

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 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS

[R05-74]

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R4-12-120 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. §§ 32-1307(A)(5)(h)
Implementing statutes: A.R.S. §§ 32-1383(C)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 411, January 14, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rules:**
Name: Rodolfo R. Thomas, Executive Director
Address: Board of Funeral Directors and Embalmers
1400 W. Washington, Room 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
E-mail: rudy.thomas@funeral.bd.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
The Board is proposing a rule that sets out its inspection procedures for funeral establishments and crematories as required by A.R.S. §§ 32-1307(A)(5)(h) and 32-1383(C) and to comply with the Auditor General's recommendation in its 03-04 report.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the proposed rule, and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**
The Board did not rely on any study.
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of a political subdivision of the state:**
Not applicable
- 8. The preliminary 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 Board bears moderate costs for writing the rule for its inspection procedures and related economic, small business, and consumer impact statement and minimal costs for mailing the new rule to interested persons.

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The rule should not impose additional costs on an applicant for a funeral establishment or crematory license or on a licensee but will benefit the applicant or licensee because the rule sets out clear and consistent inspection procedures. Approximately 65% of funeral establishment and crematory licensees are small businesses.

Consumers benefit from the rule because the rules assure that the consumer has the satisfaction of knowing that a funeral establishment or crematory is being inspected for conformance with A.R.S. § Title 32, Chapter 12 and its rules in A.A.C. Title 4, Article 12.

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: Rodolfo R. Thomas, Executive Director
Address: Board of Funeral Directors and Embalmers
1400 W. Washington, Room 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
E-mail: rudy.thomas@funeral.bd.state.az.us

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

An oral proceeding will be conducted by the Board at the following location in the state for the purpose of taking oral and written testimony on the proposed rule from members of the public.

Date: April 11, 2005
Time: 9:00 a.m.
Location: 1400 W. Washington, B-1 Conference Room
Phoenix, AZ 85007

The public record on the proposed rulemaking will close at 5:00 p.m. on April 11, 2005.

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS

ARTICLE 1. GENERAL PROVISIONS

Section
R4-12-120. Inspection Procedures

ARTICLE 1. GENERAL PROVISIONS

R4-12-120. Inspection Procedures

A. Before issuing an initial funeral establishment or crematory license and as required by A.R.S. §§ 32-1307(A)(5)(h) and 32-1383(C), the Board shall complete an inspection of the funeral establishment or crematory that includes:

1. Reviewing equipment and the physical plant;
2. Interviewing personnel;
3. For a funeral establishment, inspecting for compliance with A.R.S. § Title 32, Chapter 12 and A.A.C. Title 4, Chapter 12; and
4. For a crematory, inspecting the crematory for compliance with A.R.S. § Title 32, Chapter 12 and A.A.C. Title 4, Chapter 12.

B. The Board shall make a verbal report of findings to an applicant or licensee upon completion of an inspection.

C. Within 15 days after the completion date of the inspection, the Board shall send to the applicant a written report of its findings that includes:

1. A statement that no deficiencies were found, or
2. If deficiencies are found:
 - a. A list of any deficiencies identified during the inspection.
 - b. A citation to each statute or rule that has not been complied with.
 - c. A request for a written plan of corrections, and
 - d. The time-frame for correcting any deficiencies.
- D. Within seven days after receiving a request for a written plan of corrections, an applicant or licensee shall submit to the Board a written plan of correction that includes for each identified deficiency:
 1. How the deficiency will be corrected, and
 2. The date each deficiency will be corrected.
- E. The Board shall accept a written plan of correction if it:
 1. Describes how each deficiency will be corrected to bring the funeral establishment or crematory into compliance with A.R.S. § Title 32, Chapter 12, and A.A.C. Title 4, Chapter 12
 2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.
- F. The Board shall provide an applicant or licensee with the opportunity to correct the deficiencies unless the Board determines the deficiencies are:
 1. Committed with knowledge that they are deficiencies;
 2. Evidence of a pattern of noncompliance with A.R.S. § Title 32, Chapter 12 or A.A.C. Title 4, Chapter 12; or
 3. A risk to the public health, safety, or welfare.
- G. If an applicant or licensee does not correct deficiencies within the time-frame approved by the Board, the Board may:
 1. Extend the time-frame if requested by the applicant or licensee for situations beyond the control of the licensee, or
 2. If the applicant or licensee refuses to correct the deficiencies, take the disciplinary actions stated in A.R.S. § 32-1390.01 or A.R.S. § 32-1398.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

[R05-75]

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R4-20-112 Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule are implementing (specific):**
Authorizing statute: A.R.S. § 32-1673.
Implementing statute: A.R.S. §§ 32-1671, 32-1672, 32-1673, 32-1674, 32-1681, 32-1682, 32-1683, 32-1684, 32-1684.01, 32-1685, 32-1686, 32-1687, 32-1691, 32-1691.01, 32-1693, 32-1694, 32-1695, 32-1695, 32-1696, 32-1697, 32-1698, 32-1699
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 619, February 4, 2005
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Lori D. Scott, Executive Director
Address: 1400 W. Washington, Rm 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
E-mail: director@asbdo.state.az.us
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The rules provide detailed licensing and regulatory information and procedural instructions. The Board is amending the proposed rules for clerical clarification and adding a more expanded scope of opticianry.

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6. A reference to any study relevant to the rule that the agency reviewed and either proposed to rely on or not 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

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

The proposed amendments do not diminish a previous grant of authority of a political subdivision of this state.

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

This rulemaking will impact applicants with the clarification of examination fees. The Board anticipates minimal to no impact on licensees or consumers with the amendments proposed.

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

Name: Lori D. Scott, Executive Director

Address: 1400 W. Washington, Rm 230
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

E-mail: director@asbdo.state.az.us

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

No oral proceedings are scheduled.

Written comments will be accepted by the Board office, Monday through Friday 8:00 a.m. – 5:00 p.m. no later than 5:00 p.m. March 30, 2005

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

ARTICLE 1. IN GENERAL

Section
R4-20-112. Fees

ARTICLE 1. IN GENERAL

R4-20-112. Fees

A. Dispensing optician fees, which are non-refundable unless A.R.S. § 41-1077 applies, are as follows:

1. License application fee ~~\$75~~ \$100
2. License issuance fee ~~\$75~~ \$100
3. Renewal of dispensing optician license ~~\$400~~ \$135

B. Optical establishment license fees are as follows:

1. License application fee \$100
2. License issuance fee \$100
3. Renewal of optical establishment license ~~\$400~~ \$135