

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- 1. Sections Affected**

R4-23-655	Amend
R4-23-1102	Amend
R4-23-1103	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-1904(A)(1) and (2) and (B)(3) and (7)
Implementing statutes: A.R.S. §§ 32-1932.01, 32-1924, 32-1925, 32-1929, 32-1930, 32-1931, 32-1934, and 41-1073
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 2082, May 21, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rules:**

Name:	Dean Wright, Compliance Officer
Address:	Board of Pharmacy 4425 W. Olive Ave., Suite 140 Glendale, AZ 85302
Telephone:	(623) 463-2727, Ext. 131
Fax:	(623) 934-0583
E-mail:	rxcop@cox.net
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The Board made changes to R4-23-609 effective January 3, 2004 that created an incorrect citation in R4-23-655. R4-23-655 is amended to cite the correct subsection of R4-23-609. During the final review of the pharmacy technician rules in February 2004, G.R.R.C. staff noted that there were no time-frames in R4-23-1102 and R4-23-1103 for licensure of pharmacy technicians and pharmacy technician trainees. G.R.R.C. staff allowed the rules to proceed with assurances from Board staff that a docket would be opened after the rules were effective to add time-frame language to R4-23-1102 and R4-23-1103. The proposed rules amend R4-23-1102 and R4-23-1103 to include licensure time-frames for both pharmacy technicians and pharmacy technician trainees. The rules include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the standards for a hospital pharmacy's physical facility and licensure time-frames for pharmacy technicians and pharmacy technician trainees.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

None

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

Not applicable

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

The proposed rules will impact the Board, pharmacy technicians, pharmacy technician trainees, and pharmacies. The proposed rules' impact on the Board will be the usual rulemaking-related costs which are minimal. The proposed rules will have no economic impact on pharmacies. The proposed rules will only have an economic impact on a pharmacy technician or pharmacy technician trainee if the Board does not comply with the licensure time-frames established in the rules. If the Board does not comply with the licensure time-frame, the affected pharmacy technician or pharmacy technician trainee would be entitled to a refund of the licensure fee. It is unlikely that the Board will not meet the established time-frames. The proposed rules have no economic impact on the public.

The public, Board, pharmacists, and pharmacies benefit from rules that are clear, concise, and, understandable. The proposed rules benefit the public, the Board, and the pharmacy community by clearly establishing the standards for a hospital pharmacy's physical facility and licensure time-frames for pharmacy technicians and pharmacy technician trainees.

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

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, Ext. 131
Fax: (623) 934-0583
E-mail: rxcop@cox.net

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

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, August 30, 2004. An oral proceeding is scheduled for:

Date: August 30, 2004
Time: 10:00 a.m.
Location: 4425 W. Olive Ave., Suite 140
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed above.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section

R4-23-655. Physical Facility

ARTICLE 11. PHARMACY TECHNICIANS

Section

R4-23-1102. Pharmacy Technician Licensure

R4-23-1103. Pharmacy Technician Trainee Licensure

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-655. Physical Facility

- A. No change
- B. No change
- C. No change
- D. Hospital pharmacy area. A hospital pharmacy permittee shall ensure that the hospital pharmacy area is enclosed by a permanent barrier or partition from floor to ceiling with entry doors that can be securely locked, constructed according to R4-23-609(F)(4).
- E. No change

ARTICLE 11. PHARMACY TECHNICIANS

R4-23-1102. Pharmacy Technician Licensure

- A. No change
- B. Licensure time-frames.
 - 1. Within ~~seven~~ three business days of receipt of a ~~completed~~ an application, fees, and other information specified in subsection (A), the Board office shall ~~determine whether the application is complete~~ an administrative completeness review.
 - a. If the application is incomplete, the Board office shall provide a comprehensive list of the missing information. The three-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 - b. If the Board office does not provide the applicant with notice regarding administrative completeness, the application is deemed complete three days after receipt by the Board office.
 - 2. An applicant with an incomplete application shall submit all of the missing information within 30 days of service of the notice of incompleteness.
 - a. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office post-marked or delivered no later than 30 days from service of the notice of incompleteness.
 - b. The written request for an extension shall document the reasons the applicant cannot meet the 30-day deadline.
 - c. The Board office shall review the request for an extension of the deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request according to subsections (B)(2)(a) and (B)(2)(b).
 - 3. If an applicant fails to submit a complete request within the time allowed, the Board office shall close the applicant's file. An applicant whose application file is closed and who later wishes to obtain a license shall apply again according to subsection (A)(2).
 - 4. If the application is complete From the date on which the administrative completeness review of an application is finished, the Board shall assess whether the applicant is qualified under statute and rule complete a substantive review of the application in no more than four business days.
 - a. The Board shall:
 - i. Approve the application,
 - ii. Deny the application, or
 - iii. If the Board determines deficiencies exist, request that the applicant produce additional documentation.
 - b. If the applicant is qualified Board approves, the Board office shall issue a license number and mail a license to the applicant.
 - c. If the Board denies, the Board office shall issue a written denial.
 - d. If the Board finds deficiencies during the substantive review of an application, the Board office shall issue a written request to the applicant for additional documentation.
 - e. The four-day time-frame for a substantive review of an application is suspended from the date the written request for additional documentation is served until the date of the next Board meeting after all additional documentation is received. The applicant shall submit the additional documentation according the subsection (B)(2).
 - f. If the applicant and the Board office mutually agree in writing, the four-day substantive review time-frame may be extended once for no more than four days.
 - 5. If the applicant fails to submit the additional documentation requested within the time allowed, the Board office shall close the applicant's file. An applicant whose application file is closed and who later wishes to obtain a license shall apply again according to subsection (A)(2).
 - 6. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for pharmacy technician

Notices of Proposed Rulemaking

licensure:

- a. Administrative completeness review time-frame: three business days;
- b. Substantive review time-frame: four business days; and
- c. Overall time-frame: seven business days.

C. Licensure. An applicant who is issued a license number may begin practice as a pharmacy technician. The Board office shall mail a wall license to the licensee within 14 days of issuing the license number.

~~E.~~D. License renewal. To renew a license, a pharmacy technician shall submit a license renewal form supplied by the Board with the biennial renewal fee specified in R4-23-205. The Board office will process the application for renewal in the same manner described in subsection (B).

~~E.~~E. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

R4-23-1103. Pharmacy Technician Trainee Licensure

A. No change

B. Licensure time-frames. For pharmacy technician trainee licensure, the Board office shall follow the time-frames established for pharmacy technician licensure in R4-23-1102(B).

C. Licensure.

- 1. ~~Within seven business days of receipt of a completed application, fees, and other information specified in subsection (A), the Board office shall determine whether the application is complete. If the application is complete, the Board shall assess whether the applicant is qualified under statute and rule. If the applicant is qualified, the Board office shall issue a license number and mail a license to the applicant.~~ An applicant who is issued a license number may begin practice as a pharmacy technician trainee. The Board office shall mail a wall license to the licensee within 14 days of issuing the license number. A pharmacy technician trainee license is valid for 24 months from the date issued.
- 2. A pharmacy technician trainee who does not complete the prescribed training program and pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee.

~~E.~~D. The Board may allow a pharmacy technician trainee whose license expires before the pharmacy technician trainee completes the prescribed training program and passes the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination to reapply for licensure not more than one time. A pharmacy technician trainee whose license has expired may make a special request to the Board under R4-23-401 for approval to reapply for licensure.

~~E.~~E. The Board shall base its decision to grant or deny a special request to reapply for licensure on an assessment of:

- 1. The reasons the pharmacy technician trainee did not complete a pharmacy technician training program and the likelihood that the pharmacy technician trainee will complete a pharmacy technician training program within the next 24 months,
- 2. The reasons the pharmacy technician trainee failed the pharmacy technician examination and the likelihood that the pharmacy technician trainee will pass the pharmacy technician examination within the next 24 months, and
- 3. Other extenuating circumstances.

NOTICE OF PROPOSED RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. Sections Affected

R19-2-126

Rulemaking Action

New Section

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

Authorizing statute: A.R.S. §§ 5-104(A)(2) and (T)

Implementing statute: A.R.S. § 5-104(G)

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

Notice of Rulemaking Docket Opening: 10 A.A.R 2440, June 18, 2004

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

Notices of Proposed Rulemaking

Name: William J. Walsh
Address: Department of Racing
1110 W. Washington St., Suite 260
Phoenix, AZ 85007
Telephone: (602) 364-1700
Fax: (602) 364-1703

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

An amendment to A.R.S. §§ 5-104(G) authorized a horse adoption program. The law also directed the Arizona Racing Commission to adopt rules and an application program to oversee the program.

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

The agency relied on an analysis of the greyhound adoption program in this rulemaking.

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

None

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

A five percent surcharge to civil penalties collected by the Department of Racing will be applied to the program. This surcharge will affect those licensees who have violated the rules. This cost is estimated to be \$2,500 per year. The Department will incur costs in time to oversee this mandate. The costs to the Department are not known at this time.

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

Name: William J. Walsh
Address: Department of Racing
1110 W. Washington St., Suite 260
Phoenix, AZ 85014
Telephone: (602) 364-1725
Fax: (602) 364-1703

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

The Arizona Department of Racing will conduct an oral proceeding on the proposed rule if a written request is submitted to the person named in item #4 within 30 days after the date this notice is published. The Arizona Racing Commission will consider the rules at an open meeting at least 30 days following the publication of this notice. The Department will accept written comments on the proposed rule for at least 30 days following publication of this notice.

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

None

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

None

13. The full text of the rules follow:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section

R19-2-126. Race Horse Adoption Grants

ARTICLE 1. HORSE RACING

R19-2-126. Race Horse Adoption Grants

Notices of Proposed Rulemaking

- A.** The purpose of the grants is to promote the adoption of retired race horses. A maximum of 100% of the retired race horse adoption surcharge funds generated from A.R.S. § 5-104(G) shall be distributed to nonprofit enterprises pursuant to A.R.S. § 5-104(G).
- B.** Procedures.
1. The enterprise shall submit a Department-generated application form to the Commission by March 1 of each year the enterprise may desire to apply for a grant. The application form shall require the following information:
 - a. A written description of the enterprise and proposed use of the grant;
 - b. Proof of nonprofit status;
 - c. A description of its procedures to acclimate the horses required by R19-2-126(C)(6);
 - d. A description of its adoption procedures required by R19-2-126(C)(7);
 - e. A copy of the application form and the adoption agreement required by R19-2-126(C)(7)(a) and (c); and
 - f. A copy of the owner release form required by R19-2-126(C)(9).
 2. The Commission shall decide which enterprise shall receive a grant, the amount of the grant, and the date of disbursement of such grant.
 3. The recipients of the grants shall report quarterly to the Commission on a form provided by the Department to gather the following information:
 - a. The number of horses the enterprise received;
 - b. The number of horses adopted;
 - c. The number of horses returned and reason for return;
 - d. The actual use of the grant; and
 - e. A list of people who adopted the horses, or make available to the Department copies of the contracts between the agency and the adoptee.
- C.** Minimum qualifications.
1. The enterprise shall be nonprofit.
 2. The enterprise shall not:
 - a. Allow the horses to be used for racing, wagering, or hunting;
 - b. Place the horses with a humane society or research facility;
 - c. Resell the horses; or
 - d. Place the horses for resale.
 3. The enterprise shall not euthanize an adoptable horse unless, as determined by a licensed veterinarian, it is medically necessary for humane reasons.
 4. The enterprise shall be affiliated with a racetrack that conducts horse racing. Affiliation is satisfied when the general manager, or other executive from the racetrack submits to the Commission a written recommendation on behalf of the enterprise.
 5. The enterprise shall require that a licensed veterinarian perform a complete check-up on each horse. Each horse shall be neutered and vaccinated as necessary.
 6. The enterprise shall employ procedures for acclimating horse, which include:
 - a. Exposure to the public;
 - b. Exposure to a new diet.
 7. The enterprise shall employ procedures for adopting-out horses, which include:
 - a. An application process for prospective adoptees;
 - b. A visual check of each prospective adoptee's farm with written documentation;
 - c. A written adoption agreement between the enterprise and adoptee;
 - d. At a minimum, follow-ups conducted by phone, or visit after seven days and 30 days with written documentation; and
 - e. Procedures for the return of the horses.
 8. The enterprise shall have an owner release form for each horse in their care.
 9. The enterprise shall make available a person to answer questions from a prospective, or current adoptee.
 11. The enterprise shall keep a file on each horse. The file shall include:
 - a. The owner release form;
 - b. The vaccination record, health record, and neuter record;
 - c. The horse personality profile;
 - d. The written adoption agreement between the enterprise and adoptee;
 - e. The written documentation of visits and follow-ups; and
 - f. The adoptee's application form.
 12. The enterprise shall make available to the adoptee an owner's manual, or other packet of information.
 13. Records required by R19-2-126(C)(11) shall be subject to inspection by representatives of the Department.

Notices of Proposed Rulemaking

Name: Margaret McClelland
Address: Department of Insurance
2910 N. 44th St., Second Floor
Phoenix, AZ 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452

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

ADOI will hold an oral proceeding to receive public comments in accordance with A.R.S. § 41-1023 on Wednesday, September 1, 2004, at 10:00 a.m. at the Department of Insurance, 2910 North 44th Street, Phoenix, Arizona, 3rd floor training room. ADOI will accept written comments that are received by 5:00 p.m. on, Friday, September 3, 2004, or which are postmarked by that date. The comment period will end and the record will close at 5:00 p.m. on Friday, September 3, 2004.

ADOI is committed to complying with the Americans with Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADOI at least 72 hours before the hearing.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 20. CAPTIVE INSURERS

Section

R20-6-2002. Fees; Examination Costs

ARTICLE 20. CAPTIVE INSURERS

R20-6-2002. Fees; Examination Costs

- A. A corporation applying for a license to do business as a captive insurer, as defined in A.R.S. § ~~20-1098(4)~~ 20-1098(5), shall pay a nonrefundable fee of \$1,000.00 to the Department for issuance of the license. A protected cell captive insurer, as defined in A.R.S. § 20-1098(14), shall also pay to the Department a nonrefundable fee of \$1,000 for issuance of each license for each protected cell. The fee is payable in full at the time the applicant submits the application for license to the Department under A.R.S. § 20-1098.01.
- B. A captive insurer shall pay a nonrefundable annual renewal fee of \$5,500.00 to the Department at the time of filing its annual report under A.R.S. § 20-1098.01(G). A protected cell captive insurer shall pay to the Department a nonrefundable annual renewal, fee of \$2,500.00 for each protected cell at the time of filing its annual report under A.R.S. § 20-1098.05(B)(6).
- C. In addition to the fees prescribed in subsections (A) and (B), an applicant for a captive insurer license or a licensed captive insurer shall pay the costs of any examination conducted by the Director, in accordance with A.R.S. § 20-1098.06.