

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 19. BOARD OF NURSING

[R05-115]

PREAMBLE

1. Sections Affected

R4-19-801
R4-19-802
R4-19-803
R4-19-804
R4-19-805
R4-19-806
R4-19-807
R4-19-808
R4-19-809
R4-19-810
R4-19-812
R4-19-813
R4-19-814
R4-19-815

Rulemaking Action

Amend
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. §§ 32-1606(A)(1), (B)(2), (B)(8), and (B)(11)

Implementing statutes: A.R.S. §§ 32-1601(7), (10) and (16); 32-1606(B)(16); 32-1609(C); 32-1643(A)(11) and (12); 32-1645; 32-1646; 32-1647; 32-1648; 32-1649; 32-1663(A), (B), (C), (F), and (G); 32-1663.01; and 32-1664

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 1626, April 23, 2004

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

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

The Board is initiating rulemaking on Article Eight as part of its strategic plan to improve regulatory effectiveness, and to clarify and update certified nursing assistant rules. The Board strives to adopt and enforce rules that reflect current standards for practice and education. Since the adoption of Article Eight, the Board has become aware of emerging issues concerning nursing assistant education and practice. The current rules, while adequate for enforcement and public protection, need additional clarity regarding Board standards for both consumers and nursing assistants. Addi-

tionally, several provisions of the current rules may create unnecessary regulatory barriers or are insufficient to ensure effective certified nursing assistant (CNA) education and safe practice.

In 1992, the Arizona legislature, in A.R.S. § 32-1606 (B)(11), authorized the Board to administer the federal requirements in 42 C.F.R. 483 as they pertain to certified nursing assistants and certified nursing assistant programs. Because the federal requirements pertain to nursing assistants working in long term care facilities, the rules and amendments reflect the long-term care environment where patients are referred to as “residents”. The Board is aware that certified nursing assistants also work in other settings. The Board has maintained a registry of certified nursing assistants and approved nursing assistant programs since 1992.

Rule changes are summarized below.

R4-19-801

The Board is amending this rule to clarify the expectations for nursing assistant programs. Enhancements to subsection (A) include test re-take policy rules, standards for faculty supervision of students in the clinical setting, and a non-traditional option for an experienced nursing assistant to demonstrate competency. These changes are expected to provide clearer standards, yet allow for innovation and programmatic control of educational decisions. Subsection (C) delineates the amount and type of clinical experiences that are appropriate for a CNA program. The Board expects a CNA program to provide clinical experiences in long-term care settings except where such an experience is geographically unfeasible and a comparable alternative experience exists. The Board, upon the advice of CNA educators, is also specifying the supplies and equipment needed by a CNA program to simulate patient care in a practice laboratory setting. The Board believes that a nursing assistant student must demonstrate competency in patient care skills within a safe, controlled, realistic laboratory setting before performing the skills on a resident. The Board added subsection (E) to this rule to require a program to notify the Board when making significant changes to a program. This provision is to ensure that programmatic changes are consistent with rule requirements.

R4-19-802

Upon the advice of CNA educators, the Board amended this rule to clarify the curriculum elements needed in a CNA program. The federal requirements (42 C.F.R. 483. 152) are also included. These amendments will enhance the understanding of and compliance with both state and federal law by incorporating all elements into one regulation. The Section further explains what types of documentation are needed to develop a curriculum, such as learner-centered objectives and a content outline. These have been lacking in many programs in the past. Standards requiring a current nursing assistant textbook have also been included. The length of didactic, clinical instruction, and traineeships are also specified in this Section.

R4-19-803

Amendments were made in this Section to improve clarity and understandability. A significant feature of this Section allows the Board to grant one-year initial approval to a CNA program without a site visit. This is consistent with federal regulations and will allow the Board to approve programs in remote rural areas or with ambitious time-frames without the delay involved in conducting an onsite visit.

R4-19-804

This Section was amended to require renewing programs to submit of a full set of documents. Previously, only changes to curriculum, policies, and course instructors were required. It was discovered that many programs did not adequately track changes and had, in fact, changed without including changes in the renewal application. Due to the rapid turnover rate of instructors and coordinators in CNA programs, it was determined that it would be more efficient if all documents were provided for each renewal period. Upon receipt of the documents, Board staff may determine, based on the rule requirements, whether an onsite visit or a telephone visit to the entity offering the program is warranted. The Board is also requiring that renewing programs have at least one graduate who takes the manual skills and written competency examinations. There are many approved programs that graduate large numbers of students who never certify because they either take the course as a pre-requisite for a nursing program or do not need to be certified for their job. The Board believes it has no regulatory role and is exceeding the intent of the statute, rule, and federal regulations in approving such programs. Subsection (D) allows the Board to impose a moratorium period after denial. Programs have mechanisms to avoid a denial including withdrawal of the application under R4-19-104(E) or compliance with the rules. Previously there were no adverse consequences to denial and a denied program could re-apply under time-frame rules and be reviewed again in 90 days, imposing an administrative burden upon the Board.

R4-19-805

This Section clarifies the grounds for rescission of approval of a nursing assistant program. Causes for rescission, in addition to violation of other Sections of this Article, include: loaning program approval to another entity, conducting a nursing assistant training program before Board approval, or conducting a nursing assistant program after the expiration of approval unless without applying for re-approval. As in the previous rule, the period of rescission is 2 years. This is consistent with sanctions imposed upon a facility for a violation of federal regulations; the facility is prohibited from conducting a nursing assistant program for 2 years.

R4-19-806

Minor changes were made in this Section to be consistent with current application policies of the Board.

R4-19-807

Amendments to this Section provide a mechanism for persons who completed a nursing assistant program of less than 120 hours to meet qualifications for licensure through work experience as a CNA. This will reduce the perceived barriers and frustration experienced by current applicants who must either re-train or seek a preceptorship at a long-term care facility if their program was less than 120 hours. Preceptorships for endorsement applicants are difficult to locate. Federal regulations require a minimum 75-hour program. Nursing assistants that were certified before the 120 hour-requirement must have performed a minimum of 160 hours of nursing assistant duties in the past 2 years to renew or qualify for endorsement.

R4-19-808

The period for a temporary certificate was reduced to three months. The Board receives very few applications for temporary certificate because of the timely processing of fingerprints by the FBI. Three months is an adequate time-frame to complete the application process and receive fingerprint results for the overwhelming majority of temporary certificate applicants.

R4-19-809

Formatting and grammatical changes were made to this Section. Changes consistent with current application procedures were also made. The Board specified that nursing assistants must engage in nursing assistant duties for at least 160 hours every 2 years to qualify for renewal of a CNA certificate. This is consistent with one-month full time employment and is considered by the Board to be the minimal amount of practice needed to maintain skills and protect the public.

R4-19-810

Formatting and grammatical changes were made to this Section.

R4-19-812

Formatting and grammatical changes were made to this Section.

R4-19-813

Formatting and grammatical changes were made to this Section.

R4-19-814

This Section clarifies those acts by CNAs, which are or could be detrimental to the health, safety, and welfare of the public. The Board receives many complaints of emotional and financial harm to vulnerable residents that revolve around a CNA's inability to recognize role boundaries. Boundary violations and dual relationships are clearly defined and prohibited when the patient is at risk for exploitation or abuse. Other amendments to this Section include: requiring patient record entries and employment applications to be truthful, describing failure to cooperate with the Board, incorporating the provisions of A.R.S. § 32-3208, and reporting felony convictions.

R4-19-815

This Section was amended to clarify that the Board has the authority to require evaluations before reinstatement of a CNA certificate. A C.N.A. who voluntarily surrenders the CNA certificate is not eligible to apply for a period of five years.

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 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

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

Not applicable

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

The Board of Nursing licenses approximately 57,000 registered nurses, and 10,000 licensed practical nurses and certifies approximately 25,000 nursing assistants. Additionally the Board oversees 20 nursing programs and approximately 150 nursing assistant programs. In fiscal year 2004, the Board received 4036 applications for CNA by exam and 925 applications by endorsement. There were 752 complaints opened against certified nursing assistants. The Board processed 40 renewal and 12 initial CNA program applications.

Notices of Proposed Rulemaking

This rulemaking is not expected to have a direct economic impact on any regulated entity. The Board does not charge a fee for nursing assistant program approval; funds are received from the Department of Health Services (DHS) and The Arizona Health Care Cost Containment System (AHCCCS) to cover some of the costs.

The Board does not anticipate any increased costs to applicants for certification.

Nursing assistant programs may incur some indirect costs related to this rulemaking. Due to the more specific curriculum requirements, some nursing assistant programs may have to adjust their schedules to provide 60 hours of didactic instruction or seek contracts with long-term care facilities for clinical instruction. Nursing assistant programs that have not developed a curriculum will need to formulate objectives, content outlines, and learning activities consistent with sound educational practices. Nursing assistant programs may also incur an additional expense of copying and preparing documents to submit for renewal. All these expenses are outweighed by the benefit to students and consumers of a well-developed curriculum, adequate didactic instructional time, and appropriate clinical experiences.

If a nursing assistant program in a remote or rural area does not currently require a long-term care clinical experience, nursing assistant students may incur additional travel expenses to reach a clinical site. The travel distance is limited to a 50-mile radius if there are other suitable clinical experiences within the area. There are only two programs, both located in Page, that do not have suitable long-term care or other clinical experiences within a 50-mile radius. Currently, those students travel to Flagstaff for clinical experiences in long-term care.

A direct economic impact is not anticipated on the regulated nursing assistant population. Nursing assistants will benefit from the information and guidance provided by the increased clarity of the standards. The endorsement options for nursing assistants whose training programs were less than 120 hours should alleviate the current frustration experienced by applicants who need preceptorships or re-training under current rules.

The Board is expected to benefit from the proposed rulemaking. The ability to conduct a telephonic conference visit rather than an in-person visit of a nursing assistant program will decrease administrative costs associated with CNA program renewal. Allowing the Board to approve a program for one year without a site-visit will decrease administrative costs and allow the programs to begin in a timely manner. Staff time may be utilized more efficiently when the reviewing consultant is able to examine all current documents in renewal applications before the site visit, instead of examining years of documents to verify rule compliance or requiring that documents be copied at the time of the site visit.

The public is expected to benefit in a number of ways. Clarity in standards of conduct will serve to inform the public, employers, and nursing assistants of the expected parameters of nursing assistant practice. An endorsement applicant, who utilizes work experience to meet some training requirements, will be employed more rapidly and be available to meet resident or patient needs in a time of health care personnel shortages. Approving new programs for a year with a paper review will allow the Board to respond quickly to facility training needs. The enhanced standards for educational programs will assist programs to better educate nursing assistants to provide safe, effective care.

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:

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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:

The Board will hold an oral proceeding on May 18, 2005, at 3:00 p.m. in the Board offices at 1651 E. Morten, Ste 210, Phoenix, AZ 85020. The Board will accept written comments submitted to Joey Ridenour, RN, MN, Executive Director, 1651 E. Morten, Ste. 210, Phoenix, AZ 85020 until the close of record on May 19, 2005, at 5:00 p.m.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

ARTICLE 8. CERTIFIED NURSING ASSISTANTS

Section

- R4-19-801. Standards for Nursing Assistant Training Programs
- R4-19-802. ~~Standardized~~ Curriculum
- R4-19-803. Approval of Nursing Assistant Training Programs
- R4-19-804. Renewal of Approval of Nursing Assistant Training Programs
- R4-19-805. Deficiencies and Rescission of Program Approval, Voluntary Termination, Disciplinary Action, and Reinstatement
- R4-19-806. Nursing Assistant Certification by Examination
- R4-19-807. Nursing Assistant Certification by Endorsement
- R4-19-808. Temporary Certificate
- R4-19-809. Certified Nursing Assistant Certificate Renewal
- R4-19-810. Certified Nursing Assistant Register
- R4-19-812. Change of Name or Address
- R4-19-813. Performance of Nursing Assistant Tasks
- R4-19-814. Standards of Conduct for Certified Nursing Assistants
- R4-19-815. Reinstatement or Issuance of a Certified Nursing Assistant Certificate

ARTICLE 8. CERTIFIED NURSING ASSISTANTS

R4-19-801. Standards for Nursing Assistant Training Programs

A. Organization and administration

1. A nursing assistant training program shall provide a description of the program that includes ~~purpose, the length of the program, number of hours of clinical and classroom instruction, and program goals, and objectives, and meets consistent with~~ federal, state, and if applicable, private postsecondary requirements. The program shall provide a description that is consistent with the purpose, goals, and objectives of a parent institution, if any.
2. A nursing assistant training program ~~utilizing that uses~~ external clinical facilities shall ~~have execute~~ a written agreement ~~between the program and with each external clinical facility that. The agreement shall define the rights and responsibilities of the program and the clinical facility, including agreements on the role and authority of the governing bodies of both the clinical facility and the program.~~
 - a. Defines the rights and responsibilities of both the clinical facility and the program.
 - b. Defines the role and authority of the governing bodies of both the clinical facility and the program.
 - c. Allows the program instructor the right to select learning experiences for students, and
 - d. Contains a termination clause that provides sufficient time for enrolled students to complete the clinical experience upon termination of the agreement.
3. A nursing assistant training program shall ~~have promulgate~~ written policies and procedures that are consistent with ~~its the policies and procedures of the parent institution, if any, and contain an effective and renew date for each policy or procedure. The program shall provide a copy of its policies and procedures to each student on or before the first day of the program, and that meet federal, state, and if applicable, private postsecondary requirements. The program shall provide a regular schedule for the review of policies and procedures. The program shall develop and adhere to policies and procedures shall include in~~ the following areas:
 - a. Student attendance ensuring that a student receives 120 hours of instruction or the equivalent of 120 hours;
 - b. Student grading, including program completion criteria; requiring that a student either attain at least 75% on each theoretical exam, or 75% on a comprehensive theoretical exam;
 - c. Test retake, if retake tests are allowed, informing students that a retake test:
 - i. Addresses the competencies tested in the original test.
 - ii. Contains different items from the original test, and
 - iii. Is documented in the student's record;
 - e-d. Student record maintenance including information regarding records retention, retention period, records location, and documents required under subsection (C)(5);
 - e. Instructor supervision of students in the clinical area, providing for:

5. A program instructor's responsibilities for classroom and clinical instruction, excluding hours spent in a preceptorship, include the following For classroom and clinical, excluding hours spent in a traineeship, a program instructor shall:
 - a. ~~Participating in the planning of~~ Plan each learning experience;
 - b. ~~Ensuring that course objectives~~ Accomplish course goals and lesson objectives are accomplished;
 - c. ~~Requiring a grade of 75% or greater on all each theoretical examinations examination, test or quiz~~ Enforce a grading policy that meets or exceeds the requirements of subsection (A)(3)(b);
 - d. ~~Requiring a passing grade~~ Require satisfactory performance of all critical elements for satisfactory completion of all skills evaluations of each nursing assistant skill under R4-19-802 (D);
 - e. ~~Ensuring that students do not perform activities for which they have not received instruction and in which they have not been found competent,~~ Prevent a student from performing an activity unless the student has received instruction and been found to competently perform the activity;
 - f. ~~Supervising students giving~~ Supervise any student who provides care to clients in clinical areas, consistent with the requirements of subsection (A)(3)(e);
 - g. ~~Being~~ Be present in the classroom ~~at least 75% of the time during all instruction;~~ and
 - h. ~~Supervising~~ Supervise health care professionals and clinical instructors who assist in providing program instruction.
 6. A certified or licensed health care professional ~~may~~ shall not assist the program instructor if unless the health care professional has at least one year of experience in the field of licensure or certification and the learning activity is within the scope of practice of the licensee or certificate holder. A certified nursing assistant shall not provide classroom or clinical instruction in a nursing assistant training program.
- C. ~~Resources, ratio, Clinical requirements, resources, services, and records~~
1. A nursing assistant training program shall provide a minimum of one clinical instructor or professional nurse to student ratio of 1 to 10 for every 10 students for students caring if students perform one or more nursing assistant activities for a patient or resident directly for clients. The program shall ensure that the instructor is physically present in the health care setting during each performance of a nursing assistant activity for a patient or resident.
 2. ~~A program shall plan and schedule clinical experiences according to the course curriculum.~~
 - a. ~~The A nursing assistant training program shall include a~~ provide an instructor-supervised clinical experience for each nursing assistant student, which consists of at least 40 hours of direct patient or resident care, and includes at least 20 hours caring for long term care facility residents for each nursing assistant student. If there is no long term care facility available within a 50-mile radius of the program, the program may conduct clinical sessions in a health-care institution that provides experiences with patients or residents who have nursing care needs similar to those of long term care facility residents.
 - ~~b.3.~~ The A nursing assistant training program shall ensure that each nursing assistant student is identified as a student by a name badge or another means readily observable to staff, patients, or residents and treated as students and not utilized utilize students as staff while the students are enrolled in a nursing assistant training program during clinical and traineeship experiences.
 - ~~3-4.~~ A nursing assistant training program shall provide or have access to instructional and educational materials resources adequate to meet the needs of for implementing the program, for the planned number of students, and the instructional staff and shall include, including but not limited to:
 - a. ~~Current reference materials, related to the level of the curriculum, and;~~
 - b. ~~Instructional tools and equipment~~ Equipment in functional condition for simulating patient care, including:
 - i. A patient bed, over bed table, and nightstand;
 - ii. Privacy curtains and call bell;
 - iii. Thermometers, stethoscopes, including a teaching stethoscope, blood pressure cuffs, and a balance-type scale;
 - iv. Hygiene supplies, elimination equipment, drainage devices, and linens;
 - v. Hand washing equipment and clean gloves; and
 - vi. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
 - c. Audio-visual equipment and media; and
 - d. Designated space for didactic teaching and skill practice that provides a clean, distraction-free learning environment for accomplishing the educational goals of the program and is comparable to the space provided by a previously- approved program of similar size and type, if any;
 - 4-5. A nursing assistant training program shall maintain the following program records for three years that contain the following documentation:
 - a. Curriculum and course schedule for each cohort group;
 - b. ~~Classroom and supervised clinical hours~~ Results of state-approved written and manual skills testing; and

Notices of Proposed Rulemaking

- c. ~~Student participation in~~ Completed student program evaluation forms, a summary of the evaluations for each cohort group, and measures taken by the program, if any, to improve the program based on student and instructor evaluation; and
- d. A copy of any Board reports, applications, or correspondence, related to the program.

5-6. A nursing assistant training program shall maintain the following student records for three years that contain the following:

- a. Name ~~A record of the student's name, and~~ date of birth, and social security number, if available;
- b. Skills ~~A completed skill checklist;~~
- c. Attendance record, which describes any make-up class sessions;
- d. ~~Program examination score~~ Scores on each test, quiz, or exam and, if applicable, whether such test quiz or exam was retaken; ~~and~~
- e. For programs with traineeships, Copy of the documentation from the registered nurse supervising the traineeship issued to a training program, indicating that indicates the number of curriculum-hours satisfied by a preceptorship, completed and the performance of the student during the traineeship if applicable; and
- f. ~~Copy~~ A copy of the documentation certificate of completion issued to a the student upon successful completion of the training program, such as a certificate, transcript, or letter.

D. Periodic evaluation

- 1. A nursing assistant training program shall permit the Board, or a state agency designated by the Board, to conduct an onsite ~~onsite~~, scheduled evaluation for initial Board approval, as required by in accordance with R4-19-803, and renewal of approval, as required by in accordance with R4-19-804.
- 2. For reasonable cause, as determined by the Board, a nursing assistant training program shall permit the Board, or a state agency designated by the Board, to conduct an onsite ~~onsite~~ unannounced evaluation of the program.

E. A nursing assistant training program shall submit written documentation and information regarding the following changes within 30 days of instituting the change:

- 1. For a change or addition of an instructor or coordinator, the name, license number, and documentation of meeting coordinator or instructor requirements of this Section, as applicable;
- 2. For a decrease in the number of program hours, a description of the change, the reason for the change, a revised curriculum outline, and a revised course schedule;
- 3. For a change in classroom location, the address of the new location, if applicable, and a description of the new classroom;
- 4. For a change in a clinical facility, the name of the new facility and a copy of the clinical contract; and
- 5. For a change in the name or ownership of the facility, the former, present and new name of the facility.

R4-19-802. Standardized Curriculum

A. ~~The standardized curriculum content for a nursing assistant training program shall include material that will provide a basic level of both knowledge and demonstrable skills for each student completing the program.~~

B. ~~The standardized~~ A nursing assistant training program curriculum shall require a provide at least minimum number of 120 hours of instruction which can be met by the student completing either one of the following:

- 1. ~~An integrated~~ A 120 hour curriculum consisting of at least 60 hours of classroom instruction and with clinical instruction that satisfies the requirements of R4-19-801(C)(2); or
- 2. A curriculum of at least 60 hours of classroom instruction and 40 hours of supervised, clinical instruction that satisfies the requirements R4-19-801(C)(2), followed by a long-term care facility-based preceptorship traineeship, in which the student works with facility staff under the supervision of a licensed nurse to provide care for residents without an instructor onsite. The program coordinator shall ensure that the traineeship experience:
 - a. ~~consisting~~ Consists of as many hours as required to equal 120 hours or more of instruction, no more than 20 hours of the total 120 hours, and If a preceptorship takes place at a long term care facility other than the facility where the nursing assistant training program is located, the long term care facility where the preceptorship takes place shall provide documentation to the training program indicating the number of curriculum hours satisfied by the preceptorship.
 - b. Is verified by the supervising nurse in a written document that contains the number of hours provided through the traineeship and confirmation that the student has demonstrated required skills and abilities, competently performed nursing assistant functions, and met course objectives.

~~E.B.~~ A nursing assistant training program shall provide a written curriculum plan to each student that includes overall course goals and for each required subject:

- 1. Measurable learner-centered objectives,
- 2. An outline of the material to be taught,
- 3. The time allotted for each unit of instruction, and
- 4. The learning activities or reading assignments.

Notices of Proposed Rulemaking

- C. The standardized curriculum shall include classroom and clinical instruction in the following A nursing assistant training program shall provide classroom and clinical instruction regarding each of the following subjects:
1. Communication, and interpersonal skills, and documentation;
 2. Infection control;
 3. Safety and emergency procedures, including the Heimlich maneuver and cardiopulmonary resuscitation instruction;
 4. Client Patient or resident independence;
 5. Client Patient and resident rights, such as including: the
 - a. The right to confidentiality,
 - b. the The right to privacy, and
 - c. the The right to be free from abuse, mistreatment, and neglect,
 - d. The right to make personal choices,
 - e. The right to obtain assistance in resolving grievances and disputes,
 - f. The right to care and security of a patient's or resident's personal property, and
 - g. The right to be free from restraints;
 6. The need to report Recognizing and reporting abuse, mistreatment and or neglect to appropriate staff a supervisor;
 7. Basic nursing assistant skills, including:
 - a. Taking vital signs, height, and weight;
 - b. Maintaining a patient's or resident's environment;
 - c. Observing and reporting pain;
 - d. Assisting with diagnostic tests;
 - e. Providing care for patients or residents with drains and tubes;
 - f. Recognizing and reporting abnormal changes to a supervisor;
 - g. Applying clean bandages;
 - h. Providing peri-operative care; and
 - i. Assisting in admitting, transferring, or discharging patients or residents.
 8. Personal care skills, including:
 - a. Bathing, skin care, and dressing;
 - b. Oral and denture care;
 - c. Shampoo and hair care;
 - d. Fingernail care;
 - e. Toileting, perineal, and ostomy care; and
 - f. Feeding and hydration, including proper feeding techniques and use of assistive devices in feeding;
 9. Individual client needs including age specific Age specific, mental health, and social service needs, including:
 - a. Modifying the nursing assistant's behavior in response to patient or resident behavior,
 - b. Demonstrating an awareness of the developmental tasks associated with the aging process,
 - c. Responding to patient or resident behavior,
 - d. Promoting patient or resident dignity,
 - e. Providing culturally sensitive care,
 - f. Caring for the dying patient or resident, and
 - g. Interacting with the patient's or resident's family;
 10. Care of the cognitively impaired client patient or resident including:
 - a. Addressing the unique needs and behaviors of patients or residents with dementia,
 - b. Communicating with cognitively impaired patients or residents,
 - c. Understanding the behavior of cognitively impaired patients or residents, and
 - d. Reducing the effects of cognitive impairment;
 11. Skills for basic restorative services, including:
 - a. body Body mechanics;
 - b. Resident self-care;
 - c. Assistive devices used in transferring, ambulating, eating, and dressing;
 - d. Range of motion exercises;
 - e. Bowel and bladder training;
 - f. Care and use of prosthetic and orthotic devices; and
 - g. Family and group activities;
 12. Nursing Health care team member skills including time management and prioritizing work; and
 13. Legal aspects of nursing assistant practice, including:
 - a. Board-prescribed requirements for certification and re-certification;
 - b. Delegation,
 - c. Ethics,
 - d. Advance directives and do not resuscitate orders, and

Notices of Proposed Rulemaking

e. Standards of conduct under R4-19-814.

14. Body structure and function, together with common diseases and conditions of the elderly.

D. A nursing assistant training program shall require that provide a student receive with a minimum of 16 hours instruction in the subjects identified in subsections (C)(1) through (C)(6) prior to before allowing a student to care for clients patients or residents.

E. A nursing assistant training program shall utilize a nursing assistant textbook that has been published within the previous 5 years.

R4-19-803. Approval of Nursing Assistant Training Programs

A. An applicant for initial nursing assistant training program approval shall submit an application packet to the Board at least 90 days in advance of before the expected starting date of the program opening date. An applicant shall submit application documents that are unbound, typed or word processed, single-sided, and on white, letter-size paper. The Board does not accept notebooks, spiral bound documents, manuals, books, or tabulations.

B. The application packet for initial program approval shall include all of the following:

1. Name, address, and telephone number, and fax number of program;
2. Identity of the program as a long-term long term care facility-based or other program;
3. Name, license number, telephone number and qualifications of the program coordinator required in R4-19-801;
4. Name, license number, telephone number and qualifications of each program instructors instructor required in R4-19-801;

5. Name and telephone number of the person with administrative oversight of the nursing assistant training program;

5-6. Accreditation status of the applicant, if any, including the name of the accrediting body and date of last review;

6-7. Licensure status, if required, including name of licensing agency and the date of last review. Name, address, telephone number, contact person, Department of Health Services (DHS) status, and most recent DHS review for all health care institutions where program classroom or clinical instruction will take place.;

7-8. Medicare certification status, if any;

8-9. Evidence of compliance with R4-19-801 and R4-19-802, including all of the following:

- a. Program description, consistent with R4-19-801(A) (1) and an implementation plan, including timelines;
- b. Classroom facilities, equipment, and instructional tools available, consistent with R4-19-801(C)(4); and
- c. Standardized curriculum. Written curriculum, consistent with R4-19-802.
- d. A copy of the documentation that the program will use to verify nurse assistant skills for each student, consistent with R4-19-802;
- e. A copy of the document issued to the student upon completion of the program, consistent with R4-19-801(A)(5);
- f. Textbook author, name, year of publication, and publisher; and
- g. A copy of course policies, consistent with R4-19-801(A)(3) and, if applicable, R4-19-801(A)(4);

9-10. An affidavit For a Medicare or Medicaid certified long term care facility based program, a signed, sworn, and notarized document, executed by a program coordinator of a Medicare or Medicaid certified long term care facility, affirming that the program does not require a nursing assistant student to pay a fee for any portion of the program, including the state competency exam.

11. For a Medicare or Medicaid long term care facility based program, the actual price of a textbook and other loaned equipment, if the program charges a student who does not return these items upon course completion, and any commercially available standard uniform, watch, pen, paper, duty shoes, and other commonly available personal items that are required for the course, for which a student may incur an expense.

C. Following receipt and review of a complete application packet, the Board shall schedule an onsite evaluation of the program. take one of the following actions:

1. Schedule an onsite evaluation of the program and, if requirements are met, approve the program for a period not to exceed two years.
2. Approve the program for a period that does not exceed one year if requirements are met, without an onsite visit, or
3. Deny approval of the program if requirements are not met.

D. A program shall not enroll students prior to conduct classes before receiving program approval.

E. If approval is in the best interest of the public, the The Board shall grant initial approval to any applicant who meets the criteria set forth requirements in A.R.S. Title 32, Chapter 15, and in R4-19-801 and R4-19-802 this Article, and if approval is in the best interest of the public. If the Board denies approval, an applicant may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-804. Renewal of Approval of Nursing Assistant Training Programs

- A. A nursing assistant training program applying for renewal of approval shall submit an application packet to the Board ~~prior to before~~ expiration of the current approval. An applicant shall submit application documents that are unbound, typed or word processed, single-sided, and on white, letter-size paper. The Board does not accept notebooks, spiral bound documents, manuals, books, or tabulations.
1. The application packet shall include the following:
 - a. ~~Changes in the program~~ A program description and course goals since previous approval;
 - b. ~~Names Name, license number, and qualifications under R4-19-801 of the current faculty program coordinator and instructors, required in R4-19-801;~~
 - c. ~~Changes in course curriculum since previous approval~~ A copy of the current curriculum plan, which meets the requirements in R4-19-802;
 - d. Number of classes held, number of students who have completed the program, and the results of the state-approved written and manual skills tests, including first time pass rate since the last program review within the past two years;
 - e. A copy of course policies, consistent with R4-19-801;
 - ~~e-f. Changes~~ Any change in resources, contracts, and or clinical facilities in use since the previous approval; and
 - ~~f-g. Copy~~ A copy of current student program evaluation forms, a summary of the evaluations for each cohort group, and measures taken by the program, if any, to improve the program based on student and instructor evaluation;
 - h. A sample of the certificate of completion issued to a graduate of the program containing the information required by R4-19-801 (A) (5); and
 - i. Textbook author, name, year of publication, and publisher.
 2. Following receipt ~~and review of a complete~~ of the application packet, ~~the a Board representative shall schedule an onsite evaluation of the program~~ review the application packet for completeness under subsection (A)(1). In addition to the other requirements in this Section, an applicant shall provide evidence of at least one of the following to provide a complete application packet:
 - a. That at least one person has completed the program and the state-approved written and manual skills exam within the previous approval period;
 - b. If no graduates of the program completed the state-approved written and manual skills exam in the previous approval period, an explanation why Board approval is necessary for public protection, and a comprehensive plan to assist students to apply for testing and certification; or
 - c. If the program did not graduate any students in the previous approval period, a detailed plan including dates, marketing tools, and instructor name, which indicates that the program will be offered within the next 6 months.
 3. Upon receipt and review of a complete application packet the Board, through its authorized representative, shall evaluate the entity offering the program either in-person or by conference call. If a program is to be evaluated by means of a conference call, the Board shall issue a comprehensive request for information to the program for all of the following:
 - a. A description of the classroom, supplies, and recordkeeping;
 - b. A copy of the records of 3 students; and
 - c. A copy of the course schedule for each cohort group.
 4. A program that is evaluated by means of a conference call shall ensure that both the coordinator and all instructors are available to participate in the call.
 5. A Board representative shall evaluate each program and program site in person at least once every 4 years. If a program or program site has received an in-person evaluation for the previous approval, no concerns are identified in the site visit report, and there have been no complaints filed with the Board for two years following the approval, the program is eligible for a conference call evaluation.
- B. Following an conference call or onsite onsite evaluation, the Board shall renew program approval for two years if a program ~~meets the criteria set forth in~~ is in compliance with R4-19-801 and R4-19-802 and ~~if~~ renewal is in the best interest of the public. If the program is not in compliance, the Board shall issue a notice of deficiency under R4-19-805.
- C. If the Board denies renewal of approval, a program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- D. A program that is denied renewal of approval shall not apply for reinstatement of approval for two years from the date of the denial.

R4-19-805. Deficiencies and Rescission of Program Approval, Voluntary Termination, Disciplinary Action, and Reinstatement

- A. Deficiencies and rescission of approval
1. Upon determining that a nursing assistant training program does not comply with ~~R4-19-801 or R4-19-802~~ this Article, the Board shall provide the program coordinator or an administrator who supervises the program with a written

Notices of Proposed Rulemaking

notice of deficiency. The Board shall establish a reasonable period of time, based upon the number and severity of deficiencies, ~~to correct for correction of~~ the deficiencies. ~~No~~ Under no circumstances, however, shall the period for correction of deficiencies ~~shall~~ exceed three months ~~after~~ from the date of graduation of the next training class.

- a. Within ~~10~~ ten days from the date of service of ~~that~~ the notice of deficiency is served, the program ~~coordinator~~ shall file a plan of correction with the Board.
 - b. The program ~~shall be subject to~~ may conduct periodic evaluations ~~by the Board~~ during the period of correction to ~~determine whether the program has corrected the deficiencies to ascertain progress in correcting the deficiencies.~~
 - c. The Board shall conduct at least one evaluation immediately following the period of correction to determine whether the program has corrected the deficiencies.
2. The Board ~~shall~~ may rescind the approval of a nursing assistant training program or take other disciplinary action under A.R.S. § 32-1663 based on the number and severity of violations for any of the following reasons:
- a. Failure to file a plan of correction with the Board within 10 days of service of a notice of deficiency.
 - b. Failure to comply with R4-19-801 or R4-19-802 within the ~~time~~ period set by the Board in the notice of deficiency;
 - c. Noncompliance with federal, state, or if applicable, private postsecondary requirements;
 - d. Failure to permit a scheduled or unannounced ~~onsite~~ onsite evaluation, authorized by subsection R4-19-801(D); ~~or~~
 - e. Loaning or transferring program approval to another entity or facility, including a facility with the same ownership;
 - f. Conducting a nursing assistant training program before approval is granted;
 - g. Conducting a nursing assistant training program after expiration of approval without filing an application for renewal of approval before the expiration date; or
 - h. If the program is conducted by a long-term care facility, charging for any portion of the program.
 - e. ~~Failure to conduct at least one program during a two-year period.~~
3. ~~A~~ If the Board rescinds approval of a nursing assistant training program, that has its approval rescinded the program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6 Article 10, and 4 A.A.C. 19, Article 6.
4. If approval for a nursing assistant training program has been rescinded, the program shall not seek reinstatement for two years from the date of the rescission.

B. Voluntary termination

1. ~~The~~ If a nursing assistant training program is being voluntarily terminated, the program coordinator or an administrator who supervises the program shall submit written notification notice of termination to the Board when a decision is made to voluntarily terminate a nursing assistant training program.
2. The program coordinator shall maintain the nursing assistant training program, including the instructors, until the last student is transferred or has completed the nursing assistant training program.

C. Reinstatement

1. ~~Any~~ If the Board rescinds approval of a nursing assistant training program, that has its approval rescinded the program may apply for reinstatement ~~of the program after a period of 2 years by meeting~~ complying with the requirements of ~~R4-19-803 this Article.~~
2. The applicant shall submit An a complete application packet shall be submitted in writing and shall that contain contains all of the information and documentation required to be submitted in subsection by R4-19-803(B). The application packet The applicant shall contain or have attached provide substantial evidence that the there is no longer a basis for rescission has been removed and that reinstatement of the program is in the best interest of the public.
3. Unless the basis for rescission still exists, the ~~The~~ Board shall reinstate a nursing assistant training program that ~~otherwise~~ meets the requirements of ~~R4-19-803 this Article.~~ A program that is denied reinstatement may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying reinstatement. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-806. Nursing Assistant Certification by Examination

- A.** An applicant for certification by examination shall submit the following information and documentation to the Board:
1. An application ~~packet~~ that contains all of the following information ~~or documentation~~:
 - a. Full legal name;
 - b. Current address, including county of residence, and telephone number;
 - c. Date of birth;
 - d. Social security number;
 - e. Educational background, including the ~~names of educational institutions~~ name of the training program attended, ~~dates and date of graduation, and degree received, if applicable;~~
 - f. Current employer, including address and telephone number, type of position, and dates of employment;

- g. A ~~listing list~~ of all states in which the applicant is or has been registered as a nursing assistant and the certificate number, if any;
- h. Responses to questions ~~addressing that address~~ each of the following subjects:
 - ~~i. Prior disciplinary action on a license or certificate authorizing practice in any occupation;~~
 - ~~ii. Pending investigation or disciplinary action on a nursing license or nursing assistant certificate. Any pending disciplinary action by a nursing regulatory agency or nursing assistant regulatory agency in the United States or its territories or current investigation regarding the applicant's nursing license, nursing assistant license, or nursing assistant certificate in another state or territory of the United States;~~
 - ~~iii. Pending criminal charges;~~
 - ~~iv. Prior misdemeanor or undesignated offense conviction;~~
 - ~~v. ii. Prior felony conviction and date of absolute discharge of sentence. Felony conviction or conviction of an undesignated or other similar offense and the date of absolute discharge of sentence, and~~
 - ~~iii. Unprofessional conduct as defined in A.R.S. § 32-1601;~~
 - ~~vi. Use of chemical substances in a way that may limit the ability to practice in a health care profession, and~~
 - ~~vii. Prior civil judgment resulting from malpractice or negligence in connection with practice in a health care profession;~~
 - ~~viii. v. A sworn A written or electronic signature by the applicant on a statement under oath by the applicant verifying attesting to the truthfulness of the information provided by the applicant.~~
- 2. Proof of satisfactory completion of a nursing assistant training program that meets the requirements of ~~in~~ subsection (B); such as a certificate, transcript, or letter;
- 3. One or more fingerprint cards, if required by A.R.S. § 32-1606; and
- 4. Applicable fees.
- B. An applicant for certification as a nursing assistant shall submit a passing score on a Board approved nursing assistant examination and meet provide both one of the following criteria:
 - 1. Satisfactory completion of an approved nursing assistant training program in Arizona, or a nursing assistant training program approved in another state or territory of the United States that meets the requirements of subsection R4-19-802(B) Proof that the applicant has completed a Board-approved nursing assistant training program;
 - 2. Proof that the applicant has completed a nursing assistant training program approved in another state or territory of the United States consisting of at least 120 hours;
 - 3. Proof that the applicant has completed a nursing assistant program approved in another state or territory of the United States of at least 75 of instruction and proof of working as a nursing assistant for an additional number of hours that together with the hours of instruction, equal at least 120 hours; or
 - 2. Passing score on the written and manual skills examinations or a passing score on the written examination and proof of a valid nursing license or proof of graduation from an approved nursing program;
 - 4. Proof that the applicant either holds of a valid nursing license in the U.S. or territories, has graduated from an approved nursing program, or otherwise meets educational requirements for a registered or practical nursing license in Arizona.
- C. An applicant who fails either the written or manual skills portion of the nursing assistant examination may retake the failed portion of the examination two additional times until a passing score is achieved. An applicant shall pass both portions of the nursing assistant examination within two years from the date of completion of the nursing assistant training program or meet the requirements of subsection (D).
- D. An applicant who fails either the written or manual skills examination ~~three times~~ or who does not pass an examination within the time period specified in subsection (C) shall repeat and satisfactorily complete a training program before being permitted to retake an examination.
- E. An applicant who has never taken the examination and provides proof of at least 160 hours of employment as a nursing assistant for every 2 year period since completion of a state-approved nursing assistant training program meets federal requirements to take the written and manual skills nursing assistant examination.
- ~~E.F.~~ The Board shall certify an applicant who meets the applicable criteria in this Article if certification is in the best interest of the public.
- ~~F.G.~~ An applicant who is denied nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article ~~6~~ 10 and 4 A.A.C. 19, Article 6.

R4-19-807. Nursing Assistant Certification by Endorsement

- A. An applicant for nursing assistant certification by endorsement shall submit all of the information, documentation, and fees required in R4-19-806 with the addition of any employers in the past two years if current employment is for less than one year.
- B. An applicant for nursing assistant certification by endorsement shall meet the training program criteria in ~~subsection~~ R4-19-806 (B) ~~(1) and~~.

Notices of Proposed Rulemaking

C. In addition to the other requirements of this Section, an applicant for certification by endorsement shall provide evidence ~~that the applicant:~~

1. ~~Be Is~~ listed as active on a nursing assistant register or a substantially equivalent register by another state or territory of the United States; and
2. ~~Meet Meets~~ one or more of the following criteria:
 - a. Currently is working in nursing, performing ~~nursing-related nursing assistant~~ activities, ~~or working in whether or not the job description or job title includes the term of a certified nursing assistant;~~
 - b. Has worked in nursing, ~~performed performing nursing-related nursing assistant~~ activities, ~~whether or not or worked in the job description or job title included the term "certified nursing assistant" of a nursing assistant for at least 160 hours~~ within the past two years; or
 - c. Has completed a nursing assistant training program and passed the required examination within the past two years.

C-D. The Board shall certify an applicant who meets the applicable criteria in this Article if certification is in the best interest of the public.

D-E. An applicant who is denied nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article ~~6~~ 10 and 4 A.A.C. 19, Article 6.

R4-19-808. Temporary Certificate

A. Subject to subsection (B), the Board ~~shall~~ may issue a temporary nursing assistant certificate to an applicant who desires to work as a certified nursing assistant ~~if based on receipt or consideration of the following:~~

1. ~~The Board receives a A~~ report from the Arizona Department of Public Safety, ~~which verifies verifying that it the Department has no criminal history record information, as that term is defined in A.R.S. § 41-1701, relating to regarding the applicant; and~~
2. ~~The applicant: A~~ application for temporary nursing assistant certificate, furnished by the Board and completed by the applicant;
3. ~~a. Submits to the Board an application for a temporary nursing assistant certificate with the The fee required under A.R.S. § 32-1643(A)(9); and~~
4. Evidence that the applicant is qualified for:
 - ~~b. a. Is qualified for certification Certification by endorsement under A.R.S. § 32-1648 and R4-19-807, and submits through submission of documentation or an official statement from another state or territory of the United States, verifying that the applicant has a current certificate or an equivalent document from that state or territory; or~~
 - ~~e. b. Is qualified for certification Certification by examination under A.R.S. § 32-1645 and R4-19-806.~~

B. An applicant who discloses a disciplinary charge, ~~or substantiated complaint, criminal conviction, chemical dependency substance abuse, pending disciplinary charge, or a substantiated complaint by a regulatory agency, or malpractice claim~~ is not eligible for a temporary certificate without prior Board approval.

C. Unless extended for good cause under subsection (D), a temporary certificate is valid for ~~six~~ three months.

D. A temporary certificate holder may apply and the Board or the Executive Director ~~shall~~ may grant an extension for good cause. Good cause means reasons beyond the control of the temporary certificate holder, such as unanticipated delays in obtaining information required for nursing assistant certification.

R4-19-809. Certified Nursing Assistant Certificate Renewal

A. A certified nursing assistant ~~applying may apply~~ for renewal of ~~certification a certificate shall submit by submitting an application packet~~ to the Board on or before the expiration date of ~~certification the certificate.~~

1. The application packet shall include all of the following:
 - a. Full legal name;
 - b. Current address, including county of residence, and telephone number;
 - c. Date of birth;
 - d. Current employer;
 - e. ~~Whether the applicant, if If the applicant is not employed in nursing as a nursing assistant, performing nursing related nursing assistant activities, whether or not working in the job description or the job title includes the term of a certified nursing assistant, documentation that the applicant has completed a Board-approved nursing assistant training program and passed both the written and manual skills portions of the competency examinations examination within the past two years;~~
 - f. Responses to questions ~~addressing that address~~ the following subjects:
 - ~~i. Disciplinary action on a license or certificate authorizing practice in any occupation since certified or last renewed;~~
 - ~~ii. Pending investigation or disciplinary action on a nursing license or nursing assistant certificate since certified or last renewed, Pending disciplinary action by a nursing regulatory agency or nursing assistant regula-~~

Notices of Proposed Rulemaking

- tory agency in the United States or its territories or current investigation of the applicant's nursing license, nursing assistant license, or nursing assistant certificate in another state or territory of the United States.
- ~~iii. Pending criminal charges since certified or last renewed,~~
 - ~~iv. Misdemeanor or undesignated offense conviction since certified or last renewed,~~
 - ~~v. ii. Felony conviction or conviction of undesignated offense and date of absolute discharge of sentence since certified or last renewed, and~~
 - ~~iii. Unprofessional conduct as defined in A.R.S. § 32-1601;~~
 - ~~vi. Use of chemical substances in a way that may limit the ability to practice in a health care profession since certified or last renewed, and~~
 - ~~vii. Civil judgment resulting from malpractice or negligence in connection with practice in a health care profession since certified or last renewed.~~
- g. ~~A written or electronic signature by the applicant on a sworn statement under oath by the applicant verifying attesting to the truthfulness of the information provided by the applicant.~~
2. Documentation of proof of employment, such as a pay stub, W-2 form, or letter from an employer that ~~validates~~ verifies the applicant's employment as a nursing assistant or the applicant's performance of nursing ~~related~~ assistant activities for a minimum of 160 hours within the past two years, and
 3. Applicable fees.
- B. The certificate of a nursing assistant who fails to renew ~~shall expire~~ expires on the last day of the month of a certificate holder's birthdate.
1. A nursing assistant's responsibility to renew is not relieved by the nursing assistant's failure to obtain an application.
 2. A nursing assistant who fails to renew shall not work as a certified nursing assistant.
 3. ~~The~~ Based on consideration of a nursing assistant's record regarding timely renewal, the Board shall may impose a late fee on ~~any~~ a nursing assistant who fails to renew certification in a timely manner.

R4-19-810. Certified Nursing Assistant Register

- A. The ~~Executive Director Register~~ shall include the following information in the Register for each individual ~~who has successfully completed a Board approved nursing assistant training program who receives Board certification:~~
1. Full legal name and any other names used;
 2. ~~Home address~~ Address of record;
 3. County of residence;
 4. ~~Date of birth~~;
 5. ~~Social security number~~;
 - ~~6-4.~~ The date of initial placement on the register;
 - ~~7-5.~~ Dates and results of ~~written and manual skills examinations~~ both the written and manual skills portions of the nursing assistant competency examination;
 - ~~8-6.~~ Date of expiration of current certificate, if applicable;
 - ~~9-7.~~ Existence of pending investigation, if applicable; and
 - ~~10-8.~~ Status of certificate, such as active, denied, expired, or revoked, if as applicable.
- B. The ~~Register~~ Executive Director shall include the following information in the Register for ~~each an~~ individual ~~who has been disciplined by if the Board, or sanctioned by the United States Department of Health and Human Services (HHS), or the Arizona Department of Health Services finds that the individual has violated relevant law:~~
1. ~~Disciplinary~~ For a finding action by the Board or HHS, the Executive Director shall include:
 - a. Type of action The finding, including the date of the decision, and a reference to each statute, rule, or regulation violated; and
 - b. Date of action The sanction, if any, including the date of action and the duration of action, if time limited.
 2. Sanctions by the United States Department of Health and Human Services:
 - a. ~~Date excluded,~~
 - b. ~~Nature of exclusion, and~~
 - c. ~~Length of exclusion.~~
 - ~~3-2.~~ Complaints substantiated For a finding by the Arizona Department of Health Services under the Omnibus Reconciliation Act, 42 CFR § 483.150 et seq., the Executive Director shall include:
 - a. The allegation;
 - b. Documentation of the investigation, including:
 - i. Nature of allegation, and
 - ii. Evidence supporting ~~allegation~~ the finding;
 - ~~b-c.~~ Date of hearing, if any, or the date that the complaint was substantiated; and
 - ~~e-d.~~ Statement disputing the allegation, if any;
 - e. The finding, including the date of the decision and a reference to each statute or rule violated; and
 - f. The sanction, including the dates of action and the duration of the sanction, if time-limited.

Notices of Proposed Rulemaking

R4-19-812. Change of Name or Address

- A. ~~A~~ An applicant or a certified nursing assistant, who has legally changed ~~the nursing assistant's~~ their name, shall notify the Board in writing within 30 days of ~~the~~ any name change. The applicant or certified nursing assistant shall submit a copy of ~~the~~ any official document evidencing the name change.
- B. ~~A~~ An applicant or a certified nursing assistant shall notify the Board in writing within 30 days of any address change.

R4-19-813. Performance of Nursing Assistant Tasks

- A. A certified nursing assistant may perform the following:
1. Tasks for which the nursing assistant has been trained through ~~a basic~~ the curriculum as identified in R4-19-802, and
 2. Tasks learned through inservice or educational training if the task meets the following criteria and the nursing assistant has demonstrated competence performing the task:
 - a. The task can be safely performed according to clear, exact, and unchanging directions;
 - b. The task poses minimal risk ~~for~~ to the ~~client~~ patient or resident and the consequences of performing the task improperly are not life-threatening or irreversible;
 - c. The results of the task are reasonably predictable; and
 - d. Assessment, interpretation, or decision-making is not required during the performance or at the completion of the task.
- B. A nursing assistant may not perform any task ~~requiring~~ that requires a judgment based on nursing knowledge, such as the administration of medications.
- C. A nursing assistant who accepts a client assignment is responsible for the following ~~shall~~:
1. ~~Recognizing~~ Recognize the limits of the nursing assistant's personal knowledge, skills, and abilities;
 2. ~~Recognizing the legal aspects of~~ Comply with laws relevant to nursing assistant practice;
 3. ~~Informing~~ Inform the ~~nurse~~ registered nurse, licensed practical nurse, or another person authorized to delegate the task about the nursing assistant's ability to perform the assigned task ~~prior to~~ before accepting the assignment;
 4. ~~Accepting~~ Accept delegation, instruction, and supervision from ~~the~~ a professional or practical nurse or ~~the~~ another person authorized to delegate the a task;
 5. ~~Acknowledging accountability~~ Acknowledge responsibility for personal actions in ~~completing~~ necessary to complete the assignment ~~an~~ accepted assigned task;
 6. ~~Following~~ Follow the client's plan of care, if available;
 7. ~~Observing, reporting,~~ Observe, report, and ~~recording~~ record signs, symptoms, and changes in the ~~client's~~ patient or resident's condition in an ongoing and timely manner; and
 8. ~~Retaining~~ Retain responsibility for the assigned task without delegating it to another person.

R4-19-814. Standards of Conduct for Certified Nursing Assistants

- A.** For the purpose of this Section:
1. "Failure to maintain professional boundaries" means any conduct or behavior by a nursing assistant, regardless of the nursing assistant's intention, that is likely to lessen the benefit of care to a patient, resident, or their family, and places the patient, resident, or their family, at risk of being exploited financially, emotionally, or sexually; and
 2. "Dual relationship" means a nursing assistant simultaneously engages in a professional and a nonprofessional relationship with a patient, resident, or their family that is avoidable, non-incidental, and places the patient or resident at risk for financial, emotional, or sexual exploitation.
- B.** For purposes of A.R.S. § 32-1601 (16), a practice or conduct that is or might be harmful or dangerous to the health of a patient or the public and constitutes a basis for disciplinary action on a certificate includes the following:
1. Failing to maintain professional boundaries or engaging in a dual relationship with a patient or any member of the patient's or resident's family.
 2. Engaging in sexual conduct with a patient, resident, or any member of the patient's or resident's family who does not have a pre-existing relationship with the nursing assistant, or any conduct in the work place that a reasonable person would interpret as sexual.
 - ~~3.~~ Leaving an assignment or abandoning a ~~client~~ patient or resident ~~requiring~~ who requires immediate care without properly notifying ~~appropriate supervisory personnel~~ the immediate supervisor;
 - ~~2.~~ Failing to accurately document care and treatment provided to ~~clients~~ a patient or resident;
 5. Falsifying or making a materially incorrect entry in a health care record;
 - ~~3.~~ Failing to follow an employer's policies and procedures, designed to safeguard the ~~client~~ patient or resident;
 - ~~4.~~ Failing to take action to protect a ~~client~~ patient or resident whose safety or welfare is at risk from potential or actual incompetent health care practice, or to report the practice to the ~~appropriate authorities~~ immediate supervisor or a facility administrator;
 - ~~5.~~ Failing to report signs, symptoms, and changes in ~~client~~ patient or resident conditions to the ~~appropriate individual~~ immediate supervisor in an ongoing and timely manner;
 - ~~6.~~ Failing to respect Violating client the rights and or dignity of a patient or resident;

Notices of Proposed Rulemaking

- ~~7-10.~~ Violating a ~~client's~~ patient or resident's right of privacy; ~~by disclosing confidential information; or knowledge concerning a client the~~ patient or resident, unless disclosure is otherwise required by law to disclose the information;
- ~~8-11.~~ Neglecting or abusing a ~~client patient or resident~~ physically, verbally, emotionally, or financially;
- ~~9.~~ ~~Engaging in sexual misconduct or boundary violations with a client;~~
- ~~10-12.~~ Soliciting, ~~or borrowing, or removing~~ property or money from a ~~client patient or resident, or a client's any member of the patient's or resident's family, a client's residence, or employer;~~
- ~~13.~~ Theft from a patient or resident, a patient's or resident's family, an employer, a coworker, or any member of the public;
- ~~11-14.~~ Using ~~Repeated use~~ or being under the influence of ~~alcoholic beverages alcohol, medication, intoxicants, over the counter drugs, prescription drugs, or controlled drugs or any other substance~~ to the extent that judgment may be impaired and practice detrimentally affected ~~or while on duty in any work setting;~~
- ~~12-15.~~ Assuming ~~client~~ Accepting patient or resident care tasks ~~for which that~~ the nursing assistant lacks the education or competence to perform;
- ~~13-16.~~ Removing, without authorization, narcotics, drugs, supplies, equipment, or medical records from any work setting;
- ~~14-17.~~ Obtaining, possessing, using, or selling any narcotic, controlled substance, or illegal drug in violation of any employer policy or any federal or state criminal law; ~~or in violation of the policy of any employer;~~
- ~~15-18.~~ Permitting or assisting another person to use the nursing assistant's certificate or identity for any purpose;
- ~~16-19.~~ Making untruthful or misleading statements ~~to advertise in advertisements of~~ the individual's practice as a certified nursing assistant;
- ~~20.~~ Offering or providing certified nursing assistant services for compensation without a designated registered nurse supervisor;
- ~~17-21.~~ Threatening, harassing, or exploiting an individual;
- ~~18-22.~~ Using violent or abusive behavior in any work setting;
- ~~19-23.~~ Failing to cooperate with the Board during an investigation by:
 - ~~a.~~ Not furnishing in writing a complete explanation of a matter reported under A.R.S. § 32-1664;
 - ~~b.~~ Not responding to a subpoena issued by the Board;
 - ~~c.~~ Not completing and returning a Board-issued questionnaire within 30 days; or
 - ~~d.~~ Not informing the Board of a change of address or phone number within 10 days of each change;
- ~~24.~~ Engaging in fraud or deceit regarding the certification exam or an initial or renewal application for certification;
- ~~25.~~ Making a written false or inaccurate statement to the Board or the Board's designee during the course of an investigation;
- ~~26.~~ Making a false or misleading statement on a nursing assistant or health care related employment or credential application concerning previous employment, employment experience, education, or credentials;
- ~~27.~~ If an applicant or certified nursing assistant is charged with a felony or a misdemeanor, involving conduct that may affect patient safety, failing to notify the Board, in writing, within ten days of being charged under A.R.S. § 32-3208. The applicant or certified nursing assistant shall include the following in the notification:
 - ~~a.~~ Name, current address, telephone number, social security number, and license number, if applicable;
 - ~~b.~~ Date of the charge; and
 - ~~c.~~ Nature of the offense;
- ~~28.~~ Failing to notify the Board, in writing, of a conviction for a felony or an undesignated offense within 10 days of the conviction. The nursing assistant or applicant shall include the following in the notification:
 - ~~a.~~ Name, current address, telephone number, social security number, and license number, if applicable;
 - ~~b.~~ Date of the conviction;
 - ~~c.~~ Nature of the offense; and
- ~~20.~~ Failing to cooperate with the Board by not responding to a Board subpoena; and
- ~~21-29.~~ Practicing in any other manner that gives the Board reasonable cause to believe that the health of a client patient, resident, or the public may be harmed.

R4-19-815. Reinstatement or Issuance of a Certified Nursing Assistant Certificate

An applicant whose application is denied or a nursing assistant whose certificate is revoked in accordance with A.R.S. § 32-1663, may reapply to the Board after a period of five years from the date the certificate is ~~revoked or the~~ application is ~~revoked or~~ denied. A nursing assistant who voluntarily surrenders a nursing assistant certificate may reapply to the Board after ~~no less than a period of three~~ five years from the date the certificate is surrendered. The Board shall issue or reinstate a nursing assistant certificate under the following terms and conditions:

1. An applicant shall submit a complete application that contains all of the information and documentation required by R4-19-809(A), except for work history as a CNA, documentation ~~The applicant shall provide substantial evidence showing that the that there is no longer a basis for denial, revocation, or voluntary surrender has been removed and that the issuance or reinstatement of the nursing assistant certification certificate will no longer constitute a threat to the public health or safety is in the best interest of the public and does not constitute a threat to the public health and~~

Notices of Proposed Rulemaking

safety. Based on the individual's records and safety, ~~The~~ the Board may require ~~an~~ that the applicant ~~to~~ be tested for ~~competency~~ nursing assistant knowledge and skills, or retake and successfully complete a Board approved training program, ~~and or~~ pass the ~~required~~ examination required by R4-19-806 either individually or in combination. On the same basis, the Board may also require physical, psychological, or psychiatric evaluations, reports, and affidavits. The applicant shall meet these conditions before the Board considers an application.

2. The Board shall consider the application and may, based on consideration of fairness and efficiency, designate a time for the applicant to address the Board at a regularly scheduled meeting.
3. After considering the application, the Board ~~may~~ shall:
 - a. Grant nursing assistant certification, or
 - b. Deny the application.
4. An applicant who is denied issuance or reinstatement of nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying issuance or reinstatement of nursing assistant certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 10 and 4 A.A.C. 19, Article 6.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

[R05-119]

Editor's Note: This rulemaking package is published as submitted by the agency. This agency did not use the most current rule text as published in the Administrative Code in this proposed rulemaking package; therefore form and style for the stricken text are inconsistent with published rules. The Office has requested that the agency use the correct rule text when submitting their Notice of Final Rulemaking.

PREAMBLE

1. **Sections Affected**

R4-30-201	Amended
R4-30-204	Amended
R4-30-214	Amended
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. §§ 32-106 (A)(1), 32-106 (A)(3), and 32-106(A)(4)
 Implementing statutes: A.R.S. §§ 32-122.01(A)(2), 32-122.01(A)(3), 32-122.01(B)(2), 32-122.01(B)(3)
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R 4271, October 22, 2004
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Julie Ruff
Address:	Board of Technical Registration 1110 W. Washington St., Suite 240 Phoenix, AZ 85007
Telephone:	(602) 364-4940
Fax:	(602) 364-4931
E-mail:	julie.ruff@btr.state.az.us
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

Current statutes permit licensure for architects, engineers, geologists, and landscape architects after eight years of education, experience, and completion of required examinations.
 Current rules require completion of eight years of education and experience before an applicant is considered qualified to take the required examinations.

The rule changes:

- Permit application and approval to take the required examination for architect, engineer, geologist, and landscape architect applicants after 72 months of education and experience;
- Separate applications for examination from applications for licensure;
- Make it possible for an applicant to meet all requirements for registration at the eight year level without waiting to take the examination;
- Clarify the Board's ability to recognize national exam scores not administered by the Board;
- Clarify that communication between applicants and national councils about exams administered by outside agencies is between the applicant and the examining agency;
- Clarify that Home Inspectors are not included in those groups using multi-division exams and division scoring;
- Clarify the review process for Board administered exams;
- Clarify that non-board administered exams are controlled by the exam administrators;
- Add minimum hourly requirements for education areas for architect registration.

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 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:

N/A

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:

N/A

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

There are significant positive economic impacts for applicants who complete required testing before reaching the required eight years of education and experience. By beginning the testing process at the 72 month education and experience level, the applicant has an opportunity to determine whether there is a need for additional education or experience in specific areas by an evaluation of his or her examination results and may take steps to gain additional knowledge in areas of weakness and still complete the examination before reaching the 96 month and experience level required for registration.

Early completion of the examination process allows the applicant to meet all registration requirements at the eight year level rather than begin the examination process at that education and experience level. The positive economic impact is the difference in the applicant's salary for the period of time that it takes the applicant to complete the examination process.

There are moderate positive impacts on small businesses and consumers due to a larger pool of qualified registrants.

There are no significant impacts on other government agencies.

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: Julie Ruff
Address: Board of Technical Registration
1110 W. Washington St., Suite 240
Phoenix, AZ 85007
Telephone: (602) 364-4940
Fax: (602) 364-4931
E-mail: julie.ruff@btr.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:

An oral proceeding will be held on Tuesday, May 17, 2005, at 9:00 a.m. in Room 250 at 1110 W. Washington Street, Suite 240, Phoenix, AZ 85007. Written comments will be accepted between 8:00 a.m. and 4:00 p.m., Monday through Friday, at 1110 W. Washington Street, Suite 240, Phoenix, AZ 85007, via facsimile at (602) 364-4931 or by email at julie.ruff@btr.state.az.us, until the close of record.

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:

Not applicable

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 2. REGISTRATION PROVISIONS

Section

- R4-30-201. ~~Professional~~ Registration as an Architect, Assayer, Engineer, Geologist, Landscape Architect, or Land Surveyor
R4-30-204. Examinations
R4-30-214. Architect Registration

ARTICLE 2. REGISTRATION PROVISIONS

R4-30-201. ~~Professional~~ Registration as an Architect, Assayer, Engineer, Geologist, Landscape

Architect, or Land Surveyor

- A. An applicant for ~~professional~~ registration as an architect, assayer, engineer, geologist, landscape architect, or land surveyor shall submit an original and one copy of a completed application package for professional registration that contains the following:
1. Evidence of successful completion of the current national professional examination or waiver of the examination pursuant to A.R.S. § 32-126 and R4-30-203 in the category, and branch if applicable, for which registration is sought. Applicants shall arrange to have their examination results sent directly to the Board from the applicable testing agency holding the examination results;
 2. ~~The information set forth in subsections (B)(1) through (15);~~ Name, residence address, mailing address if different from residence, and telephone number, of the applicant;
 3. Date of birth and social security number of the applicant;
 4. Citizenship or legal residence of the applicant;
 5. Category, and branch of engineering if applicable, for which the applicant is seeking registration;
 6. A detailed explanatory statement and documentation, regarding:
 - a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant in any state or jurisdiction;
 - b. Refusal of any professional or occupational registration, certification or license to the applicant by any state or jurisdiction;
 - c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant;
 - d. Any alias or other name used by the applicant; and
 - e. Any conviction of the applicant for a felony or misdemeanor, other than a minor traffic violation.
 7. State or jurisdiction in which the applicant holds any other professional or occupational registration, certification, or license, type of registration, certification or license number, year ranted, how registration, certification, or license was granted (by examination, education, experience, or reciprocity), and the number of examination hours taken by the applicant;
 8. State or jurisdiction in which the applicant has pending an application for any type of professional or occupational license, registration, or certification, type of license, registration, or certification being sought, and the status of the application;
 9. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution the applicant attended;
 10. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution the applicant attended, unless previously provided to the Board pursuant to R4-30-204;
 11. Name, current address, and telephone number of the applicant's current and former employers in the category for which registration is sought; dates of employment; applicant's title; description of the work performed; and number of hours worked per week, unless previously provided to the Board pursuant to R4-30-204;
 12. Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. An applicant who has been working in the category for which registration is sought for 10 or more years shall provide the names and address of all immediate supervisors during the most recent 10-year period. If an appli-

cant cannot supply the names and addresses of supervisors for at least three engagements, the applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of three references, unrelated to the applicant, at least two of whom are registered in the category for which registration is sought, unless previously provided to the Board pursuant to R4-30-204:

13. A release authorizing the Board to investigate the applicant's education, experience, moral character, and repute;
14. Certificate of Experience Record and Reference Forms from the applicant's present and past immediate supervisors, unless previously provided to the Board pursuant to R4-30-204. The applicant shall also provide Certificate of Experience Record and Reference Forms from additional references as required by the Board. The applicant shall provide the name, address, and telephone numbers of all references. The applicant shall ensure that completed reference forms are provided to the Board;
15. Evidence of successful completion, or waiver by the Board, of the applicable in-training examination, unless previously provided to the Board pursuant to R4-30-204. An applicant for registration who has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona shall submit proof of examination directly from the authority that administered the original examination. An applicant seeking professional registration as an architect or landscape architect may take the in-training examination at the same time as the professional examination. An applicant seeking professional registration as an assayer, engineer, geologist or land surveyor shall pass the applicable in-training examination before admission to the professional examination;
16. Certification that the information provided to the Board is accurate, true and complete; and
- 3.17. The applicable fee.

- B.** ~~An applicant who wishes to sit for professional examination shall submit an original and one copy of a completed application for professional examination, and provide the following:~~
1. ~~Name, residence address, mailing address if different from residence, and telephone number, of the applicant;~~
 2. ~~Date of birth and social security number of the applicant;~~
 3. ~~Citizenship or legal residence;~~
 4. ~~Category, and branch of engineering if applicable, for which the applicant is seeking registration;~~
 5. ~~A detailed explanatory statement, regarding:~~
 - a. ~~Any disciplinary action, including suspension and revocation, taken by any state, or jurisdiction on any professional or occupational registration, certification or license held by the applicant in any state or jurisdiction;~~
 - b. ~~Refusal of any professional or occupational registration, certification or license by any state or jurisdiction;~~
 - c. ~~Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, certification or license held by the applicant;~~
 - d. ~~Any alias or other name used by the applicant; and~~
 - e. ~~Any conviction for a felony or misdemeanor, other than a minor traffic violation.~~
 6. ~~State or jurisdiction in which any other professional or occupational registration, certification or license is held, type of registration, certification or license number, year granted, how registration, certification or license was granted (that is, by examination, education, experience, or reciprocity), and the number of examination hours taken by the applicant;~~
 7. ~~Name of the state or jurisdiction, the type of professional or occupational registration, certification or license the applicant is seeking, and the current status of any professional or occupational application for registration, certification or license pending in any state or jurisdiction;~~
 8. ~~Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university or educational institution the applicant attended;~~
 9. ~~Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution the applicant attended;~~
 10. ~~Name, current address, and telephone number of the applicant's current and former employers in the category for which registration is sought; dates of employment; applicant's title; description of the work performed; and number of hours worked per week;~~
 11. ~~Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. Applicants who have been working in the category for which registration is sought for 10 or more years shall provide the names and addresses of all immediate supervisors during the most recent 10 year period. If an applicant cannot supply the names and addresses of supervisors for at least three engagements, the applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of three additional references, unrelated to the applicant, at least two of whom are registered in the category for which registration is sought;~~
 12. ~~A release authorizing the Board to investigate the applicant's education, experience, moral character, and repute;~~
 13. ~~Certificate of Experience Record and Reference Forms from the applicant's present and past immediate supervisors. The applicant shall also provide Certificate of Experience Record and Reference Forms to additional references as required by the Board. The applicant shall provide the name, address, and telephone numbers of all references. The~~

Notices of Proposed Rulemaking

applicant shall ensure that completed reference forms are provided to the Board;

14. ~~Evidence of successful completion, or waiver by the Board, of the applicable in-training examination. An applicant for professional registration, who has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona, shall submit proof of examination directly from the authority that administered the original examination. An applicant seeking professional registration as an architect or landscape architect may take the in-training examination at the same time as the professional examination. An applicant seeking professional registration as an assayer, engineer, geologist, or land surveyor shall pass the applicable in-training examination before admission to the professional examination;~~

15. ~~Certification that the information provided to the Board is accurate, true, and complete.~~

- B.** If an applicant does not have the required education and experience for registration, the Board may, upon request of the applicant, hold the application for a period of time that does not exceed one year from the date the application is filed with the Board. All time-frames adopted pursuant to Title 41, Chapter 6, Article 7.1, are suspended during the above-referenced time.
- C.** An applicant holding a certificate of qualification issued by one of the national registration bodies recognized in R4-30-203(B) shall arrange to have the record forwarded to the Board by the national registration body. If the forms provided by the national registration body contain all the information described in A.R.S. § 32-122.01 and subsection ~~(B)~~ (A), the Board may accept the forms in lieu of requiring the applicant to furnish the information directly to the Board.
- D.** The Board staff shall review all applications and, if necessary, refer completed applications to an advisory committee for evaluation. If the application for registration is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the applicant is eligible in all other aspects to be registered in the field for which the application was filed, the Board staff or committee shall recommend that the Board certify the applicant as eligible to take the examination or if exempt from examination pursuant to statute or rule, as eligible for registration. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the applicant is eligible in all respects for examination or registration, the board staff shall make a further investigation of the applicant. The Board staff and committee shall submit recommendations to the Board for approval. The Board may also require an applicant to submit additional oral or written information if the applicant has not furnished satisfactory evidence of qualifications for examination or registration.
- E.** The Board may permit an applicant who has successfully satisfied the requirements of an intern development program approved by the Board to qualify for an appropriate examination, accept documentation that an applicant has passed a written national examination in the area for which registration is sought from a national council of which the Board is a member or a professional association approved by the Board.
- F.** The Board shall not accept an application for registration renewal unless the applicant has responded to the questions on the application relating to good moral character and other misconduct and signed the application for renewal. The Board shall return an incomplete application to the applicant which may result in assessment of a delinquent renewal fee under R4-30-106.
- G.** An applicant may withdraw an application for registration by written request to the Board. Any fee paid by the applicant is non-refundable. If an applicant withdraws an application, the Board shall close the file. An applicant whose file has been closed and who later wishes to apply for professional registration shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.

R4-30-204. Examinations

- A.** An applicant with at least 72 but less than 96 months of required education and experience who wishes to sit for the professional examination for architecture, assaying, engineering, geology, landscape architecture or land surveying shall submit an original and one copy of a completed application package for professional examination that contains the following:
1. Name, residence address, mailing address if different from residence, and telephone number, of the applicant;
 2. Date of birth and social security number of the applicant;
 3. Citizenship or legal residence;
 4. Category, and branch of engineering if applicable, for which the applicant is seeking registration;
 5. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution the applicant attended;
 6. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution the applicant attended;
 7. Evidence of 72 months of required education or experience in the category for which registration is sought. The name, current address, and telephone number of the applicant's current and former employers in the category for which registration is sought; dates of employment; applicant's title; description of work performed; and number of hours worked per week;
 8. Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. If an applicant cannot supply the names and addresses of supervisors for at least three engagements, the

applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of three additional references, unrelated to the applicant, at least two of whom are registered in the category for which registration is sought;

9. A release authorizing the Board to investigate the applicant's education and experience;

10. Certificate of Experience Record and Reference Forms from the applicant's present and past immediate supervisors. The applicant shall also provide Certificate of Experience Record and Reference Forms from additional references as required by the Board. The applicant shall provide the name, address, and telephone numbers of all references. The applicant shall ensure that completed reference forms are provided to the Board;

11. Evidence of successful completion, or waiver by the Board, of the applicable in-training examination. An applicant who has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona shall submit proof of examination directly from the authority that administered the original examination. An applicant seeking professional registration as an architect, or landscape architect may take the in-training examination at the same time as the professional examination. An applicant seeking professional registration as an assayer, engineer, geologist, or land surveyor shall pass the applicable in-training examination before admission to the professional examination;

12. Certification that the information provided to the Board is accurate, true, and complete; and

13. The applicable fees.

B. An applicant with at least 96 months of required education and experience who wishes to sit for the professional examination for architecture, assaying, engineering, geology, landscape architecture, or land surveying may submit a combined application for examination and registration that contains the information required in subsection (A) and R4-30-201, and shall pay the applicable fee.

C. The Board staff shall review all applications and, if necessary, refer completed applications to an advisory committee for evaluation. If the application for examination is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the applicant is eligible to take the examination, the Board staff or committee shall recommend that the Board certify the applicant as eligible to take the examination or exempt from the examination requirement. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the applicant is eligible in all respects for examination, the Board staff shall make a further investigation of the applicant.

~~**A-D.** All examinations~~ An examination administered by the Board shall be given at the times and places determined by the Board. Once the Board approves an applicant to sit for any a Board-administered examination, the applicant shall communicate all questions and concerns regarding extensions and refunds to the applicable testing agency Board. The applicant shall make any request for additional time or other special examination accommodation to the Board within a reasonable time before the examination date. The Board shall not refund any examination fee paid to a testing agency.

~~**B-E.**~~ An applicant who fails to achieve a passing grade on any division of any examination administered by the Board may request re-examination by notifying the Board in writing of the applicant's desire to re-take the examination and paying the applicable examination fee. An applicant who re-takes any examination shall advise the Board of any changes in the information provided under R4-30-201(B) subsection A of this Section and R4-30-202(B) within 30 days from the date of the change. The Board shall close an applicant's file if the Board does not receive written confirmation from the applicant of the applicant's desire to re-take the Board-administered examination within one year from the request for re-examination. An applicant whose file has been closed and who later wishes to apply for professional registration examination shall submit a new examination application package to the Board pursuant to R4-30-201 and R4-30-202.

~~**C-F.**~~ An applicant, except for a home inspector applicant, who has failed any division of a multi-divisional examination shall be re-examined only on the division failed. The Board shall deny an application if the applicant fails to pass all divisions of an examination within five years after first taking any division of an examination. The applicant shall submit a new application for examination, and retake and pass any division of the examination, except the in-training examination, with results that are five or more years old.

~~**D-G.**~~ An applicant for a Board-administered examination who wishes to review the applicant's examination scores shall file a written request with the Board within 30 days after receiving notification of the failing grade. The applicant may review an examination by making prior arrangements with the staff and paying the applicable fee. The applicant shall complete any review within 60 days of the request for a review. In reviewing multiple choice questions, an applicant may review only those questions that were incorrect.

~~**E-H.**~~ An applicant who desires a re-grade of an examination and, where applicable, has exhausted all remedies for regarding with the applicable testing agency, shall file a written request with the Board within 30 days after receiving notification of the failing grade or within 30 days after reviewing the examination, whichever is applicable, and pay the applicable fee. The applicant shall identify the questions to be reviewed. The applicant shall state why a review of the item is justified. The applicant shall provide specific facts, data, and references to support any assertion that the solution deserves more credit. The Board shall determine whether it will re-grade the examination or whether it will send the examination to the applicable testing agency for re-grading.

~~**F.** If an applicant does not have the required education and experience, the Board may hold the application for a period of~~

Notices of Proposed Rulemaking

time not exceeding one year upon request of the applicant. All time frames adopted pursuant to Title 41, Chapter 6, Article 7.1 are suspended during the above referenced time.

- ~~G. An applicant may withdraw an application for registration or designation by written request to the Board. Any fee paid by the applicant is non-refundable. If an applicant withdraws an application, the Board shall close the file. An applicant whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package to the Board pursuant to R4 30 201 and R4 30 202.~~
- I. Examinations administered by a national council of which the Board is a member or a professional association approved by the Board shall be given at the times and places determined by the testing agency. Once approved to sit for a non-Board-administered examination, the applicant shall communicate all questions and concerns regarding extensions, additional time, special accommodation, re-examination, and refunds to the applicable testing agency. The Board shall not refund any examination fee paid to a testing agency.
- J. The Board shall deny an application for registration as a architect, assayer, engineer, geologist, landscape architect, or land surveyor if the applicant fails to pass all divisions of the applicable examination within five years after first taking any division of the examination.

R4-30-214. Architect Registration

- A. An applicant shall provide evidence of successful completion of the National Council of Architectural Registration Boards (NCARB) Internship Development Program (IDP) training requirement or diverse work experience substantially equal to that program that is of a character acceptable to the Board and which includes, but is not limited to, experience in each of the following areas. The total minimum experience shall not be less than 4,680 hours and not less than the minimum hour totals for each activity shown below:

<u>Activity</u>	<u>Minimum Hour Totals</u>
1. Programming	<u>80</u>
2. Site and Environmental Analysis	<u>80</u>
3. Schematic Design	<u>120</u>
4. Engineering Systems <u>Coordination</u>	<u>120</u>
5. Building Cost Analysis	<u>80</u>
6. Code Research	<u>120</u>
7. Design Development	<u>320</u>
8. Construction Documents	<u>1,080</u>
9. Specifications and Material Research	<u>120</u>
10. Document Checking and Coordination	<u>80</u>
11. Bidding and Contract Negotiation	<u>80</u>
12. Construction Phase - Office	<u>80</u>
13. Construction Phase - Field Observation	<u>120</u>
14. Project Management	<u>120</u>
15. Office Management	<u>80</u>

- B. No change**

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION
HIGHWAYS

[R05-120]

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R17-3-902 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. §§ 28-366 and 28-7311
Implementing statute: A.R.S. § 28-7311
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 1287, April 1, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Wendy S. LeStarge, Manager
Address:	Department of Transportation Maintenance Permits Services 206 S. 17th Ave., MD 004R Phoenix, AZ 85007
Telephone:	(602) 712-4142
Fax:	(602) 712-3484
E-mail:	wlestarge@azdot.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The logo sign program, created under A.R.S. § 28-7311, allows for the placing of logo signs (or specific service information signs) along the state highway system, in order to provide motorists with service information, such as gas, food, lodging, camping, and attraction. The Arizona Department of Transportation ("ADOT") is amending the rules to include additional activities for the definition of "Attraction". ADOT also is amending the rules to include renumbering references for the encroachment permit rules.
- 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 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:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
The interstate and rural logo sign programs are marketed and administered by a private contractor, as allowed under A.R.S. § 28-7311. Under the logo sign programs, the contractor markets the programs to eligible businesses to lease space on a specific service information sign for a business' logo. This rulemaking adds additional activities to the Attraction category and therefore should expand the available customer base of the contractor.

ADOT's costs and benefits are not readily quantifiable. ADOT provides administrative oversight for the logo sign program, so its costs include the salaries for those employees overseeing the logo sign program or installation of signs as part of their duties. It is not expected that additional businesses eligible to participate in the logo sign program will increase ADOT's costs. The motoring public benefits through increased convenience and reduced travel time for locating a participating business. Services may cost more due to the costs of displaying directional information, which will be passed onto the motoring public consumer. The Arizona Department of Revenue may benefit through increased tax revenue due to increased sales from participating businesses.

Notices of Proposed Rulemaking

Businesses that provide an attraction will benefit because they can qualify for a logo sign. They will have minimal costs for purchasing the sign and paying monthly lease payments. Businesses should benefit by increased revenue due to displaying directional information through logo signs.

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: Wendy S. LeStarge, Manager
Address: Department of Transportation
Maintenance Permits Services
206 S. 17th Ave., MD 004R
Phoenix, AZ 85007
Telephone: (602) 712-4142
Fax: (602) 712-3484
E-mail: wlestarge@azdot.gov

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

No oral proceeding is schedule for this rulemaking. Written, faxed, e-mail comments, or requests for an oral proceeding may be made by contacting the person listed in #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period shall continue for 30 days from this notice's publication date. This rulemaking's public record will close at 4:30 p.m. on May 23, 2005.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION
HIGHWAYS

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

Section
R17-3-902. Logo Sign Program

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

R17-3-902. Logo Sign Program

A. Definitions.

"Attraction" means any of the following:

"Arena" means a facility that has a capacity of at least 5,000 seats, and is a:

Stadium or auditorium;

Track for automobile, boat, or animal racing; or

Fairground that has a tract of land where fairs or exhibitions are held, and permanent buildings that include bandstands, exhibition halls, and livestock exhibition pens.

"Cultural" means an organized and permanent facility that is open to all ages of the public, and is a:

Facility for the performing arts, exhibits, or concerts; or

Museum with professional staff, and an artistic, historical, or educational purpose, that owns or uses tangible objects, cares for them, and exhibits them to the public.

"Dude ranch" means a facility offering overnight lodging, meals, horseback riding, and activities related to cattle ranching.

"Educational" means a facility that is a:

Community college, regionally accredited college or university, or state university as defined in R17-3-901(A).

Educational excludes a business or research park affiliated with a college or university;

- Scientific institution, designated research area, or site of specialized research techniques and apparatus that is accredited by a nationally recognized accreditation educational agency and conducts regular tours; or Zoological or botanical park that houses and exhibits living animals, insects, or plants to the public.
- “Farm-related” means an established area or facility where consumers can purchase directly from Arizona producers locally-grown consumer-picked or pre-picked produce, or local products produced from locally-grown produce.
- “Golf course” means a facility offering at least 18 holes of play. Golf course excludes a miniature golf course, driving range, chip-and-putt course, and indoor golf.
- “Historic” means a structure, district, or site that is listed on the National or Arizona Register of Historic Places as being of historical significance, and includes an informational device to educate the public as to the facility’s historic features.
- “Mall” means a shopping area with at least 1,000,000 square feet of retail shopping space.
- “Recreational” means a facility for physical exercise or enjoyment of nature that includes at least one of the following activities: walking, hiking, skiing, boating, swimming, picnicking, camping, fishing, playing tennis, horseback riding, skating, hang-gliding, ~~taking air tours~~, and climbing;
- “Scenic tours” means a business that offers guided tours of scenic areas in Arizona through various means, such as air, motorized vehicle, animal, walking, biking, or other means;
- “Winery or brewery” means a licensed site that produces a minimum of 500 gallons annually of wine or beer that is commercially packaged for off-premises sale, and is open to the public for tours to provide an educational format for informing visitors about wine and beer processing.
- “Business” means an entity that provides a specific service open for the general public, is located on a roadway within the required distance of an interstate or rural state highway, and is a primary or secondary business.
- “Community logo plan” means a project aspect of the rural logo sign program, agreed to by the Department, the contractor, and a municipality outside an urbanized area to place specific service information signs on a rural state highway for the municipality.
- “Contract” means a written agreement between the Department and a contractor to operate a logo sign program that describes the obligations and rights of both parties.
- “Contractor” means a person or entity that enters into an agreement with the Department to operate a logo sign program and that is responsible for marketing, furnishing, installing, maintaining, and replacing specific service information signs.
- “Department” means the Arizona Department of Transportation.
- “Director” means the Director of the Arizona Department of Transportation or the Director’s designee.
- “Exit ramp” means a roadway by which traffic may leave a controlled access highway to another highway.
- “Food court” means a collective food facility that exists in one contiguous area and contains a minimum of three separate food service businesses.
- “Highway” has the meaning in A.R.S. § 28-101(49).
- “Interchange” means the point at which traffic on a system of interconnecting roadways that have one or more grade separations, moves from one roadway to another at a different level.
- “Intersection” has the meaning in A.R.S. § 28-601(7).
- “Interstate highway” has the meaning in A.R.S. § 28-7901(4).
- “Interstate logo sign program” means a system to install and maintain specific service information signs on certain portions of an interstate highway as provided in A.R.S. § 28-7311(A).
- “Lease agreement” means a written contract between a contractor and a responsible operator to lease space for a responsible operator’s logo sign on a contractor’s specific service information sign.
- “Logo sign” means part of a specific service information sign consisting of a lettered board attached to a separate rectangular panel, and that displays an identification brand, symbol, trademark, name, or a combination of these, for a responsible operator.
- “Major decision point” means a location at or before the point at which a rural state highway intersects with another rural state highway or a local roadway, that is within a municipality (except an urbanized area), and that the Department determines to be the point at which a driver must make a decision whether to stay on the highway or turn off onto the other highway or local roadway.
- “Municipality” means an incorporated city or town.
- “Primary business” means:
- A gas service business that is within three miles of an intersection or exit ramp, and is in continuous operation to provide services at least 12 hours per day, seven days per week;
 - A food service business that is within three miles of an intersection or exit ramp terminal, is open for operation no later than 7:00 a.m., provides seating for at least 20, and is in continuous operation to provide service at least three meals per day (breakfast, lunch, and dinner) at least six days per week;
 - A lodging service business that is within three miles of an intersection or exit ramp terminal;
 - A camping service business that is within five miles of an intersection or exit ramp terminal; or

An attraction service business, or staging area of that business, that is within three miles of an intersection or exit ramp terminal.

“Ramp terminal” means the area where an exit ramp intersects with a roadway.

“Responsible operator” means a person or entity that:

Owns or operates a business,

Has authority to enter into a lease, and

Enters into a lease for a logo sign through the interstate or rural logo sign program.

“Rural logo sign program” means a system to install and maintain specific service information signs on a rural state highway outside of an urbanized area, as provided in A.R.S. § 28-7311(B).

“Rural state highway” means any class of state highway, other than an interstate highway, located outside of an urbanized area as provided in A.R.S. § 28-7311(B).

“Secondary business” means a business as follows:

A gas service business that is within 15 miles of an intersection or exit ramp terminal, and in continuous operation to provide services at least eight hours per day, five consecutive days per week;

A food service business that is within 15 miles of an intersection or exit ramp terminal, and is in continuous operation to serve at least two meals per day (either breakfast and lunch, or lunch and dinner) for a minimum of five consecutive days per week;

A lodging service business that is within 15 miles of an intersection or exit ramp terminal;

A camping service business that is within 15 miles of an intersection or exit ramp terminal; or

An attraction service business, or staging area of that business, that is within 15 miles of an intersection or exit ramp terminal.

“Specific service” means gas, food, lodging, camping, or attraction services.

“Specific service information sign” means a rectangular sign panel that contains the following:

The words “GAS,” “FOOD,” “LODGING,” “CAMPING,” or “ATTRACTION,”

Directional information; and

One or more logo signs.

“Staging area” means a regular, designated site where a scenic tour begins.

“Straight-ahead sign” means a specific service information sign that provides additional directional guidance to a location, route, or building located straight ahead on a roadway, and that is located before a junction that is a major decision point.

“Trailblazing sign” means a specific service information sign that provides additional directional guidance to a location, route, or building from another highway or roadway.

“Urbanized area” has the meaning in A.R.S. § 28-7311(D).

B. Logo sign program administration.

1. The Department shall solicit offers, as provided in A.R.S. §§ 41-2501 through 41-2673, to select a contractor to operate a logo sign program.

2. The Department may contract separately for each program.

3. The contract shall specify the standards that a contractor shall use including the following:

a. Manual on Uniform Traffic Control Devices, USDOT/FHWA, current edition as adopted by the Department;

b. Arizona Department of Transportation Traffic Control Supplement, 1996 edition; and

c. Arizona Department of Transportation Standard Specifications, 2000 edition.

4. The Department shall approve the form of any lease agreement between the contractor and a responsible operator. The lease agreement shall include, by reference, the terms and conditions of the Department’s contract with the contractor under A.R.S. §§ 41-2501 through 41-2673.

C. Eligibility criteria for businesses.

1. Any business is ineligible for a logo sign if it already has a highway guide sign installed by the Department.

2. Gas service business. To be eligible to place a logo sign, a gas service business shall:

a. Provide fuel, oil, and water for public purchase or use;

b. Provide restroom facilities and drinking water; and

c. Provide a telephone available for emergencies to the public during hours of operation.

3. Food service business. To be eligible to place a logo sign, a food service business shall:

a. Provide restroom facilities for customers;

b. Provide a telephone available for emergencies to the public during hours of operation; and

c. If a food service business is part of a food court located within a shopping mall, the shopping mall may qualify as the responsible operator if the food court:

i. Complies with subsection (C)(3), and

ii. Has clearly identifiable on-premise signing consistent with the logo sign that is sufficient to guide motorists directly to the entrance to the food court.

4. Lodging service business. To be eligible to place a logo sign, a lodging service business shall:

- a. Provide five or more units of sleeping accommodations, and
- b. Provide a telephone available for emergencies to the public during hours the lobby is open for registration.
5. Camping service business. To be eligible to place a logo sign, a business providing camping facilities shall:
 - a. Be able to accommodate all common types of travel trailers and recreational vehicles;
 - b. Be equipped to handle a minimum of 15 travel trailers or recreational vehicles;
 - c. Provide drinking water and a sewer hook-up or dump station; and
 - d. Be available on a year-round basis unless camping in the general area is of a seasonal nature in which case the facilities in question shall be open to the public 24 hours per day, seven days per week during the entire season.
6. Attraction service business. To be eligible to place a logo sign, an attraction service business shall:
 - a. Derive less than 50% of its sales from:
 - i. The sale of alcohol consumed on the premises, or
 - ii. Gambling,
 - b. Derive more than 50% of its sales or visitors during the normal business season from motorists not residing within a 25-mile radius of the business.
 - c. Provide at least 10 parking spaces.
 - d. Provide restroom facilities and drinking water, and
 - e. Be in continuous operation at least six hours per day, six days per week, except:
 - i. An arena attraction shall hold events at least 28 days annually;
 - ii. A cultural attraction shall be open at least 180 days annually; ~~or~~
 - iii. An educational attraction shall operate at least six hours per day, five days per week; ~~and~~
 - iv. A winery or brewery shall be open for tours at least 40 days annually;
 - v. A farm-related attraction shall be open at least 120 days annually; or
 - vi. A dude ranch shall be open at least 150 days annually.
 - f. ~~Have a minimum annual attendance of 5,000, except if the attraction business operates on a seasonal basis, the attraction business shall have a minimum annual attendance of 2,500.~~

D. Ranking.

1. If more than six eligible businesses providing the same specific service request lease space for a logo sign on one specific service information sign, the contractor shall use the following ranking criteria to determine which businesses are awarded a lease:
 - a. The business closest to an intersection or exit ramp terminal shall receive first priority,
 - b. A gas service business or a food service business that provides the most days and hours of service shall receive second priority,
 - c. A food service business that provides the most indoor seating capacity shall receive third priority, and
 - d. A business that does not have an off-premise advertising sign to direct motorists to its business within five miles of where the specific service information sign is to be located shall receive fourth priority.
2. If two or more businesses have the same ranking in qualifications, the contractor shall award a lease to the first business that requests a logo sign. The contractor shall establish a waiting list for other businesses in sequence of request.
3. The contractor shall not renew the lease of a responsible operator if another eligible business with higher priority requests lease space for a logo sign.

E. Secondary businesses.

1. Lease limitations. For a secondary business, the contractor may enter into a lease for up to five years or renew a lease for up to five years, with the following terms:
 - a. The responsible operator is guaranteed a term of two years, providing the responsible operator complies with all other terms of the lease;
 - b. After the two-year period, the contractor shall terminate the lease and remove the logo sign if another eligible business with higher priority requests lease space for a logo sign; and,
 - c. The contractor shall notify the responsible operator at least six months before terminating the lease and removing the logo sign.
2. The contractor shall display the following additional information on a specific service information sign for a secondary business, as space allows, based on the following ranking order:
 - a. Distance,
 - b. Days and hours of operation, and
 - c. Seasonal operation.

F. Contractor responsibility.

1. The contractor shall follow all Department design standards and specifications for all sign panels, supports, and materials, as provided in the contract.
2. The contractor shall ensure that a business complies with all criteria established in this Section. The contractor shall not enter into a lease agreement or renew a lease agreement if the criteria are not met. If a responsible operator becomes ineligible for a logo sign, the contractor shall remove the logo sign within 20 days after notifying the respon-

- sible operator as provided in the lease.
3. The contractor shall require that a responsible operator certify in writing to the contractor that the responsible operator will comply with all applicable federal, state, and local laws, ordinances, rules, and regulations.
 4. The contractor shall not place a specific service information sign so as to obstruct or detract from a traffic control device.
 5. The contractor shall not remove or relocate an existing traffic control device to accommodate a specific service information sign without prior written approval by the Department, or a local authority under A.R.S. § 28-643.
 6. The contractor shall provide a copy of the signed lease agreement to the responsible operator. The responsible operator shall deliver the logo sign to the contractor for installation, or contract with the contractor to fabricate the logo sign to the responsible operator's and the Department's specifications.
 7. The contractor shall return any pre-paid lease payments to the responsible operator if the responsible operator's logo sign is not erected for reasons caused by the Department or the contractor.
 8. The contractor shall obtain an encroachment permit under ~~R17-3-702~~ R17-3-501 through R17-3-509 before erecting a specific service information sign along a state highway.
 9. If the contractor requests an encroachment permit under ~~R17-3-702~~ R17-3-501 through R17-3-509, the Department's staff shall decide the best placement of a specific service information sign and cooperate with the contractor to provide information to the motoring public as prescribed in subsection (E)(2).
 10. If a logo sign program is terminated, the contractor shall:
 - a. Notify a responsible operator by certified mail of the termination and the location where the responsible operator may claim its logo sign,
 - b. Remove all sign panels and supports, and
 - c. Refund any lease payments on a prorated basis to each responsible operator.