it will of its intent to~~ receive applications for electric service from prospective Purchasers. The public notice shall include the date, time, and place a schedule for the a public information Conference at which where the Authority shall provide a preliminary proposal for the allocation and marketing of available information and details concerning the supply of Long-term Power. available to Qualified Entities.
- B. The Authority shall give public notice of the date, time, and place schedule for a public comment Conference to be held not more than 60 days after the date of the public information Conference held under subsection (A). ~~An All~~ interested party parties may appear at the public comment Conference and present oral and written comments on the Authority’s Long-term Power proposal provided at the public information Conference held under subsection (A).

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- C. ~~In addition to any other requirements for notice,~~ Public notice required by subsections ~~subsection~~ (A) and ~~subsection~~ (B) of this Section shall be mailed to:
1. Existing Purchasers; ~~and~~
 2. Prospective Purchasers ~~that notify which have the Authority of their interest in applying for Long-term Power indicated an interest, in writing, to the Authority;~~ and
 3. Other Qualified Entities ~~known to the Authority and identified on the Authority's current mailing list.~~
- D. Public notice ~~required by subsections (A) and (B)~~ shall also be published ~~given by publication~~ in a newspaper of statewide circulation once ~~each~~ a week for two consecutive weeks.
- ~~D.E.A~~ If a Qualified Entity wanting ~~desires~~ to enter into a Power Sales Contract, it shall file an application for electric service under pursuant to Section R12-14-202. ~~The~~ Such application shall be filed on or before the due date specified in the Authority's notice of intent to receive applications for electric service.
- ~~E.F.~~ Not later than ~~Within~~ 60 days after the due date for the filing of an application for electric service, the Authority shall notify all interested parties of the names and addresses of the prospective Purchasers entities that ~~which~~ are eligible to enter into a Power Sales Contract. The Authority shall include in the notice such notification a proposed ~~shall also propose an set forth a proposed~~ allocation of Long-term Power to the eligible prospective Purchasers entities.
- ~~E.G.~~ Not later than ~~Within~~ 90 days after notification of eligibility and of the proposed allocation, the Authority shall present a draft form of contract to each eligible prospective Purchaser and begin ~~shall commence~~ contract negotiations.
- ~~G.H.~~ After a reasonable period for contract negotiations are completed, the Authority shall prepare Power Sales Contracts and fix a date for contract signing. ~~signings.~~
- H. ~~The time periods specified in this Section may be modified by the Authority to serve the needs of the Authority, the prospective Purchasers, or the public.~~
- I. In allocating the allocation or reallocation of Long-term Power, ~~consideration~~ the Authority shall consider: ~~be given, first, to~~
1. The financial interest ~~interests~~ and obligation ~~obligations~~ of the Authority; and ~~second, to~~
 2. The needs and interests of the Purchaser ~~Purchasers~~, customers of the Purchaser ~~Purchasers~~, and prospective Purchasers.
- J. Within each the class ~~classes of~~ or preference priorities established by A.R.S. § 30-125(A), the Authority shall allocate Long-term Power ~~shall be allocated~~ equitably among Qualified Entities in the same preference ~~preference~~ class based upon the needs of the such ~~such~~ Entities and the type of use of Long-term Power ~~within the Service Territory.~~
- K. In deciding whether to allocate or reallocate the allocation or reallocation of Long-term Power, the Authority shall consider ~~give due consideration to a prospective Purchaser's access to other sources of Power available to the prospective Purchaser from the Federal Government.~~

R12-14-202. Application for Purchase of Electric Service

- A. A Any Qualified ~~qualified~~ Entity that ~~which~~ desires to purchase Long-term Power shall file a written application for electric service with the Authority. The application shall include the following:
1. The Entity's applicant's ~~applicant's~~ proposed use of Long-term Power;
 2. The Point or Points ~~points~~ of Delivery ~~delivery~~ where at which the Entity applicant will ~~desires to~~ receive electric service;
 3. The annual energy requirement ~~requirements~~ for which the applicant is willing to contract, stated in kilowatt-hours, for each Point ~~point~~ of Delivery ~~delivery~~;
 4. The maximum capacity requirement ~~requirements~~ for which the applicant is willing to contract, stated in kilowatts, for each Point ~~point~~ of Delivery ~~delivery~~ during a continuous 12-month period; and
 5. A statement of the Entity's applicant's ~~applicant's~~ kilowatt and kilowatt-hour sales or usage during each of the 24 months immediately preceding the date of the ~~the~~ application, divided into convenient ~~convenient~~ reference classifications, such as residential, commercial, irrigation pumping, industrial, public use, or such other convenient ~~such other convenient~~ classification used by the Entity applicant ~~applicant~~ or recognized in the electric utility industry.
- B. An application form ~~Application forms~~ for electric service is ~~shall be~~ available at the Authority's business office.
- C. If the Authority determines that an applicant is eligible to enter into a Power Sales Contract for Long-term Power offered under A.R.S. Title 30, Chapter 1, the applicant, within 30 days after receipt of notice of eligibility, shall file an application for a Power Purchase Certificate under pursuant to R12-14-203.
- D. ~~The time period specified in subsection (C) may be modified by the Authority to serve the needs of the applicant or the needs of the Authority.~~ The holder of an existing Power Purchase Certificate is ~~not be~~ required to re-apply for a Power Purchase Certificate only if the holder wants to use ~~unless~~ the Long-term Power acquired under A.R.S. Title 30, Chapter 1, ~~applied for will be used in a Service Territory that differs from the Service Territory described specified in the holder's applicant's existing Power Purchase Certificate.~~

R12-14-203. Power Purchase Certificates; Application

- A. An application for a Power Purchase Certificate, or an application to amend an existing Power Purchase Certificate, shall be dated, signed, and verified by the applicant or the applicant's an ~~an~~ authorized representative. An ~~The~~ original and five copies of the application and any documents, maps, or other written material to which reference is made in the application

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shall be filed with the Authority.

- B.** ~~An application form~~ Application forms for a Power Purchase Certificate is ~~Certificates shall be available at the office of the Authority's business office.~~
- C.** The application shall include the information required by A.R.S. § 30-152 and the following:
1. A statement of the nature of the applicant's business, and applicant's legal status (for example, a corporation, a partnership, or other business type); and
 2. The applicant's mailing address;
 - 2-3. ~~A detailed~~ An accurate description of the proposed ~~desired~~ Service Territory;
 - 3-4. ~~The name and mailing address of the principal executive officer or secretary of each District or Operating Unit and of any natural person or other Entity~~ entity engaged in the distribution of Power within the proposed Service Territory or contiguous to the Proposed Service Territory;
 - 4-5. ~~The estimated amount of Long-term Power estimated for each use proposed by the applicant; whether sale or distribution of Long-term Power is to be on a profit or a non-profit basis, and whether the applicant will use Long-term Power, resell it, or both.~~
 5. ~~A description of applicant's electric system in sufficient detail for the Authority to judge the applicant's capability to use Long-term Power. If the applicant intends to use an electric system owned by another entity, a copy of any intended or existing agreement with the owner pertaining to such use shall accompany the application. If the applicant proposes to construct, purchase, lease, or otherwise obtain the use of a system for sale or distribution of Long-term Power, the details of such proposal shall be provided.~~
 6. Whether the applicant intends to sell Long-term Power on a profit or a non-profit basis;
 7. Whether the applicant intends to use Long-term Power for its own use, resell Long-term Power, or use and resell the Long-term Power;
 8. A detailed description of the applicant's Electric Power System for the use of Long-term Power;
 9. A copy of any agreement under which the applicant intends to use an Electric Power System owned by another Entity;
 10. The details of any plan under which the applicant proposes to construct, purchase, lease, or obtain the use of an Electric Power System for sale or distribution of Long-term Power; and
 - ~~D.11.~~ An explanation of ~~The applicant shall explain~~ any arrangements with other Entities ~~entities~~ for the use of electrical equipment or facilities that required for the applicant needs in order to use Long-term Power. If any other Entity ~~entity~~ claims ownership of, or transmission rights on, any electric facilities to be used ~~utilized~~ or if the applicant will duplicate another Entity's electric facilities duplicated by the applicant, the applicant shall disclose that such information. ~~Where~~ If the applicant's arrangements appear to conflict with the rights of another Entity ~~entity~~, the applicant may file an affidavit signed by an authorized officer of the entity ~~entity~~ affected Entity, describing ~~disclosing that the affected Entity's agreement to the satisfactory arrangements for the applicant's use. have been consummated.~~
- ~~E.D.~~ When ~~Upon the filing of the application is filed,~~ the Authority shall immediately set a date for a hearing under ~~pursuant to~~ A.R.S. § 30-152.
- ~~F.E.~~ A Power Purchase Certificate is ~~shall remain~~ in effect only during the such time as the holder of the Power Purchase Certificate ~~thereof~~ has an existing Power Sales Contract with the Authority.
- ~~G.F.~~ The holder of a Power Sales Contract ~~legal descriptions and boundaries set forth in a Power Purchase Certificate shall fix and establish the Service Territory in which the holder may use~~ utilize Power acquired under A.R.S. Title 30, Chapter 1 under a Power Sales Contract only in the Service Territory established by the legal description in the Power Purchase Certificate.
- ~~H.G.~~ The holder of a Power Purchase Certificate shall not ~~assign the Power Purchase Certificate~~ be assigned without the prior written approval of the Authority.

ARTICLE 3. SERVICE TO PURCHASERS

R12-14-301. Authority's Service to Purchasers

- A.** The Authority shall contract with a Purchaser to deliver Long-term Power, only if provided transmission capability is available to ensure delivery of Long-term Power to the Purchaser at the Point ~~point~~ or Points ~~points~~ of Delivery ~~delivery~~ to be designated in the Power Sales Contract. The Authority may also contract with a the Purchaser to provide opportunities for connection between the Purchaser's Electric ~~electric~~ Power System ~~system~~ and the Electric ~~electric~~ Power System ~~system~~ of other Entities ~~entities~~.
- B.** Before Long-term Power is made available to a Purchaser, the Purchaser shall provide evidence to the Authority that a transmission system is available ~~capability~~ to enable the Purchaser to take and receive Long-term Power at the locations and voltages designated by the Authority.
- C.** Unless the Authority agrees to provide facilities or enter into agreements for the ~~otherwise agreed by the~~ transmission of electric Power, the facilities or agreements must be provided by the Purchaser ~~service~~.

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- D.** The Authority may ~~investigate and~~ obtain an alternative or an additional source ~~sources~~ of transmission service to serve the needs of a Purchaser. ~~and~~
- E.** The Purchaser shall pay any costs or expenses necessary to provide transmission service to the Purchaser ~~for the service in proportion to the benefits it receives.~~
- ~~C.F.~~** By agreement with one or more Purchasers, the Authority may construct electric lines and related facilities of the voltage and capacity needed to serve the a Purchaser or ~~Purchasers~~ or as warranted by available loads. The agreement must assure full payment by the users of the operating costs, depreciation and interest, and any other costs or expenses associated with the a ~~any such~~ project, during a 40-year amortization period or ~~such~~ other period established by law or contract. If the Authority constructs the ~~such~~ facilities, the Authority shall determine the incremental costs to ~~shall be paid by the~~ added to the charges to any Purchaser or other user benefitting from the ~~such~~ facilities constructed by the Authority.
- ~~D.G.~~** With the aid of Purchasers, the Authority shall work ~~endeavor~~ to maintain a system of load scheduling and records so that the Authority may reasonably predict:
1. A Purchaser's current and future Power needs;
 2. Whether a Purchaser should be allowed or required to Relinquish ~~relinquish or surrender~~ Long-term Power that ~~which~~ is surplus to the ~~that~~ Purchaser's needs; and
 3. Whether a Purchaser will have Long-term Power that ~~which~~ is temporarily or permanently surplus to the Purchaser's needs.
- ~~E.H.~~** The Authority shall periodically perform surveys to:
1. Identify sources of Power or transmission service that ~~which~~ may be temporarily or permanently available to the Authority; ~~and~~
 2. Identify possible markets for available Power ~~such~~ resources; and
 3. Identify possible markets for Recaptured, Relinquished, ~~relinquished~~ Tendered ~~tendered~~, or temporarily-available surplus Long-term Power.

R12-14-302. Systems and Operation Plans

For the Authority's information and assistance in the administration of its Power Sales Contracts, a ~~any~~ Purchaser that ~~which~~ does not manage and operate its own Electric ~~electric~~ Power transmission and distribution System ~~system~~ shall, at the Authority's request, submit a plan for the use and administration of Long-term Power. The Purchaser plan ~~shall attach to the plan,~~ be accompanied by any ~~such~~ maps, plans, ~~specifications,~~ and agreements as may be necessary to disclose the nature and extent of the ~~such~~ plan.

ARTICLE 4. ADMINISTRATION OF POWER

R12-14-401. Sale, Use, Transfer, and Administration of Long-term Power

- A.** A Purchaser shall not enter into an agreement for ~~No~~ Power Pooling Agreement ~~agreement~~ affecting Power under the Authority's jurisdiction shall be made without the prior written approval of the Authority. The Authority ~~which approval~~ shall not be unreasonably withhold approval. ~~withheld.~~
- B.** Subject to the terms of of a Purchaser's ~~in its~~ Power Sales Contract ~~with the Authority,~~ a Purchaser may Tender ~~tender~~ or Relinquish ~~relinquish~~ surplus Long-term Power to the Authority for resale by the Authority.
- C.** The Authority shall use its best efforts to sell a Purchaser's ~~such~~ Tendered ~~relinquished~~ or Relinquished ~~tendered~~ Long-term Power and shall apply the net proceeds from the sale toward the Purchaser's payment obligations under the Purchaser's ~~its~~ Power Sales Contract.
- D.** Long-term Power ~~so~~ Tendered ~~relinquished~~ or Relinquished ~~tendered~~ to the Authority shall be returned to the Purchaser not more than 60 days after the Authority's receipt of the Purchaser's written notice that the Purchaser ~~it~~ requires a return of the Tendered ~~tendered~~ or Relinquished ~~relinquished~~ Long-term Power to meet the Purchaser's loads.
- ~~C.E.~~** ~~The~~ ~~No~~ Tender ~~tender~~ or Relinquishment ~~relinquishment~~ of Long-term Power shall not ~~relieve~~ the Purchaser of its obligations under its Power Sales Contract. ~~nor shall such~~ The Tender ~~tender~~ or Relinquishment ~~relinquishment~~ of Long-term Power shall not be deemed to be a Recapture by the Authority unless:
1. The ~~Such~~ Tender ~~tender~~ or Relinquishment ~~relinquishment~~ is for the unexpired term of the Purchaser's Power Sales Contract; and
 2. The Authority has contracted to sell the ~~such~~ Tendered ~~tendered~~ or Relinquished ~~relinquished~~ Long-term Power to another Qualified Entity under the same terms and conditions as those for a term and at a price not less than the term and price contained in the Purchaser's Power Sales Contract.
- ~~D.E.~~** Subject to the terms of a ~~the~~ Purchaser's Power Sales Contract, if ~~for any reason, all or a portion of~~ the Long-term Power purchased from the Authority exceeds the Purchaser's electric load for ~~a period of~~ three consecutive contract years, the Authority may Recapture ~~all or a portion of the~~ Purchaser's ~~excess~~ Long-term Power as follows:
1. The Authority shall give the Purchaser at least 30 days' ~~prior~~ written notice of a conference concerning ~~hearing on~~ the Authority's consideration of the possible intention to Recapture of Long-term Power; The Authority shall determine the ~~Purchaser's~~ Long-term Power can be reasonably expected to exceed, in whole or in part, the ~~Purchaser's~~ future needs;

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2. ~~The Authority shall determine whether any Any portion or all of the Purchaser's Long-term Power allocation can reasonably be expected to exceed which the Authority determines to be excess to the Purchaser's future needs, and the Authority may Recapture the excess portion; may be Recaptured by the Authority;~~
 3. ~~Subject to Article 6 of these rules, any Any such Recapture of Long-term Power is shall be effective 60 days after the date upon which the Purchaser receives a "Notice of Recapture" from the Authority, or at a such later date as is specified in the "Notice of Recapture"; and~~
 4. ~~Any Recapture of Long-term Power reduces shall reduce the Purchaser's allocation of entitlement to Long-term Power by the amount of Long-term Power recaptured by the Authority the Recapture. Unless the context otherwise requires, the provisions of Article 6 shall apply to any hearing required by this paragraph.~~
- ~~E.~~ Except as permitted by a Power Sales Contract, a Purchaser shall not transfer or assign a Power Sales Contract, or any interest in a Power Sales Contract therein, unless first approved by the Authority. Unless otherwise provided by law or contract, an assignment or transfer of a Power Sales Contract, or any interest therein, shall not relieve the Purchaser from any obligation under the such contract without the prior written consent of the Authority.
- ~~G.~~ A Purchaser shall not transfer or assign a Power Sales Contract or any interest in a Power Sales Contract without prior written approval by the Authority. The transfer or assignment of a Power Sales Contract or any interest in a Power Sales Contract does not relieve the Purchaser from any obligation under the Purchaser's Power Sales Contract.
- ~~F.H.~~ The Authority shall not approve an assignment of a Power Sales Contract, or any interest in a Power Sales Contract that: therein shall not be approved by the Authority unless the such assignment is made in good faith and for a justifiable cause or reason. The Authority shall not approve any assignment which that:
1. Conflicts with any provision of law;
 2. Conflicts with the Authority's regulations;
 3. Conflicts with any provision of a Purchaser's Power Sales Contract;
 4. ~~Disrupts~~ Has the effect of ~~disrupting~~ established Power practices, an Electric Power System, or electric facilities;
 5. ~~Results May result~~ in an increased cost of service to other Purchasers; or
 6. ~~Confers May confer~~ a Preference upon an Entity entity not entitled to Preference. thereto.
- ~~I.~~ The Authority shall not approve ~~Further,~~ an assignment of a Power Sales Contract or an interest in a Power Sales Contract shall not be approved if the Authority determines that ~~an~~ the assignment is discriminatory or that the Long-term Power or rights to Long-term Power should be recaptured by the Authority for reallocation, ~~and~~ sale or other disposition to other Qualified Entities.
- ~~G.I.~~ A Power Sales Contract may restrict or prohibit the wholesale sale or resale of Long-term Power by the Purchaser.
- ~~H.K.~~ The holder of a Power Purchase Certificate shall use Long-term Power shall be used only for the purposes and uses for which it is allocated and sold. Long-term Power allocated and sold under pursuant to A.R.S. Title 30, Chapter 1 shall be used only within the Service Territory established in the Purchaser's Power Purchase Certificate, unless otherwise authorized in writing by the Authority. The Authority may authorize Banking banking of electric Energy energy and Exchange exchange of Banked Energy between Purchasers in the same Control Area may be authorized under terms and conditions approved by the Authority.

R12-14-402. Changing Points of Delivery; Switching of Electric Service Loads Among Points of Delivery Points

Unless prohibited by law, regulation, or contract, and whenever the capacities, contractual relationships, and arrangement of facilities so permit, The the Authority may allow a Purchaser to change its electric service from a one Point point of Delivery delivery to another one or more other Point or Points points of Delivery delivery. Each new Point point of Delivery delivery shall be a separate Point point of Delivery delivery for the Authority's billing purposes unless a the new Point point of Delivery delivery replaces an existing Point point of Delivery delivery. A Purchaser cannot change or switch its Changing electric service between the Purchaser's Points points of Delivery delivery and the Points of Delivery of other different Purchasers shall not be permitted without the prior written approval consent of the Authority.

R12-14-403. Wheeling and Operating Agreements

- ~~A.~~ A Purchaser who ~~wants~~ desires to enter into an agreement for Power Pooling or an agreement with another Entity with regard to power operations, transmission, or Wheeling involving Long-term Power shall:
1. ~~first~~ Petition petition the Authority for permission to enter into an agreement;
 2. ~~The petition shall State in the petition~~ all relevant facts and ~~shall set forth~~ the reasons for the proposed agreement; ~~and The petition shall also file copies~~
 3. ~~Give the Authority a copy~~ of any proposed agreement and ~~such~~ other information, data, and documents as may be requested by the Authority.
- ~~B.~~ A Purchaser shall not enter into an ~~An~~ agreement for the transmission or Wheeling of Long-term Power over the facilities of another Entity others shall not be made without the prior written approval of the Authority.
- ~~C.~~ An operating agreement, transmission agreement, Power Pooling agreement, or Wheeling agreement shall not be approved by the Authority if the agreement:
1. Conflicts ~~conflicts~~ with the provisions of any Power Sales Contract;
 2. ~~Results result~~ in disruption of established electric service, operations, practices, systems, or facilities; or

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3. ~~Endangers~~ endanger electric service to other Purchasers, to third parties, or to the general public.

R12-14-404. Disposition of Short-Term Power

The Authority may negotiate and enter into a ~~mutually acceptable contract or~~ contracts with Qualified Entities for the sale, purchase, exchange, or other disposition of Short-term Power.

R12-14-405. ~~Cooperative Action~~ Petition For Information, Advice, or Assistance

- A. ~~Under Pursuant to~~ A.R.S. § 30-129 and A.R.S. Title 45, Chapter 10, any Entity Party may petition the Authority for information, advice, ~~aid,~~ or assistance regarding any matter within the jurisdiction of the Authority. ~~The~~ Such petition shall be in writing and shall include:
1. The names of all interested or affected ~~Entities;~~ entities-
 2. The basis for the requested information, advice, ~~aid,~~ or assistance;
 3. The location of any Project ~~project~~ involved;
 4. The action requested of the Commission; and
 5. ~~Other~~ other information or relevant matter that which may assist the Commission in acting upon the petition a request.
- B. ~~The Commission may direct the Authority staff or an Authority consultant to conduct preliminary studies, surveys, or investigations with respect to any requested action.~~
- ~~B-C.~~ If a Conference regarding a petition filed with the Authority is deemed appropriate, the Commission shall schedule a Conference, pursuant to R12-14-607. The Authority shall notify all interested Entities ~~entities~~ that they shall be notified of the such Conference. and Any interested entity may make an oral or written presentation and file documents, reports, or other material relevant to the requested ~~cooperative~~ action.
- ~~C.~~ The Authority staff or consultants to the Authority may make such preliminary studies, surveys, or investigations as the Commission directs with respect to any requested cooperative action. If the Commission determines that a hearing or other proceeding is appropriate, the Commission may take appropriate interim action and may enter into letters of understanding or preliminary agreements with the petitioner and all other interested entities.

ARTICLE 5. RECORDS

R12-14-501. Purchaser's Records

At the request of the Authority, a Purchaser shall file copies of agreements ~~contracts~~ for the purchase, sale, Exchange exchange, transmission, Banking, Power Pooling, or and Wheeling of Long-term Power between the Purchaser ~~it~~ and any Entity ~~entity~~ other than the Authority, together with all current rate schedules and amendments ~~thereto~~.

ARTICLE 6. RULES OF PRACTICE AND PROCEDURE CONFERENCES; APPEAL OF AGENCY ACTION

R12-14-601. General Procedure

- ~~A.~~ Unless otherwise required by law, all hearings shall be scheduled at the convenience of the Commission. ~~Unless otherwise ordered by the Commission, hearings shall be held at the Authority's business office in Phoenix, Arizona.~~
- ~~B.~~ Unless otherwise provided by law, the Commission may reschedule, recess, continue or adjourn a hearing. ~~Unless otherwise provided by law, the Commission may extend or shorten a specified time period upon the motion of any Party.~~
- ~~C.~~ Except as otherwise required by law, the Arizona Administrative Procedure Act (A.R.S. § 41-1001 et seq.) shall apply to all hearings or rehearings before the Commission.
- ~~D.~~ All pleadings and any supporting documents, exhibits or other communications or correspondence pertaining to any matter before the Commission shall be filed with the Secretary at the Authority's business office in Phoenix, Arizona.
- ~~E.~~ The Commission may designate a member of the Commission, a member of the Authority staff, or any other individual to act as a Hearing Officer in any Commission proceedings.
- ~~F.~~ If necessary or appropriate, the staff of the Authority may participate in any proceeding as a Party.

R12-14-607. R12-14-601. Conferences

- A. After first giving Pursuant to not less than 10 days' public notice and an opportunity to comment, the Commission may hold a ~~call or invite an informal~~ Conference concerning any subject matter within the jurisdiction of the Authority. The Commission shall determine the Conference agenda. A Conference is intended to provide information and receive comments regarding ~~and facts with regard to~~ any pending or proposed course of action by the Commission. ~~A no~~ formal or binding action shall not be taken by the Commission at a Conference.
- B. Except as otherwise provided in these rules, the ~~The~~ Commission shall establish the date, time and place of any Conference and may continue, adjourn, or reschedule any Conference.

R12-14-602. Pleadings, Motions and Other Documents Appeal of Agency Action

- ~~A.~~ A proceeding under A.R.S. § 30-152 shall be initiated by filing an "application". A proceeding under A.R.S. § 30-171 shall be initiated by filing an initial pleading entitled "petition", "complaint", "protest", or "objection", whichever most clearly addresses the issue raised by the Party. Responsive pleadings shall designate in the caption or heading the identity and interest of the Party responding to an initial pleading.

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- ~~B.~~ The specific grounds of any application, petition, complaint, protest or objection filed with the Authority shall be set forth in the initial pleading; provided, however, that A.R.S. § 30-171(D) shall control the grounds upon which any initial pleading may be filed pursuant to A.R.S. § 30-171.
- ~~C.~~ All motions shall be in writing, shall indicate the nature of the relief requested, and shall be accompanied by a memorandum indicating the legal points, statutes, and authorities relied upon. Motions shall be served on all other Parties to the proceeding. Any Party opposing a motion shall file and serve any answering memorandum within 20 days after service of such motion. Within ten days after service of an answering memorandum, the moving Party may file and serve a reply memorandum directed only to matters raised by the answering memorandum.
- ~~D.~~ All pleadings shall be signed and verified by the Party or by its authorized representative.
- ~~E.~~ An original and five copies of each pleading shall be filed with the Secretary. One copy of each pleading shall be served upon each other Party appearing in the matter.
- ~~F.~~ Amendments to pleadings shall not be accepted for filing unless received by the Secretary at least 20 days prior to the date of any scheduled hearing.
- ~~G.~~ Pleadings or other documents permitted or required to be filed with the Authority may be transmitted by mail, personal service, or other method which shall assure delivery, but all such pleadings and documents must be actually received for filing on or before 5:00 p.m. of the last day prescribed for such filing. Whenever a Party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice of paper is served upon him by mail, five days shall be added to the prescribed period.

Any decision or action by the Commission that determines the legal rights, duties or privileges of an Entity with regard to any matter under the jurisdiction of the Commission is an "appealable agency action" as defined in, or limited by, A.R.S. § 41-1092.

R12-14-603. Proceedings Repealed

- ~~A.~~ Unless the Commission has selected a Hearing Officer to preside, the Chairman of the Commission shall preside at all proceedings and shall rule upon all questions concerning prehearing, hearing or post-hearing procedures and evidence. Any Commissioner may attend any proceeding and may ask relevant questions of any Party.
- ~~B.~~ During a proceeding, the Secretary shall act as Clerk and shall administer oaths; mark, maintain, and preserve exhibits and other evidence; and perform such other duties as may be assigned by the Chairman, Hearing Officer, or members of the Commission.
- ~~C.~~ The Authority's legal counsel shall attend all proceedings and advise the presiding officer on all legal matters arising out of or related to the proceeding. The Authority's legal counsel shall also prepare any pleadings, briefs, or other documents pertaining to the Authority's interests and shall prepare notices proposed orders, and other procedural documents requested by the Commission. If the Commission determines that it, the Authority staff, or the presiding officer requires independent legal counsel, the Authority shall retain such legal counsel pursuant to applicable Arizona law.

R12-14-604. Multiple Claims Repealed

~~When more than one claim for relief is presented in any matter pending before the authority, the Commission or Hearing officer may direct the entry of a final decision on one or more but fewer than all of the Parties' claims only upon an express determination that there is no just reason for delay. In the absence of such determination, any action or decision which addresses fewer than all the Parties' claims shall not terminate the matter as to any of the Parties' claims, and the action or decision is subject to revision before the entry of the final decision of all Parties' claims.~~

R12-14-605. Rehearing and Appeals Repealed

- ~~A.~~ Subject to A.R.S. § 30-172, any final decision may be vacated and a rehearing granted on motion of the aggrieved Party for any of the following causes materially affecting such Party's rights:
 - ~~1.~~ Irregularity in a proceeding of the Commission, or of the Hearing Officer or of the prevailing Party, or any order or abuse of discretion whereby the moving Party was deprived of a fair proceeding;
 - ~~2.~~ Misconduct of the prevailing Party;
 - ~~3.~~ Accident or surprise which could not have been prevented by ordinary prudence;
 - ~~4.~~ Newly discovered material evidence could not be discovered or produced at the time of the hearing or prehearing with the exercise of reasonable diligence;
 - ~~5.~~ Error in the admission or rejection of evidence or other errors of law occurring during a proceeding;
 - ~~6.~~ Any action or decision of the commission which is the result of passion or prejudice; or
 - ~~7.~~ Any action or decision of the Commission which is not justified by the evidence or is contrary to law.
- ~~B.~~ A rehearing may be granted to all or any of the Parties and on all or part of the issues. On a motion for rehearing, the Commission may reopen the proceedings; take or admit additional testimony and other evidence; and modify, amend, rescind, or affirm any final decision.
- ~~C.~~ A motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and shall be filed not later than 20 days after a final decision. If the motion for rehearing is based upon the general ground that the Commission erred in admitting or rejecting evidence, the Commission shall review all rulings upon objections to evidence. If the motion for rehearing is based upon the general ground that the final decision of the commission is not justified by the evidence, the Commission shall review the sufficiency of the evidence.

- ~~D.~~ When a motion for rehearing is based upon affidavits, the affidavits shall be served with the motion. Any opposing Party shall have ten days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the Commission for good cause shown or by the Parties upon written stipulation. The Commission may permit reply affidavits.
- ~~E.~~ Not later than 20 days after the effective date of any final decision, the Commission, on its own initiative, may order a rehearing for any reason for which a rehearing might have been granted upon motion of a Party. After giving the Parties notice and an opportunity to be heard, the Commission may grant a rehearing, upon a motion timely served, for a reason not stated in a motion for rehearing.
- ~~F.~~ A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is alleged to be erroneous.
- ~~G.~~ An order granting a rehearing shall state specifically the issues or questions presented and the ground or grounds upon which the rehearing is granted.
- ~~H.~~ Any final decision is subject to appeal to the Superior Court of Maricopa County, Arizona, as provided by A.R.S. § 30-173, or as otherwise provided by law.

R12-14-606. Arguments on Rehearing Repealed

Applications for oral argument on rehearing shall be granted or denied in the discretion of the Commission and the Commission shall fix the time limits for oral argument.

R12-14-607. Renumbered

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1. Sections Affected

R20-5-501
R20-5-502
R20-5-503
R20-5-504
R20-5-504
R20-5-505
R20-5-506
R20-5-507
R20-5-508
R20-5-509
R20-5-510
R20-5-511

Rulemaking Action

Repeal
Amend
Repeal
Repeal
New Section
Amend
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 23-491.04
Implementing statute: A.R.S. § 23-491.06

3. The effective date of the rules:

March 15, 2003

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 1837, April 12, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 2891, July 12, 2002

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

Name: Patrick Ryan, Assistant Director
Division of Occupational Safety and Health

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Address: Industrial Commission of Arizona
800 W. Washington, Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1695

Fax: (602) 542-1614

E-mail: pat.ryan@osha.gov

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

The agency is amending these rules to make changes as outlined during the five-year review of these rules. Many of the rules no longer conform to the current rulemaking format style and are being amended to reflect those formatting changes. Some of the rules' incorporation by reference material will be updated to the latest available edition.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. 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

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

The rulemaking, which involves administrative housekeeping and drafting style changes identified in the 2000 five-year rules review of Article 5, will benefit the general public, private persons, and consumers by providing updated rules that are more readable and more easily understood. No additional costs are anticipated for the general public, private persons, and consumers who are directly or indirectly affected by the rulemaking.

By adopting and enforcing the most current versions of the incorporated by reference material, the Industrial Commission of Arizona will require that elevators, escalators, and related equipment operate in the safe and beneficial manner for which they were designed, manufactured, and installed. While there will be an initial period of instruction regarding the changes of these rules, these costs are expected to be minimal.

There will be no additional costs and no reduction in revenues to small or large businesses resulting from these rule amendments, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the rulemaking.

The Division anticipates that the benefits from the rulemaking will outweigh the costs to the Division, other agencies, political subdivisions, the general public, private persons, consumers, and any small or large businesses directly affected by its implementation and enforcement.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The agency made minor, non-substantial syntactical and grammatical changes upon recommendation by the Governor's Regulatory Review Council staff members.

11. A summary of the comments made regarding the rule and the agency response to them:

The Division did not receive any written or oral comments for the rules being amended.

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

None

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

R20-5-504 - A.S.M.E. A18.1-1999, *Safety Standard for Platform Lifts and Stairway Chairlifts*, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

R20-5-507-ASME A17.1-2000, *Safety Code for Elevators and Escalators*, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

R20-5-508 - ASME A90.1-1997, *Safety Standard for Belt Manlifts*, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

R20-5-509 – ANSI A 10.4- 1990, *Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations*, The National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611.

R20-5-511 – ASME A17.2-2001, *Guide for Inspection of Elevators, Escalators, and Moving Walks*, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

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14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 5. ELEVATOR SAFETY ~~ADMINISTRATIVE REGULATIONS~~

Section

- R20-5-501. ~~Applicability~~ Repealed
- R20-5-502. Definitions
- R20-5-503. ~~Issuance of a Certificate of Competency~~ Repealed
- R20-5-504. ~~Inspector's Qualifications~~ Safety Standards for Platform Lifts and Stairway Chairlifts
- R20-5-505. Certificate of Inspection
- R20-5-506. Recordkeeping
- R20-5-507. Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, ~~Wheelchair Lifts, and Stairway Chairlifts~~
- R20-5-508. ~~The American National Standards Institute Safety Requirements for Manlifts, A.N.S.I., A90.1-1976~~ Safety Standards for Belt Manlifts
- R20-5-509. ~~The American National Standards Institute Safety Requirements for Personnel Hoists, A.N.S.I., A10.4-1981~~ Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations
- R20-5-510. The American National ~~Standards~~ Standard Institute, Safety Requirements for Material Hoists, A.N.S.I., A10.5-1981
- R20-5-511. ~~The American National Standard Practice for the Inspection of Elevators, Escalators and Moving Walks, Inspectors' Manual, A.N.S.I. A17.2-1979~~ The American National Standard Institute, Guide for Inspection of Elevators, Escalators, and Moving Walks, A.S.M.E., A17.2 – 2001

ARTICLE 5. ELEVATOR SAFETY ~~ADMINISTRATIVE REGULATIONS~~

R20-5-501. ~~Applicability~~ Repealed

- ~~A.~~ These regulations shall apply to all elevators, dumbwaiters, escalators, moving walks, personnel hoists, material hoists, and manlifts, special purpose personnel elevators, stage and orchestra lifts, as each is defined in its respective standard or regulation.
- ~~B.~~ The term "elevator" as used hereinafter shall include all equipment specified in subsection (A) above.

R20-5-502. Definitions

In these regulations unless the context otherwise requires:

- ~~A.~~ "Certificate of Competency" means a certificate issued to a person by the Commission, pursuant to R20-5-503, after he has either (a) Passed an approved examination developed by the Elevator Advisory Subcommittee and conducted by the Elevator Section or (b) Met minimum background requirements as provided in R20-5-503.
- ~~B.~~ A. "Chief" means the chief inspector of the Elevator Safety Section of the Division of Occupational Safety and Health.
- ~~C.~~ B. "Inspection" means the official determination by an inspector of the condition of all parts of the equipment on which the safe operation of an elevator depends.
- ~~D.~~ C. "Enforcing authority" means the Industrial Commission of Arizona or its duly authorized representative. "Elevator Safety Section" means the Elevator Safety Section of the Division of Occupational Safety and Health of the Industrial Commission of Arizona.

R20-5-503. ~~Issuance of a Certificate of Competency~~ Repealed

- ~~A.~~ A Certificate of Competency for the inspection of elevators shall be issued to an applicant by the Commission after the person has passed an approved examination developed by the Elevator Advisory Subcommittee and given by the Elevator Section. Application shall be on a form furnished by the Elevator Section.
- ~~B.~~ A Certificate of Competency shall be issued without such examination as required in subsection (A) to those persons who, at the time of application for such certificate, have a minimum of 10 years experience in 1 or a combination of the following areas: Elevator inspection, construction, installation, alteration, maintenance, and repair. After 1 year from the effective date of these regulations however, all persons making application for a Certificate of Competency shall be required to pass such an examination.

R20-5-504. ~~Inspector's Qualifications~~ Safety Standards for Platform Lifts and Stairway Chairlifts

A person is not authorized to serve as an elevator inspector unless he possesses a Certificate of Competency or has been certified as competent by an approved National Elevator Safety Organization and has had a minimum of 5 years experience, within the last 10 years, in 1 or a combination of the following areas: Elevator inspection, construction, installation, alteration, maintenance and/or repair. Equivalent training or education may be substituted for the experience requirement, as determined by the Commission.

Every owner or operator under A.R.S. § 23-491.02 shall comply with the American Society of Mechanical Engineers Safety Standard for Platform Lifts and Stairway Chairlifts A.S.M.E. A18.1-1999, with amendments as of January 30, 2001, which are incorporated by reference and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments to A.S.M.E. A18.1 – 1999 published after January 30, 2001. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>.

R20-5-505. Certificate of Inspection

~~A. Every elevator shall be inspected at least once during every fiscal year, effective July 1, 1973.~~

~~B. A certificate of inspection for every elevator operating within the state shall be issued by the enforcing authority at such time as the elevator has been inspected.~~

~~C. Such certificate of inspection shall be posted in a place determined by the enforcing authority.~~

The owner or operator under A.R.S. § 23-491.02 shall keep the Industrial Commission's Certificate of Inspection at the same location as the elevator, dumbwaiter, escalator, moving walk, or related equipment and make the certificate available for inspection and copying upon request.

R20-5-506. Recordkeeping

~~A. The Elevator Safety Section shall assign an identification number to every elevator, dumbwaiter, escalator, and moving walk. Every elevator shall have an identification number, which shall be assigned by the Elevator Section, for recordkeeping purposes. The identification number shall be on a tag that is which shall be located as to be available for inspection on the controller or mainline disconnect.~~

~~B. The Elevator Safety Section enforcing authority shall be notified by the owner or operator, before prior to any installations installation, relocation, or major alteration of an elevator, escalator, dumbwaiter, moving walk, material lift, wheelchair lift, stairway chairlift, platform lift, or dumbwaiter with automatic transfer device within the state. Such notification shall be made as required by the enforcing authority.~~

~~C. The enforcing authority shall be notified, by the building owner or manager or representative shall notify the Elevator Safety Section immediately of every elevator accident involving personal injury or disabling damage to the an elevator, escalator, dumbwaiter, moving walk, material lift, wheelchair lift, stairway chairlift, platform lift, or dumbwaiter with automatic transfer device.~~

R20-5-507. Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, ~~Wheelchair Lifts, and Stairway Chairlifts~~

~~A. Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift or dumbwaiter with an automatic transfer device, wheelchair lift, or stairway chairlift installed on or after the effective date of this Section shall comply with the ASME A17.1-1996 2000 Safety Code for Elevators and Escalators, which is incorporated by reference and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or revisions to ASME A17.1 published after December 31, 1996 March 23, 2001. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>. Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift, or dumbwaiter with an automatic transfer device, wheelchair lift, or stairway chairlift installed before prior to the effective date of this Section shall comply with the ASME A17.1 Safety Code for Elevators and Escalators in effect at the time of installation or, as an alternative, may comply with ASME A17.1-1996 2000.~~

~~B. Existing installations may have the in-car stop switch modified as per ASME/ANSI A17.1-1987, Rule 210.2v, with proper notification to the Industrial Commission, Elevator Section.~~

R20-5-508. ~~The American National Standards Institute Safety Requirements for Manlifts, A.N.S.I., A90.1-1976~~ Safety Standards for Belt Manlifts

Every owner or operator ~~under pursuant to~~ A.R.S. § 23-491.02 shall comply with the standards of the American National Standards Institute Safety Requirements Standard for Belt Manlifts, A.N.S.I., A90.1-1976 ASME A90.1-1997, with amendments approved on as of May 31, 1979 February 28, 1997, which are hereby adopted and is incorporated by reference as if set forth fully herein and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or revisions to ASME A90.1 published after February 28, 1997. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>.

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R20-5-509. ~~The American National Standards Institute Safety Requirements for Personnel Hoists, A.N.S.I., A10.4-1984~~ Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations

Every owner or operator ~~under pursuant to~~ A.R.S. § 23-491.02 shall comply with the standards of the American National ~~Standards~~ Standard Institute Safety Requirements for Personnel Hoists ~~and Employee Elevators for Construction and Demolition Operations~~, A.N.S.I., A10.4 ~~1984~~ 1990, which is ~~hereby adopted and~~ incorporated by reference as if set forth fully herein. ~~(Copy of this standard is on file with the Secretary of State.)~~ and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or revisions to ANSI A10.4 1990 published after December 7, 1990. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at Three Park Avenue, New York, NY 10016-5990 or at [http:// www.asme.org/](http://www.asme.org/).

R20-5-510. ~~The American National Standards~~ Standard Institute, Safety Requirements for Material Hoists, A.N.S.I., A10.5-1981

Every owner or operator ~~under pursuant to~~ A.R.S. § 23-491.02 shall comply with the standards of the American National ~~Standards~~ Standard Institute Safety Requirements for Material Hoists, A.N.S.I., A10.5-1981, which is ~~hereby adopted and~~ incorporated by reference as if set forth fully herein. ~~(Copy of this standard is on file with the Secretary of State.)~~ This incorporation by reference does not include amendments or revisions to ANSI A10.5, 1981, as published after June 29, 1981. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at Three Park Avenue, New York, NY 10016-5990 or at [http:// www.asme.org/](http://www.asme.org/).

R20-5-511. ~~The American National Standard Practice for the Inspection of Elevators, Escalators and Moving Walks, Inspectors' Manual, A.N.S.I. A17.2-1979~~ The American National Standard Institute, Guide for Inspection of Elevators, Escalators, and Moving Walks, A.S.M.E., A17.2 - 2001

Every Elevator Inspector ~~under pursuant to~~ A.R.S. § 23-491.05 shall use the American National Standard ~~Practice for the Inspection of Elevators, Escalators and Moving Walks, Inspectors' Manual, A.N.S.I. A17.2-1979~~ and its supplement A.N.S.I. A17.2a-1980 as a practical guide for the inspection and testing of conveyances ~~Institute, Guide for Inspection of Elevators, Escalators, and Moving Walks, A.S.M.E., A17.2 - 2001~~, which are ~~hereby adopted and~~ is incorporated by reference as if set forth fully herein. ~~(Copies of these standards are on file with the Secretary of State.)~~ and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or revisions to ASME A17.2.1, 2001 published after December 31, 2001. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at Three Park Avenue, New York, NY 10016-5990 or at [http:// www.asme.org/](http://www.asme.org/).