

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF ADMINISTRATION

[R05-23]

- 1. Title and its heading:** 2, Administration

Chapter and its heading: 5, Department of Administration – Personnel Administration

Article and its heading: 5, Conditions of Employment

Section numbers: R2-5-502
- 2. Subject matter of the proposed rule:**
The subsection of R2-5-502(C), flexible work options, is being amended to allow for the mentoring of school age youths at a public school, private school, home school, or through a faith-based organization, if the agency head determines the agency's existing services can be maintained.
- 3. A citation to all published notices relating to the proceeding:**
None published
- 4. Name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Christine Bronson, Human Resources Consultant

Address: ADOA Human Resources
100 N. 15th Ave., Suite 261
Phoenix, AZ 85007

Telephone: (602) 364-1693

Fax: (602) 542-2796

E-Mail Address: Christine.Bronson@ad.state.az.us
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

Written comments: 8:00 a.m. – 5:00 p.m. M-F

Oral Comments: 9:00 a.m. – 5:00 p.m. M-F

Location: ADOA Human Resources
100 N. 15th Ave., Suite 261
Phoenix, AZ 85007
- 6. A timetable for agency decisions or other action in the proceeding:**
The timetable for approval is July 2005.

NOTICE OF RULEMAKING DOCKET OPENING

BOARD OF DISPENSING OPTICIANS

[R05-24]

- 1. Title and its heading:** 4, Professions and Occupations

Chapter and its heading: 20, Board of Dispensing Opticians

Article and its heading: 1, In General

Section number: R4-20-112 (Fees)
- 2. Subject matter of the proposed rule:**
Fee increase
- 3. A citation to all published notices relating to the proceeding:**
Not applicable
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

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Name: Lori D. Scott, Executive Director
Address: 1400 W. Washington, Room 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Written Comments: The board will continue to accept written comments at the location listed above between 8 a.m. and 5 p.m. Monday through Friday, until the close of record.

Oral comments: A public hearing will be scheduled to hear Oral comments at a later date.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined

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DEPARTMENT OF HEALTH SERVICES

[R09-25]

- 1. Title and its heading:** 9, Health Services
Chapter and its heading: 10, Department of Health Services, Health Care Institutions:
Licensing
Article and its heading: 10, Outpatient Treatment Centers
Section numbers: R9-10-1001 through R9-10-1017 (The Department may add, delete,
or modify additional Sections as necessary.)

2. The subject matter of the proposed rule:

In R9-10-101(39), an outpatient treatment center is defined as “a health care institution class without inpatient beds that provides medical services for the diagnosis and treatment of patients.” Currently, there are no rules specific for outpatient treatment centers. Facilities falling within this classification are regulated under R9-10-115, which provides general requirements for “unclassified health care institutions.” The Department plans to make rules that contain specific requirements for outpatient treatment centers.

The agency docket number, if applicable:

RE-003-05

3. A citation to all published notices relating to the proceeding:

None

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

Name: Kathleen Phillips, Rules Administrator
Address: Department of Health Services
1740 W. Adams St., Suite 202
Phoenix, Arizona 85020
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov
or
Name: Kathy McCanna, Program Manager
Address: Department of Health Services
Division of Licensing Services
Office of Medical Facilities
150 N. 18th Ave.
Phoenix, AZ 85007
Telephone: (602) 364-2841
Fax: (602) 364-4764
E-mail: mccannk@azdhs.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

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Written comments will be accepted Monday through Friday, 8 a.m. to 5 p.m., at the addresses listed in item #4 until the close of record which has not yet been determined. The schedule for public hearings, at which oral comments may be presented, will be included in the Notice of Proposed Rulemaking.

6. **A timetable for agency decisions or other action on the proceeding, if known:**

The Department plans to submit a Notice of Proposed Rulemaking by December 2005.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF HEALTH SERVICES

[R05-26]

1. **Title and its heading:**

9, Health Services

Chapter and its heading:

19, Department of Health Services – Vital Records and Statistics

Article and its heading:

3, Duties of persons responsible for death records; post-mortem procedures

Section numbers:

To be determined

2. **The subject matter of the proposed rule:**

A.R.S. § 36-326(C), adopted by Laws 2004, Chapter 117, effective August 2004, requires that human remains moved from a hospital, nursing care institution or hospice inpatient facility must be accompanied by a form provided by the hospital, nursing care institution or hospice inpatient facility authorizing the release of the human remains and states that the form is to contain information required in rules. The Department is making rules to establish requirements for the information contained on the human remains release form.

The agency docket number, if applicable:

RE-002-05

3. **A citation to all published notices relating to the proceeding:**

None

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

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 W. Adams St., Suite 202
Phoenix, AZ 85020

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: phillik@azdhs.gov

Name: Pat Adams, Office Chief

Address: Department of Health Services
Division of Public Health Services
Office of Vital Records
1818 W. Adams St.
Phoenix, AZ 85007

Telephone: (602) 364-1225

Fax: (602) 364-1257

E-mail: adamsp@azdhs.gov

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**

Written comments will be accepted Monday through Friday, 8 a.m. to 5 p.m., at the addresses listed in item #4 until the close of record which has not yet been determined. The schedule for public hearings, at which oral comments may be presented, will be included in the Notice of Proposed Rulemaking.

6. **A timetable for agency decisions or other action on the proceeding, if known:**

The Department plans to submit a Notice of Proposed Rulemaking by February, 2005.

NOTICE OF RULEMAKING DOCKET OPENING

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

[R05-27]

1. **Title and its heading:** 9, Health Services
Chapter and its heading: 27, Arizona Health Care Cost Containment System (AHCCCS), Health Care for Private Employer Groups/AHCCCS Administered
Article and its heading: 1, Definitions
Section numbers: 5, General Provisions and Standards
R9-27-101, R9-27-501, R9-27-503 through R9-27-507, R9-27-509 through R9-27-516. Other Sections may be added, deleted, or modified as necessary.
2. **The subject matter of the proposed rule:**
The rules outline the general provisions and standards applicable to program contractors and providers. They address quality, continuity and coordination of member care, as well as certain rights and prohibitions.
3. **A citation to all published notices relating to the proceeding:**
None
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Mariaelena Ugarte
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4580
Fax: (602) 253-9115
E-mail: AHCCCSRules@ahcccs.state.az.us
5. **The time which the agency will accept written comments and the time and place where oral comments may be made:**
The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in item #4. A public hearing will be scheduled later to provide a forum for interactive discussion with interested parties.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
The Administration anticipates filing a Notice of Proposed Rulemaking in 2005.

NOTICE OF RULEMAKING DOCKET OPENING

ARIZONA CORPORATION COMMISSION
SECURITIES DIVISION

[R05-28]

1. **Title and its heading:** 14, Public Service Corporations; Corporations and Associations;
Securities Regulation
Chapter and its heading: 4, Securities
Article and its heading: 1, In General Relating to the Arizona Securities Act
Section number: R14-4-139. Sections may be added, deleted, or modified as necessary.
2. **The subject matter of the proposed rule:**
Section R14-4-139 (rule 139) provides for a state exemption from registration of a limited offering of up to \$5 million. Rule 139 became effective December 21, 1999, with the expectation that the Securities and Exchange Commission would create a parallel federal exemption; however, the Securities and Exchange Commission has not done so. Without a parallel federal exemption, rule 139 is confusing, misleading and of limited use. The Securities Division proposes that rule 139 be repealed.
The agency docket number, if applicable:
Docket Number RS-00000A-05-0018
3. **A citation to all published notices relating to the proceeding:**
None
4. **The name and address of agency personnel with whom persons may communicate regarding the proposed rule:**

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Name: Kathryn Tomlinson, Assistant General Counsel
Address: Corporation Commission, Securities Division
1300 W. Washington, Third Floor
Phoenix, AZ 85007
Telephone: (602) 542-0187
Fax: (602) 594-7402
E-mail: ktomlinson@ccsd.cc.state.az.us

5. The time during which agency will accept written comments and the time and place where oral comments may be made:

Monday - Friday, 8:00 a.m. - 5:00 p.m. at the Securities Division as noted in question 4. No hearing date has been set.

6. A timetable for agency decisions or other action on the proceeding, if known:

Not known.

NOTICE OF RULEMAKING DOCKET OPENING

BANKING DEPARTMENT

[R05-29]

- 1. Title and its heading:** 20, Commerce, Banking, and Insurance
Chapter and its heading: 4, Banking Department
Article and its heading: 1, General
2, Bank Organization and Regulation
12, Rules of Practice and Procedure before the Superintendent
Section numbers: R20-4-102, R20-4-214, R20-4-1209

2. The subject matter of the proposed rules:

The Department is revising the text of R20-4-102 to correct a typographical error created the last time this Section was revised. In that rulemaking, the Department amended Section 20-4-102 to remove the numbering of the alphabetically listed definitions in that Section. The Department believes the effect of that rulemaking will ease the process of any future revisions to Section R2-4-102.

However, the revised definition of "Employee" in that Section inadvertently retains references to the former designation of its subsections (a) through (e) although those subsections are no longer designated in any way in the text of the revised rule. This rulemaking will remove those outdated references in the interest of clarifying the modern text of the definition.

The proposed revisions have no effect on the substance of the definitions contained in the Section.

The Department is revising the text of R20-4-214 for two reasons. First, the Department has noted a typographical error in the official text of this Section in which the retention period for accounting and auditing expense vouchers or invoices has been omitted from R20-4-214(D)(1)(j). The error is a discrepancy between the GRRC-approved text in the Notice of Final Rulemaking and the text actually printed by the Secretary of State in the Supplement to *The Arizona Administrative Code* for the fourth quarter of 2002, and each supplement since that date.

Second, the Department revises this Section to change the language describing Suspicious Activity Reports that must be retained under the Section. Federal law requires banks to create these reports and retain them for 5 years for any suspicious activity that involves or aggregates at least \$5,000, with no upper limit stated. In contrast, the current language of R20-4-214 requires banks to retain the reports only for suspicious transactions under \$10,000. The Section is being revised to harmonize it with federal law and regulations.

Finally, the Department is revising the text of R20-4-1209. The subject Section concerns the procedure and timing of an answer to a notice of hearing. The regulated community has pointed out that the existing language requires a party to file an answer within 20 days after issuance of a notice of hearing. This creates two problems for users of the rules. A local lawyer suggested to the Department that a change, counting the time from the date of service rather than issuance, solves both problems.

First, since only the Department issues notices of hearing, only the Department knows when the party's time to answer begins to run. A person involved in a proceeding may not even know a hearing is scheduled, but that person's time to answer has already begun to run. This is unfair to all parties, and might be attacked with a due process challenge. Changing the word "issuance" to "service" solves this problem because the party's time to answer then begins to run as soon as it learns it is required to answer.

Second, because the existing Section times events from the date of issuance rather than the date of service, it is unclear whether OAH's rule on dates of filing and service, specifically R2-19-108(F)(2), would apply equally to documents the Department mailed as well as those it personally served. The problem here is the unfairness of the uncertainty, and the unfairness of having two different ways to count time to answer. These problems could be challenged on equal protection grounds. This problem is solved if the Section is amended to change "issuance" to "service"

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because the change will make service the crucial event, and make it clear that service by mail is effective five days after the date of mailing, exactly as in R2-19-108. After the change, all parties will still have 20 days from service to answer, but the date of service is more certain and any party can more precisely determine the deadline to answer because of the proposed change.

3. A citation to all published notices relating to the proceeding:

There are no previous published notices relating to this proceeding.

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

Name: John P. Hudock
Address: Banking Department
2910 N. 44th St., Suite 310
Phoenix, AZ 85018-7270
Telephone: (602) 255-4421, ext. 167
Fax: (602) 381-1225
E-mail: jhudock@azbanking.com

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department accepts written comments during business hours at the address stated in item #4 of this Notice. Comments are welcome at any time until the close of the record in this proceeding. The date for closure of the record depends on the publication date of the actual proposed rules, which has not yet occurred. Notice of any opportunity to make public oral comment will be published as required by law.

6. A timetable for agency decisions or other action on the proceeding, if known:

No timetable has been projected or established. In August, 2005 the Department expects to submit the text of proposed rules for publication.