

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 7. BOARD OF CHIROPRACTIC EXAMINERS

[R06-223]

PREAMBLE

- 1. Sections Affected**
R4-7-1301
- Rulemaking Action**
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-904(B)(2)
Implementing statute: A.R.S. § 32-907
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 1476, May 5, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Patrice A. Pritzl, Executive Director
Address: 5060 N. 19th Ave., Suite 416
Phoenix, AZ 85015-3210
Telephone: (602) 864-5088
Fax: (602) 864-5099
E-mail: merriejoh@earthlink.net
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The proposed rule amendment will change the fee for subscriptions for annual meeting minutes and agendas to more accurately reflect the agency cost of providing the service and will establish a fee for purchase of individual meeting agendas. The proposed rule amendment will also define fees, based on the agency cost of providing the service, for CD recordings of board meeting minutes, registration of chiropractic assistants, approval of continuing education courses, charges for checks returned for insufficient funds, lists of licensees, applicant or assistants and minimal service fee.
- 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 economic impact is minor for the agency. The agency will benefit by covering the cost of providing the service but will not profit from the rulemaking.

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The cost to the public, which includes licensees, will be reduced for annual subscriptions for agendas by \$15 and will increase the annual subscriptions for Board meeting minutes by \$30.00. The cost for CD recordings of board meeting minutes will be \$5.00 per disc. The agency does not foresee any cause that the recording of a board meeting would exceed the capacity of one disc. The cost for lists of licensees, applicants and chiropractic assistants will range from \$2.00 to \$40.00 depending on the level of request. The cost for chiropractic assistant registration annually per licensee will vary from \$5.00 to \$75.00 and will be influenced by the size of a practice and employment of chiropractic assistants. The cost for continuing education compliance is limited to individuals or institutions that apply for continuing education credit and that do not otherwise meet the criteria for continuing education credit under the Chiropractic Act. The number of applicants per year is approximately ten, for an annual cost of \$500 spread over ten applicants. The charge for checks returned for insufficient funds will impact licensees and applicants and will be \$25 per returned check at an annual cost of proximally \$175.00 spread over seven licensees and applicants. The minimum service fee of \$2.00 will apply to approximately 100 transactions a year for a cost of \$200.00

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: Patrice A. Pritzl, Executive Director
Address: 5060 N. 19th Ave., Suite 416
Phoenix, AZ 85015-3210
Telephone: (602) 864-5088
Fax: (602) 864-5099
E-mail: merriejoh@earthlink.net

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:

Written comment will be accepted at the Board office, 5060 N. 19th Ave., #416, Phoenix, AZ 85015, on a business day between the hours of 8:00 a.m. and 5:00 p.m. until 5:00 p.m. on August 15, 2006. An oral proceeding is not scheduled but may be requested.

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 13. FEES

R4-7-1301. Additional Charges

ARTICLE 13. FEES

R4-7-1301. Additional Charges

A. The Board shall collect charges for services as follows:

- ~~1. \$40.00 for directories, address labels, or lists of licensees, applicants, or other regulated parties.~~
- ~~2. \$40.00 for annual subscriptions for meeting minutes, agendas, or other agency documents published and provided on an ongoing basis.~~
- ~~3. \$10.00 for a jurisprudence booklet.~~
- ~~4. \$5.00 for a duplicate renewal receipt.~~
- ~~5. \$20.00 for a duplicate ornamental license.~~
- ~~6. \$20.00 for a duplicate ornamental certificate.~~
- ~~7. \$2.00 for a hard copy of a credential verification.~~
- ~~8. 25¢ per page for the preparation and copying of public records.~~
- ~~9. \$25.00 for a verification of a license in good standing.~~
1. Annual license renewal fee: \$170.00;

2. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;
 3. Directories or labels: \$40.00;
 4. Annual subscription of meeting minutes: \$70.00;
 5. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;
 6. Recordings of Board meetings: \$5.00 per disc or tape;
 7. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;
 8. Hard copy credential verification: \$2.00 per name;
 9. Verification of license status: \$25.00;
 10. Chiropractic assistant registration and transfer: \$5.00 per chiropractic assistant;
 11. Continuing education course review for approval: \$50.00;
 12. Jurisprudence booklet: \$10.00;
 13. Duplicate renewal receipt: \$5.00;
 14. Duplicate ornamental license: \$20.00;
 15. Duplicate ornamental certificate: \$20.00; and
 16. Insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.
- B.** All charges are non-refundable, except if A.R.S. § 41-1077 applies.
- C.** The above fees pertain regardless of the method by which the document is delivered.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES TOBACCO TAX-FUNDED PROGRAMS

[R06-220]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| Chapter 2 | Repeal |
| Article 1 | Repeal |
| R9-2-101 | Repeal |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-136(A)(7), and 36-136(F)
Implementing statutes: A.R.S. § 36-2907.06(D)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 2304, June 30, 2006
Notice of Termination of Rulemaking: 12 A.A.R. 2400, July 7, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Myriam Vega, Office Chief
Address: Arizona Department of Health Services
Office of Health Systems Development
1740 W. Adams, Room 410
Phoenix, AZ 85007
Telephone: (602) 542-1219
Fax: (602) 542-2011
E-mail: vegami@azdhs.gov
or

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Name: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
Office of Administrative Rules
1740 W. Adams St., Room 202
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

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

The Department placed the existing sliding fee schedule Article, 9 A.A.C. 2, Article 1, in the Chapter labeled "Tobacco Tax-funded Programs" because sliding fee schedules applied to the A.R.S. § 36-2907.06 primary care program Part B, funded under former A.R.S. § 36-2921. Laws 2003, Chapter 265, § 30, retroactively effective to July 1, 2003, repealed all versions of A.R.S. § 36-2921, which allocated tobacco tax funds. The state's general fund currently funds the Department's primary care program Part B.

Other Department programs, such as the primary care provider loan repayment program under A.R.S. § 36-2172 and 42 CFR Part 62¹ and the J-1 visa waiver program and the national interest waiver program under A.R.S. § 36-104(16), also need to reference the sliding fee schedule rules. Therefore, the Department determined to repeal 9 A.A.C. 2, including Article 1, Sliding-fee Schedule; and R9-2-101, Approval of Sliding-fee Schedule. In a separate rulemaking the Department is making new sliding fee schedule rules in 9 A.A.C. 1, Article 5.

[¹ 42 CFR 62.55(c)(2) provides that a health professional participating in a state loan repayment program that receives federal grants authorized by 42 U.S.C. 254q-1 shall "charge for his or her professional services at the usual and customary rate prevailing in the area in which such services are provided, except that if a person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee."]

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:

The Department did not review any study and does not propose to rely on or not rely on any study for this rulemaking.

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:

Under A.R.S. § 41-1055(D)(3) this rulemaking is exempt from the economic, small business, and consumer impact statement requirement. Repealing 9 A.A.C. 2 imposes no costs on stakeholders or the general public. The Department is making new sliding fee schedule rules at 9 A.A.C. 1, Article 5.

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:

None

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 scheduled. Written comments will be accepted at the addresses listed in item #4 until the close of record at 5:00 p.m., August 11, 2006, unless a person requests an oral proceeding before the close-of-record date.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 2. DEPARTMENT OF HEALTH SERVICES
TOBACCO TAX FUNDED PROGRAMS REPEALED**

ARTICLE 1. SLIDING FEE SCHEDULE REPEALED

Section

R9-2-101. Approval of sliding fee schedule Repealed

ARTICLE 1. SLIDING FEE SCHEDULE REPEALED

R9-2-101. Approval of Sliding fee Schedule Repealed

- A.** For purposes of this Section, "sliding fee schedule" means a document that sets forth the relationship between an individual's income and family size and states the percentage of the charges for health care services provided pursuant to A.R.S. § 36-2907.06 for which the individual will be responsible.
- B.** At least 30 calendar days before implementation of the sliding fee schedule, a qualifying community health center shall submit an application for approval of the schedule to the Department of Health Services. Submission occurs at the time the Department receives a correctly completed application. The application shall contain:
 - 1. The qualifying community health center's name and street address including city, state, and zip code;
 - 2. The qualifying community health center's telephone number; and
 - 3. The name of the qualifying community health center's administrator.
- C.** The Department of Health Services shall notify the qualifying community health center in writing of approval or disapproval within 20 calendar days of submission of application. A sliding fee schedule shall not be implemented without approval. If an application is disapproved, the Department shall set forth the reasons for the disapproval in the written notice. Within 15 calendar days of receiving a written disapproval, a qualifying community health center may file a written request for a hearing with the Department to appeal the disapproval.
- D.** The sliding fee schedule shall cover income levels from 0 to at least 200% of the federal poverty level.
- E.** A qualifying community health center shall not deny health care services to an individual eligible for health care services pursuant to A.R.S. § 36-2907.06 because the individual is unable to pay for the health care services.
- F.** A qualifying community health center shall apply a 100% discount for an eligible individual with an income at or below 100% of the federal poverty level. A qualifying community health center may establish a minimum fee for administrative processing costs for all eligible individuals without regard to income level. A qualifying community health center shall charge the greater of either the administrative fee or the amount of the charges for services for which an eligible individual is determined to be responsible according to the sliding fee schedule.
- G.** An individual covered by a sliding fee schedule shall not be responsible for an amount greater than the amount determined by applying the sliding fee schedule to the lowest contracted charge for each service received. The lowest contracted charge for a service is determined by reference to contracts covering that service, in effect at the time that the service is rendered, between the qualifying community health center and any payor, subject to limitations of federal and state laws and regulations.
- H.** The qualifying community health center shall post a notice at or near the main entrance and in each waiting room. The notice shall be in both English and Spanish and shall contain the following information:
 - 1. The qualifying community health center provides primary care services to uninsured Arizona residents with family incomes of 200% or less of the federal poverty guidelines and who meet the eligibility requirements of the Tobacco Tax Primary Care Program, A.R.S. § 36-2907.06.
 - 2. The name of the individual or unit within the qualifying community health center that interested persons may contact to have an eligibility determination interview for the Tobacco Tax Primary Care program.
 - 3. The qualifying community health center's use of an Arizona Department of Health Services approved sliding fee schedule to determine the payment responsibility or eligible persons.
 - 4. The name and phone number of the qualifying community health center's staff member responsible for receiving and hearing any complaints from eligible persons regarding their payment responsibility for Tobacco Tax Primary Care program services.

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- ~~1. The qualifying community health center shall keep a log and file of all complaints dealing with payment responsibility under the sliding fee schedule. The log and file shall indicate the name and address of the eligible person, the nature of the complaint, the date the complaint was received, the date the decision was rendered, and the date the decision letter was sent to the eligible person. The qualifying community health center shall retain the log and file for 12 months after the decision letter is sent.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

[R06-222]

PREAMBLE

- 1. Sections Affected**
- | | |
|-----------|---------------------------------|
| R9-28-301 | <u>Rulemaking Action</u> |
| R9-28-303 | Amend |
| R9-28-304 | Amend |
| R9-28-307 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 36-2936
Implementing statute: A.R.S. §§ 36-2936, 36-559, 36-2901, 36-2933 (B)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 1423, April 28, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Linda Barry |
| Address: | AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034 |
| Telephone: | (602) 417-4484 |
| Fax: | (602) 253-9115 |
| E-mail: | AHCCCSRules@azahcccs.gov |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
In 9 A.A.C. 28, Article 3, the preadmission screening process (PAS) is used by the AHCCCS Administration to determine the individual's medical eligibility for receiving Arizona Long-term Care System (ALTCS) services. The revised EPD PAS instrument is designed to update and refine the assessment process for ALTCS customers, by incorporating components of state-of-the-art instruments used in other states and the recommendations of senior ALTCS clinicians. The rules have been reviewed and amended to update the EPD PAS assessment process and other recommendations of the AHCCCS Administration. The rule language was reviewed for clarity, conciseness, and understandability.
- 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:**
The consulting firm of EP & P Consulting, and its subcontractor the Pacific Health Policy Group was retained by the AHCCCS Administration to revise the current EPD PAS instrument. The consultants under the direction and in collaboration with the AHCCCS Administration began in early 2005 and completed the project in April of 2006. The report describes in detail the steps to revise the EPD PAS and scoring methodology used for the determination of eligibility.
The public may obtain a copy of the "Development of a Revised Pre-Admission Screen for the Elderly and Physically Disabled, Final Report" through the AHCCCS Administration.

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 economic impact of the following provisions is minimal. The revised PAS instrument is designed to update and refine the assessment process for ALTCS customers. The level of care criteria for eligibility has not changed with the new PAS. The revised scoring algorithm should have no net effect on the number or type of persons found eligible for ALTCS. It is hoped that the need for physician reviews will be reduced to some degree.

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: Linda Barry
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4484
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site www.azahcccs.gov the week of June 19, 2006. Please send e-mail and written comments to the above address by 5:00 p.m., August 10, 2006.

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:

Date: August 10, 2006
Time: 1:00 p.m.
Location: AHCCCS
701 E. Jefferson
Phoenix, AZ 85034
Nature: Public Hearing

Date: August 10, 2006
Time: 1:00 p.m.
Location: ALTCS: Arizona Long-term Care System
110 S. Church, Suite 1360
Tucson, AZ 85701
Nature: Public Hearing

Date: August 10, 2006
Time: 1:00 p.m.
Location: ALTCS: Arizona Long-term Care System
3480 E. Route 66
Flagstaff, AZ 86004
Nature: Public Hearing

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

Not applicable

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

Section 1902(e)(9) of the Social Security Act, March 30, 2006, R9-28-303

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 3. PREADMISSION SCREENING (PAS)

Section

- R9-28-301. Definitions
R9-28-303. Preadmission Screening (PAS) Process
R9-28-304. Preadmission Screening Criteria for an Applicant or Member who is Elderly and Physically Disabled (EPD)
R9-28-307. The ALTCS Transitional Program for a Member who is Elderly and Physically Disabled (EPD) or Developmentally Disabled (DD)

ARTICLE 3. PREADMISSION SCREENING (PAS)

R9-28-301. Definitions

- A. Common definitions. In addition to definitions contained in A.R.S. Title 36, Chapter 29, and 9 A.A.C. 28, Article 1, the words and phrases in this Chapter have the following meanings for an individual who is elderly or physically disabled (EPD) or developmentally disabled (DD) unless the context explicitly requires another meaning:

~~“Acute” means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.~~

“Applicant” is defined in A.A.C. R9-22-101.

“Assessor” means a social worker as defined in this subsection or a licensed registered nurse (RN) who:

Is employed by the Administration to conduct PAS assessments,

Completes a minimum of 30 hours of classroom training in both EPD and DD preadmission screening (PAS) for a total of 60 hours, and

Receives intensive oversight and monitoring by the Administration during the first 30 days of employment with ongoing oversight.

~~“Chronic” means a medical condition that is always present, occurs periodically, or is marked by a long duration.~~

~~“Constant or constantly” means at least once a day.~~

“Current” means belonging to the present time.

“Disruptive behavior” means inappropriate behavior including urinating or defecating in inappropriate places, sexual behavior inappropriate to time, place, or person or excessive whining, crying or screaming that interferes with an applicant’s or member’s normal activities or the activities of others and requires intervention to stop or interrupt the behavior.

~~“Frequent or Frequently” means weekly to every other day.~~

“Frequency” means the number of times a specific behavior occurs within a specified interval.

“Functional assessment” means an evaluation of information about an applicant’s or member’s ability to perform activities related to:

Developmental milestones,

Activities of daily living,

Communication, and

Behavior.

~~“History” means a medical condition that occurred in the past that may not have required treatment and is not now active.~~

“Immediate risk of institutionalization” means an applicant or member under A.R.S. § 36-2934(A)(5) and as specified in A.R.S. § 36-2936 and in the Administration’s Section 1115 Waiver with CMS.

“Intervention” means therapeutic treatment, including the use of medication, behavior modification, and physical restraints to control behavior. Intervention may be formal or informal and includes actions taken by friends or family

to control the behavior.

“Limited or occasional” means a small portion of an entire task or assistance for the task required less than daily.

“Medical assessment” means an evaluation of an applicant’s or member’s medical condition and the applicant’s or member’s need for medical services.

“Medical or nursing services and treatments” or “services and treatments” in this Article means specific, ongoing medical, psychiatric, or nursing intervention used actively to resolve or prevent deterioration of a medical condition. Durable medical equipment and activities of daily living assistive devices are not treatment unless the equipment or device is used specifically and actively to resolve the existing medical condition.

~~“Occasional or occasionally” means from time to time such as less than once per week during the assessment period.~~

“Physical participation” means the applicant’s or member’s active participation.

“Physically lift” means actively bearing some part of an applicant’s or member’s weight during movement or activity and excludes bracing or guiding activity.

“Physician consultant” means a physician who contracts with the Administration.

“Social worker” means an individual with two years of case management-related experience or a baccalaureate or master’s degree in:

- Social work,
- Rehabilitation,
- Counseling,
- Education,
- Sociology,
- Psychology, or
- Other closely related field.

“Special diet” means a diet planned by a dietitian, nutritionist, or nurse that includes high fiber, low sodium, or pureed food.

“Toileting” means the process involved in an applicant’s or member’s managing of the elimination of urine and feces in an appropriate place.

“Vision” means the ability to perceive objects with the eyes.

B. EPD. In addition to definitions contained in subsection (A), the following also applies to an applicant or member who is EPD:

“Aggression” means physically attacking another, including:

- Throwing an object,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair,
- Scratching, and
- Physically threatening behavior.

“Bathing” means the process of washing, rinsing, and drying all parts of the body, including an applicant’s or member’s ability to transfer to a tub or shower and to obtain bath water and equipment.

“Continence” means the applicant’s or member’s ability to control the discharge of body waste from bladder or bowel.

“Dressing” means the physical process of choosing, putting on, securing fasteners, and removing clothing and footwear. Dressing includes choosing a weather-appropriate article of clothing but excludes aesthetic concerns. Dressing includes the applicant’s or member’s ability to put on artificial limbs, braces, and other appliances that are needed daily.

“Eating” means the process of putting food and fluids by any means into the digestive system.

“Elderly” means an applicant or member who is age 65 or older.

“Emotional and cognitive functioning” means an applicant’s or member’s orientation and mental state, as evidenced

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by overt behavior.

“EPD” means an applicant or member who is elderly and physically disabled.

“Grooming” means the applicant’s or member’s process of tending to appearance. Grooming includes: combing or brushing hair, washing face and hands, shaving, ~~performing routine nail care~~, oral hygiene (including denture care), and menstrual care. Grooming does not include aesthetics such as styling hair, skin care, nail care and applying cosmetics.

“Mobility” means the extent of an applicant’s or member’s purposeful movement within a residential environment.

“Orientation” means an applicant’s or member’s awareness of self in relation to person, place, and time.

“Physically disabled” means an applicant or member who is determined physically impaired by the Administration through the PAS assessment as allowed under the Administration’s Section 1115 Waiver with CMS.

“Resistiveness” means inappropriately stubborn and uncooperative behaviors, including passive or active obstinate behaviors, refusing to participate in self care or to take necessary medications. Resistiveness does not include difficulties with auditory processing or reasonable expressions or self advocacy.

“Self-injurious behavior” means repeated self-induced, abusive behavior that is directed toward infliction of immediate physical harm to the body.

“Sensory” means of or relating to the senses.

~~“Suicidal behavior” means an act or intent to take one’s life voluntarily.~~

“Transferring” means an applicant’s or member’s ability to move horizontally or vertically between two surfaces within a residential environment, excluding transfer for toileting or bathing.

“Wandering” means applicant’s or member’s moving about with no rational purpose and with a tendency to go beyond the physical parameter of the environment.

- C. DD. In addition to definitions contained in subsection (A), the following also applies to an applicant or member who is DD:

“Acute” means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.

“Aggression” means physically attacking another, including:

- Throwing objects,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair, and
- Scratching.

“Ambulation” means the ability to walk and includes quality of the walking and the degree of independence in walking.

“Associating time with an event and an action” means an applicant’s or member’s ability to associate a regular event with a specific time-frame.

“Bathing or showering” means an applicant’s or member’s ability to complete the bathing process including drawing the bath water, washing, rinsing, and drying all parts of the body, and washing the hair.

“Caregiver training” means a direct-care staff person or caregiver trained in special health care procedures normally performed or monitored by a licensed professional, such as a registered nurse. These procedures include ostomy care, positioning for medical necessity, use of an adaptive device or respiratory services such as suctioning or a small volume nebulizer treatment.

“Chronic” means a medical condition that is always present, occurs periodically, or is marked by a long duration.

“Clarity of communication” means an ability to speak in recognizable language or use a formal symbolic substitution, such as American-Sign Language.

“Climbing stairs or a ramp” means an applicant’s or member’s ability to move up and down stairs or a ramp.

“Community mobility” means the applicant’s or member’s ability to move about a neighborhood or community independently, by any mode of transportation.

“Crawling and standing” means an applicant’s or member’s ability to crawl and stand with or without support.

“DD” means developmentally disabled.

“Developmental milestone” means a measure of an applicant’s or member’s functional abilities including:

- Fine and gross motor skills,
- Expressive and receptive language,
- Social skills,
- Self-help skills, and
- Emotional or affective development.

“Dressing” means the ability to put on and remove an article of clothing and does not include braces nor does it reflect an applicant’s or member’s ability to match colors or choose clothing appropriate for the weather.

“Eating or drinking” means the process of putting food and fluid by any means into the digestive system.

“Expressive verbal communication” means an applicant’s or member’s ability to communicate thoughts with words or sounds.

“Food preparation” means the ability to prepare a simple meal including a sandwich, cereal, or a frozen meal.

“Hand use” means the applicant’s or member’s ability to use the hands, or hand if an applicant or member has only one hand, or has the use of only one hand.

“History” means a medical condition that occurred in the past that may not have required treatment and is not now active.

~~“Limited or occasional” means a small portion of an entire task or assistance for the task required less than daily.~~

“Personal hygiene” means the process of tending to one’s appearance. Personal hygiene may include: combing or brushing hair, washing face and hands, shaving, performing routine nail care, oral hygiene including denture care, and menstrual care. This does not include aesthetics such as styling hair, skin care, and applying cosmetics.

“Physical interruption” means immediate hands-on interaction to stop a behavior.

“Remembering an instruction and demonstration” means an applicant’s or member’s ability to recall an instruction or demonstration on how to complete a specific task.

“Resistiveness or rebelliousness” means an applicant’s or member’s inappropriate, stubborn, or uncooperative behavior. Resistiveness or rebelliousness does not include an applicant’s or member’s difficulty with processing information or reasonable expression of self-advocacy that includes an applicant’s or member’s expression of wants and needs.

“Rolling and sitting” means an applicant’s or member’s ability to roll and sit independently or with the physical support of another person or with a device such as a pillow or specially-designed chair.

“Running or wandering away” means an applicant or member leaving a physical environment without notifying or receiving permission from the appropriate individuals.

“Self-injurious behavior” means an applicant’s or member’s repeated behavior that causes injury to the applicant or member.

“Verbal or physical threatening” means any behavior in which an applicant or member uses words, sounds, or action to threaten harm to self, others, or an object.

“Wheelchair mobility” means an applicant’s or member’s mobility using a wheelchair and does not include the ability to transfer to the wheelchair.

R9-28-303. Preadmission Screening (PAS) Process

~~A. An assessor shall complete the PAS instrument as part of the initial assessment or reassessment for:~~

- ~~1. An applicant or member who is DD or EPD;~~
- ~~2. A hospitalized applicant, or~~
- ~~3. An applicant or member who is ventilator dependent.~~

~~B.A.~~ The assessor shall use the PAS instrument to determine ~~to assess~~ whether the following applicants or members ~~are at~~ immediate risk of institutionalization:

1. The assessor shall use the PAS instrument prescribed in R9-28-304 to assess an applicant or member who is EPD except as specified in (A)(2) for a physically disabled applicant or member who is less than 6 years old. After assessing a physically disabled child age 6 years to less than 12 years, the assessor shall refer the child for physician consultant review under R9-28-303.
2. The assessor shall use the age-specific PAS instrument prescribed in R9-28-305 ~~for to assess~~ an applicant or member who is physically disabled ~~or and~~ less than 6 years old. After assessing the this child, in subsection (1), the assessor shall refer the child for physician consultant review under R9-28-303.

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3. The assessor shall use the PAS instrument prescribed in R9-28-305 to assess an applicant or member who is DD, except as specified in (A)(4) for an applicant or member who is DD and residing in a NF. After assessing a child who is DD and less than 6 months of age, the assessor shall refer the child for physician consultant review under R9-28-303.
 - a. ~~DD and residing in a NF. The assessor shall use the PAS instrument prescribed in R9-28-304; or~~
 - b. ~~DD or physically disabled and less than 6 months of age. The assessor shall use the PAS instrument prescribed in R9-28-305. After assessing the child, the assessor shall refer the child for physician consultant review under R9-28-303.~~
4. The assessor shall use the PAS instrument prescribed in R9-28-304 for an applicant or a member who is DD and residing in a NF.
5. The assessor shall use the PAS instrument prescribed in R9-28-304 or R9-28-305, whichever is applicable, to assess an applicant or member who is classified as ventilator-dependent, under Section 1902(e)(9) of the Social Security Act, March 30, 2006, incorporated by reference and on file with the Administration. This incorporation by reference contains no future editions or amendments.
- ~~C.~~ ~~For an applicant or member who is ventilator dependent, a registered nurse assessor shall complete the PAS instrument, and determine an applicant or member at immediate risk of institutionalization when the applicant or member is classified as ventilator dependent, under Section 1902(e)(9) of the Social Security Act, January 1, 1995, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- ~~D.B.~~ ~~For an initial assessment of an applicant who is in a hospital or other acute care setting:~~
 1. A registered nurse assessor shall complete the PAS ~~instrument assessment~~, or
 2. In the event that a registered nurse assessor is not available, a social worker assessor shall complete the PAS assessment; and
 3. The assessor shall conduct the PAS assessment and determine medical eligibility when discharge is scheduled within seven days.
- ~~E.C.~~ ~~An assessor shall conduct a face-to-face PAS assessment with an applicant or member, except as provided in subsection (HF). The assessor shall make reasonable efforts to obtain the applicant's or member's available medical records. The assessor may also obtain information for the PAS assessment from face-to-face interviews with the:~~
 1. Applicant or member,
 2. Parent,
 3. Guardian,
 4. Caregiver, or
 5. Any person familiar with the applicant's or member's functional or medical condition.
- ~~F.D.~~ ~~Using the information described in subsection (EC), an assessor shall complete the PAS instrument assessment based on the assessor's education, experience, professional judgment, and training, as described in R9-28-301(A).~~
- ~~G.E.~~ ~~After the assessor completes the PAS instrument assessment, the assessor shall calculate a PAS score. The assessor shall compare the PAS score to an established threshold score. The scoring methodology and threshold scores are specified in R9-28-304 and R9-28-305. Except as determined by physician consultant review as provided in subsections (IG) and (J), the threshold score is the point at which an applicant or member is determined to be at immediate risk of institutionalization.~~
- ~~H.E.~~ ~~Upon request, the Administration shall conduct a PAS assessment to determine whether a deceased applicant who was residing in a NF or who received services in an ICF-MR any time during the months covered the time period covered by the application would have been eligible to receive ALTCS benefits for those months.~~
- ~~I.G.~~ ~~The Administration shall request that an AHCCCS physician consultant review the PAS instrument assessment, the available medical records, and use professional judgement when to make the determination regarding an applicant or member who has a developmental disability or has a nonpsychiatric medical condition that, by itself or in combination with a medical condition, places an applicant or member at immediate risk of institutionalization. The physician consultant shall make the determination in the following circumstances:~~
 1. The PAS score of an applicant or member who is EPD is less than the threshold specified in R9-28-304, but is at least 56;
 2. The PAS score of an applicant or member who is DD is less than the threshold specified in R9-28-305, but is at least 38;
 3. An applicant or member scores below the threshold specified in R9-28-304, but the Administration has reasonable cause to believe that the applicant's or member's unique functional abilities or medical condition ~~places~~ may place the applicant or member at immediate risk of institutionalization;
 4. An applicant or member scores below the threshold specified in R9-28-304 and has a documented diagnosis of autism, autistic-like behavior or pervasive developmental disorder; ~~or~~
 5. An applicant or member who is seriously mentally ill as defined in A.R.S. § 36-550 ~~and who~~ achieves a score at or above the threshold specified in R9-28-304, but does not meet the requirements of A.R.S. § 36-2936. Despite a score

at or above the threshold, the physician consultant exercises professional judgement and determines if the applicant or member meets the requirements of A.R.S. § 36-2936.

6. An applicant is an AHCCCS acute care member and achieves a score at or above the threshold specified in R9-28-304 but the Administration has reasonable cause to believe that the applicant's condition is convalescent, and requires less than 90 days of institutional care;
7. An applicant or member is a physically disabled child age 6 to less than 12 years of age;
8. An applicant or member is a physically disabled child under 6 years of age; or
9. An applicant is under 6 months of age.

~~J.H.~~ The physician conducting the review shall use the information contained in the PAS instrument, available medical records, and professional judgement to determine whether an applicant or member is DD or has a nonpsychiatric medical condition that, by itself or in combination with a medical condition, places an applicant or member at immediate risk of institutionalization.

At a minimum, the The physician consultant shall consider the following:

1. ADL dependence;
2. Delay in development;
3. Continence;
4. Orientation;
5. Behavior;
6. Any medical condition, including stability and prognosis;
7. Any medical nursing treatment including skilled monitoring, medication, and therapeutic regimens;
8. Supervision requirements;
9. Caregiver skill and training requirements; and
10. Any factor of significance to the individual case.

~~K.~~ The physician shall state the reasons for the recommended decision in the comment section of the PAS instrument.

~~L.~~ If the physician consultant is unable to make the determination from the PAS assessment and the available medical records, the physician consultant may conduct a face-to-face review with the applicant or member or contact others familiar with the applicant's or member's needs, including primary care physician or other caregiver, to make the determination.

~~L.~~ If the physician is unable to determine eligibility from the PAS instrument and available medical records, the physician may conduct a face to face review with the applicant or member or contact others familiar with the applicant's or member's needs, including primary care physician or other caregiver.

~~J.~~ The physician consultant shall state the reasons for the determination in the physician review comment section of the PAS instrument.

R9-28-304. Preadmission Screening Criteria for an Applicant or Member who is Elderly and Physically Disabled (EPD)

A. The PAS instrument for an applicant or member who is EPD includes four major categories:

1. Intake information category. The assessor solicits intake information category information on an applicant's or member's demographic background. The components of the intake information category are not included in the calculated PAS score.
2. Functional assessment category. The assessor solicits functional assessment category information on an applicant's or member's:
 - a. Need for assistance with activities of daily living, including:
 - i. Bathing,
 - ii. Dressing,
 - iii. Grooming,
 - iv. Eating,
 - v. Mobility,
 - vi. Transferring, and
 - vii. Toileting in the residential environment or other routine setting;
 - b. Communication and sensory skills, including hearing, expressive communication, and vision; and
 - c. Continence, including bowel and bladder functioning.
3. Emotional and cognitive functioning category. The assessor solicits emotional and cognitive functioning category information on an applicant's or member's:
 - a. Orientation to person, place, and time taking into account the caregiver's judgement; and
 - b. Behavior, including:
 - i. Wandering,
 - ii. Self-injurious behavior,
 - iii. Aggression,

- iv. ~~Suicidal behavior~~ Resistiveness, and
 - v. Disruptive behavior.
 4. Medical assessment category. The assessor solicits medical assessment category information on an applicant's or member's:
 - a. ~~Medical condition~~ conditions that have an ~~and the medical condition's~~ impact on the applicant's or member's functional ability, in relation to perform independently activities of daily living, continence and vision;
 - b. Medical condition that requires medical or nursing service and treatment;
 - c. Medication, treatment, and allergies;
 - d. Specific services and treatments that the applicant or member is currently receiving ~~receives or needs and the frequency of the services and treatments~~; and
 - e. Physical measurements, hospitalization history, and ventilator dependency.
- B. The assessor shall use the PAS instrument to assess an applicant or member who is EPD as specified in this Section. A copy of the PAS instrument is available from the Administration. The Administration uses the assessor's PAS ~~instrument responses assessment~~ to calculate three scores: a functional score, a medical score, and a total score.
 1. Functional score.
 - a. The Administration calculates the functional score from responses to scored items in the functional assessment and emotional and cognitive functioning categories. For each response to a scored item, a number of points is assigned, which is multiplied by a weighted numerical value. The result is a weighted score for each response.
 - b. ~~Designated items in the categories are scored according to subsection (C), under the following assessment matrices~~
 - i. ~~Sensory skills;~~
 - ii. ~~Medical conditions; and~~
 - iii. ~~Medical or nursing service and treatment.~~
 - e.b. ~~All items in the following categories are scored, according to subsection (C), under the Functional Assessment matrix~~ In the functional assessment matrix, all items in the following categories are scored according to subsection (C)
 - i. Activities of daily living;
 - ii. Continence;
 - iii. ~~Orientation~~ Sensory;
 - iv. Orientation; and
 - v. Behavior.
 - d.c. ~~The sum of the weighted scores equals the functional score. The weighted score per item can range from 0 to 15. The maximum functional score attainable by an applicant or member is 141166. No minimum functional score is required except as prescribed in subsections (B)(3)(c) and (B)(3)(d).~~
 2. Medical score.
 - a. ~~The EPD population is divided into two groups for purposes of calculating the medical score. The primary distinction between the two groups is the difference in medical need as follows:~~
 - i. ~~Group 1 includes an applicant or member diagnosed with paralysis, head trauma, multiple sclerosis, amyotrophic lateral sclerosis, or Parkinson's disease that either impacts the applicant's or member's ability to perform activities of daily living independently or requires the applicant or member to receive nursing services or treatments.~~
 - ii. ~~Group 2 includes an applicant or member diagnosed with Alzheimer's disease, dementia, or an organic brain syndrome that either impacts the applicant's or member's ability to perform activities of daily living independently or requires medical or nursing services and treatments. If an applicant or member does not meet one of the criteria for Group 2, the applicant or member is considered to be in Group 1.~~
 - b. ~~Scoring methodology: Group 1 individuals.~~
 - i. ~~The Administration calculates the medical score is from responses to scored items in the medical conditions and the services and treatments sections of the PAS instrument.~~
 - ii. ~~Each response to a scored item in the medical assessment category is assigned a certain number of points, ranging from 0 to 4 points per item.~~
 - iii. ~~The sum of the points equals the medical score, with a maximum score of 63. No minimum medical score is required, except as prescribed in subsection (B)(3)(c).~~
 - e. ~~Scoring Methodology: Group 2 individuals.~~
 - i. ~~The Administration calculates the medical score from responses to scored items in the services and treatments section of the PAS instrument.~~
 - ii. ~~Each response to a scored item in the medical assessment category is assigned a number of points, ranging from 0 to 16 points per item.~~
 - iii. ~~The sum of the points equals the medical score, with a maximum score of 42. No minimum medical score is required, except as prescribed in subsection (B)(3)(d).~~

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- a. In the medical assessment matrix, all items in the following categories are scored according to subsection (C):
 - i. Medical conditions, and
 - ii. Medical or nursing services and treatments.
 - b. The Administration calculates the medical score based on the applicant's or member's
 - i. Diagnosis of Alzheimer's, or dementia, or organic brain syndrome (OBS); and
 - ii. Diagnosis of paralysis, and
 - iii. Current use of oxygen.
 - c. The maximum medical score attainable by an applicant or member is 31.5
3. Total score.
- a. The sum of an applicant's or member's functional and medical scores equals the total score.
 - b. The total score is compared to ~~an~~ the established threshold score ~~in R9-28-304~~ as calculated under ~~R9-31-304~~ R9-28-304. Regardless of whether an applicant or member is in Group 1 or in Group 2, the threshold score is 60. The threshold score is 60.
 - c. ~~Except as~~ As defined in R9-28-303, an applicant or member is determined at immediate risk of institutionalization if ~~one of the following is met; the total score is equal to or greater than 60.~~
 - i. ~~The applicant or member has a total score equal to or greater than 60;~~
 - ii. ~~The applicant or member in Group 1 has a total score less than 60, a functional score equal to or greater than 30, and a medical score equal to or greater than 13;~~
 - iii. ~~The applicant or member in Group 2 has a total score less than 60 and a functional score equal to or greater than 30, and a weighted score from the orientation section equal to or greater than 5; or~~
 - iv. ~~The applicant or member in Group 2 has a total score equal to or greater than 30 and is assigned at least two points for any one item in the behavior section.~~
- C. The following matrices represent the number of points available and the respective weight for each scored item.
1. Functional assessment points. The lowest value in the range of points available per item in the functional assessment category indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
 2. Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, 0, indicates that the applicant or member:
 - a. Does not have ~~a~~ the scored medical condition,
 - b. Does not need the scored medical or nursing services, or
 - c. Does not receive ~~any~~ the scored medical or nursing services.

FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score per Item (P)x(W)
Activities of Daily Living Section			
Bathing, Dressing, Grooming, Mobility, Toileting	0-5	3	0-15
Eating	0-6	2.5	0-15
Transfer	0-4	3.75	0-15
Continence Section			
Bowel	0-2	0	0
	3	.167	.5
Bladder	0-4	0.5	0-2
Sensory Section			
	0-1	0	0
Vision	2	1.75	3.5
	3	1.167	3.5
Orientation Section			
Person, Place, Time	0-3	1	0-3

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<u>Emotional or Cognitive Behavior Section</u>			
<u>Aggression, Self-injurious, Suicidal, Wandering</u>	<u>0-3</u>	<u>1</u>	<u>0-3</u>
<u>Disruptive</u>	<u>0-3</u>	<u>3</u>	<u>0-9</u>

<u>FUNCTIONAL ASSESSMENT</u>	<u># of Points Available Per Item (P)</u>	<u>Weight (W)</u>	<u>Range of Possible Weighted Score per Item (P)x(W)</u>
<u>Activities of Daily Living Section</u>			
<u>Mobility</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Transfer</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Bathing</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Dressing</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Grooming</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Eating</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Toileting</u>	<u>0-3</u>	<u>5</u>	<u>0-15</u>
<u>Continence Section</u>			
<u>Bowel</u>	<u>0-3</u>	<u>1</u>	<u>0-3</u>
<u>Bladder</u>	<u>0-3</u>	<u>1</u>	<u>0-3</u>
<u>Sensory Section</u>			
<u>Vision</u>	<u>0-3</u>	<u>2</u>	<u>0-6</u>
<u>Orientation Section</u>			
<u>Place</u>	<u>0-4</u>	<u>.5</u>	<u>0-2</u>
<u>Time</u>	<u>0-4</u>	<u>.5</u>	<u>0-2</u>
<u>Emotional or Cognitive Behavior Section</u>			
<u>Aggression-Frequency</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Aggression-Intervention</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Self-injurious-Frequency</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Self-injurious-Intervention</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Wandering- Frequency</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Wandering- Intervention</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Resistiveness-Frequency</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>

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<u>Resistiveness-Intervention</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Disruptive-Frequency</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>
<u>Disruptive-Intervention</u>	<u>0-3</u>	<u>1.5</u>	<u>0-4.5</u>

MEDICAL-ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P)x(W)
GROUP 1			
Medical Conditions Section			
Paralysis or Sclerosis	0-1	3	0-3
Alzheimer's, or OBS, or Dementia	0-1	3.5	0-3.5
Services and Treatments Section			
Physical Therapy, Occupational Therapy, Speech Therapy	0-1	0.5	0-0.5
Suctioning, Oxygen, Small Volume Nebulizer, Tracheostomy Care, Postural Drainage, Respiratory Therapy	0-1	1.5	0 or 1.5
Drug Regulation	0-1	2	0 or 2
Decubitus Care, Wound Care, Ostomy Care, Feedings-Tube or Parenteral, Catheter Care, Other Ostomy Care, Dialysis, Fluid Intake or Output	0-1	3	0 or 3
Teaching or Training Program, Bowel or Bladder Program, Range of Motion, Other Rehabilitative Nursing, Restraints	0-1	4	0 or 4

MEDICAL-ASSESSMENT	# of Points Available per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item
GROUP 2			
Drug Regulation	0-1	2	0 or 2
Teaching or Training Program, Bowel or Bladder Program, Range of Motion, Other Rehabilitative Nursing	0-1	6	0 or 6
Restraints (Physical or Chemical)	0-1	16	0 or 16

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<u>MEDICAL ASSESSMENT</u>	<u># of Points Available Per Item (P)</u>	<u>Weight (W)</u>	<u>Range of Possible Weighted Score Per Item (P)x(W)</u>
<u>Medical Conditions Section</u>			
<u>Paralysis</u>	<u>0-1</u>	<u>6.5</u>	<u>0 or 6.5</u>
<u>Alzheimer's, or OBS, or Dementia</u>	<u>0-1</u>	<u>20</u>	<u>0 or 20</u>
<u>Services and Treatments Section</u>			
<u>Oxygen</u>	<u>0-1</u>	<u>5</u>	<u>0 or 5</u>

R9-28-307. The ALTCS Transitional Program for a Member who is Elderly and Physically Disabled (EPD) or Developmentally Disabled (DD)

- A. The ALTCS transitional program serves members enrolled in the ALTCS program who, at the time of reassessment as described in R9-28-306, no longer meet the threshold specified in R9-28-304 for EPD or in R9-28-305 for DD. The member must meet all other ALTCS eligibility criteria. The member's PAS assessment will be compared to a second scoring methodology for eligibility in the ALTCS transitional program as defined in subsections (B) and (C).
- B. The Administration shall transfer a member who is DD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment, the total PAS score is less than the threshold described in R9-28-305 but is at least 30, or the member is diagnosed with moderate, severe, or profound mental retardation.
- C. The Administration shall transfer a member who is EPD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment, the PAS score is less than the threshold described in R9-28-304 but ~~the member meets one or more of the following criteria:~~ is at least 40.
 - 1. ~~Has a score of two or more on three of the following activities for daily living:~~
 - a. ~~Eating,~~
 - b. ~~Dressing,~~
 - c. ~~Bathing,~~
 - d. ~~Toileting, and~~
 - e. ~~Transferring;~~
 - 2. ~~Has a diagnosis of:~~
 - a. ~~Alzheimer's disease,~~
 - b. ~~Organic brain syndrome,~~
 - c. ~~Dementia,~~
 - d. ~~Parkinson's disease, or~~
 - e. ~~Head trauma that impacts activities of daily living; and~~
 - 3. ~~Has a score of two or more on any of the items in the emotional and cognitive functioning category.~~
- ~~D.~~ An assessor shall conduct a reassessment annually of a member qualifying for the transitional program to determine if the member continues to meet the criteria specified in subsections (B) and (C).
- ~~E.D.~~ For a member residing in a NF or ICF-MR, the program contractor or the Administration has up to 90 continuous days from the enrollment date of the member's eligibility for the ALTCS transitional program to move the member to an approved home- and community-based setting.
- ~~F.E.~~ A member in the ALTCS transitional program shall continue to receive all medically necessary covered services as specified in Article 2.
- ~~G.F.~~ The A member in the ALTCS transitional program is eligible to receive up to 90 continuous days per NF or ICF-MR admission when the member's condition worsens to the extent that an admission is medically necessary.
- ~~H.G.~~ For a member requiring medically necessary NF or ICF-MR services for longer than 90 days, the program contractor shall request the Administration to conduct a reassessment under R9-28-306.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 2. DEPARTMENT OF TRANSPORTATION
AERONAUTICS DIVISION

[R06-224]

PREAMBLE

1. Sections Affected

R17-2-101
R17-2-201
Table 1
R17-2-202
R17-2-203
R17-2-204
R17-2-205
R17-2-206

Rulemaking Action

Amend
Amend
New Table
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-8202, 28-8204, 28-8241 through 28-8244, and 28-8419

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 4850, December 3, 2004

Notice of Rulemaking Docket Opening: 12 A.A.R. 2245, June 23, 2006

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

Name: John Lindley, Administrative Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007

Telephone: (602) 712-8804

Fax: (602) 712-3081

E-mail: jlindley@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/mvdrules/rules.asp.

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

The Arizona Department of Transportation, Aeronautics Division, proposes to amend existing rules to update related citations, reflect modernization in rule drafting style, and improve the clarity, conciseness, and understandability of program requirements. This action complies with recommendations made in the Division's Five-Year Rule Review Report approved by the Governor's Regulatory Review Council on June 30, 2004.

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:

The agency did not review or rely on any study for this rulemaking.

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:

Agency practices currently reflect the intended meaning of the rules and will not change as a result of the rulemaking. Therefore, the agency anticipates no economic impact associated with the proposed amendments, except those resources necessary for rulemaking.

Notices of Proposed Rulemaking

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: John Lindley, Administrative Rules Analyst
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Fax: (602) 712-3081
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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:

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit written, faxed, or e-mail comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record in this rulemaking will close at 5:00 p.m., on August 7, 2006.

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

None

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 2. DEPARTMENT OF TRANSPORTATION
AERONAUTICS DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section
R17-2-101. Definitions

ARTICLE 2. GRAND CANYON NATIONAL PARK AIRPORT – OPERATION AND MANAGEMENT

Section
R17-2-201. Fees and Charges for Services and Use of Facilities and Equipment at the Airport
Table 1. Grand Canyon National Park Airport Fees and Charges
R17-2-202. Airport Use Permits
R17-2-203. Minimum ~~requirements~~ Requirements for Fixed ~~Based~~ Base Operators
R17-2-204. Airport Ground Leases
R17-2-205. Airport Parking ~~Rules and Regulations~~ Limitations; Prohibited Activities
R17-2-206. Airport Impoundment Procedures; Notice of Impound

ARTICLE 1. GENERAL PROVISIONS

R17-2-101. Definitions

In this Chapter, the following definitions shall apply:

1. “ADOT” means the Arizona Department of Transportation;
2. “After-hours” means hours beyond those determined by airport management as appropriate to meet the seasonal demand.
3. “Airport” means the geographical boundaries of the property owned by the Arizona Department of Transportation, Aeronautics Division, and known as the Grand Canyon National Park Airport.
4. “Airport business” means any business venture operating inside the boundaries of the Grand Canyon National Park

- Airport or relying on business generated as a result of the presence of the airport, its customers, or employees.
5. "Airport management" means those persons designated by the ADOT Aeronautics Division Assistant Director as responsible for the management of the airport and its operations.
 6. "Apron" means an artificially surfaced area of ground designed and used for the parking and storage of aircraft at an airport.
 7. "Commercial aviation" means the scheduled or non-scheduled transportation by air of persons or property for compensation or hire under FAA ~~federal aviation~~ regulations.
 8. "Commercial ground transportation" means the scheduled or non-scheduled transportation, exclusive of by air, of persons or property for compensation or hire to and from the airport.
 9. "Commercial fuel handling" means the sale, storage, transportation, ~~and/or~~ or distribution of fuels for compensation.
 10. "Direct costs" means labor, materials, and variable overhead expenses which are directly dependent on the operation.
 11. "Direct phone" means telephone service directly to hotels, motels, or other firms.
 12. "Director of Aeronautics" means the ADOT Assistant Director of Aeronautics.
 13. "Disabled aircraft" means any aircraft which requires assistance to move from any position on the runway, taxiway, or apron areas of the airport.
 14. "Disabled aircraft support equipment" means any equipment used to assist aircraft movement from any position on the runway, taxiway, or apron areas of the airport.
 15. "Division" means the ~~Aeronautics Division of the Arizona Department of Transportation~~ Transportation's Aeronautics Division.
 16. "FAA"² means the Federal Aviation Administration of the United States Department of Transportation.
 17. "Fixed base operator" means an airport business which ~~is providing~~ provides airport user services, including but not limited to, commercial fuel handling, within the boundaries of the ~~Airport~~ airport.
 18. "Fuel" means all flammable fluids composed of a mixture of selected hydrocarbons manufactured and blended for the purpose of aircraft, railroad, or motor vehicle propulsion.
 19. "Fuel supplier" means any airport business that dispenses fuel to retail customers or into vehicles owned ~~and/or~~ or operated by that business.
 20. "Lease" means a contract granting use or occupation of property during a specified period in exchange for a specified compensation.
 21. "License Agreement" means a contract granting use or occupation of a portion of the terminal or other state-owned building in exchange for a specific compensation.
 22. "Maximum landing weight" means the maximum weight at which an aircraft may normally be landed as determined by the manufacturer.
 23. "NFPA" means the National Fire Protection Association.
 24. "Permittee" means any person, partnership, association, firm or corporation, owning or operating a business on the airport under a use permit.
 25. "Public use terminal" means any structure designated for use by the general public and not specifically restricted or dedicated to any one airport business.
 26. "Retail sales" means all sales activities on the airport not directly related to the transportation of persons or property. Sales include but are not limited to food, beverages, souvenirs, sundries, books, newspapers, and magazines.
 27. "Rotorcraft" means a heavier-than-air aircraft that depends principally for its support in flight on the lift generated by one or more rotors.
 28. "~~State~~" means ~~the State of Arizona or its agents~~.
"Self fuel dispensing/handling" means non-commercial fuel delivery to an aircraft, provided by the owner or operator.
"State" means the state of Arizona or its agents.
 29. "~~Self fuel dispensing/handling" means non-commercial fuel delivery to an aircraft, provided by the owner or operator~~
 30. "Taxiway" means an artificially surfaced strip of ground designed and used at an airport for the ground movement of aircraft.
 31. "Terminal space" means any area within a structure designated as a terminal and used by the public for transitioning between aircraft and ground transportation.

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- 32. "Use permit" means a contract granting the privilege to conduct commercial operations at the airport in exchange for a specific compensation.
- 33. "Vehicle" means any equipment used for transporting persons or property other than aircraft.

ARTICLE 2. GRAND CANYON NATIONAL PARK AIRPORT – OPERATION AND MANAGEMENT

R17-2-201. Fees and Charges for Services and Use of Facilities and Equipment at the Airport

A. Except as provided in subsection (B), the following fees and charges in Table 1 shall apply to all tenants and users of the airport and its facilities:

- 1. Landing fees—charged for all commercial flight operations, including but not limited to air carrier, air taxi, air tour, and air freight, landing at the airport.
 - a. ~~Single engine fixed wing, multi engine fixed wing, and rotorcraft~~ ~~\$1.00 per 1,000 lbs., or part thereof, of FAA—certified maximum landing weight~~
 - b. ~~Aircraft parking fees~~
 - a. ~~Single engine fixed wing and rotorcraft~~ ~~\$30.00 per month if parked in designated public tie down areas~~
 - b. ~~Multi engine fixed wing~~ ~~\$40.00 per month if parked in designated public tie down areas.~~
 - e. ~~The daily rate shall be 1/10 the applicable monthly rate.~~
- e. Terminal fees
 - i. ~~Terminal counter space~~ ~~\$20.00 per sq. ft. per year~~
 - ii. ~~Terminal office space~~ ~~\$15.00 per sq. ft. per year~~
 - iii. ~~Advertising space~~ ~~\$2.00 per sq. ft. (sign size), per month, for terminal and counter areas.~~
~~\$5.00 per sq. ft. (sign size), per month, for outdoor sign space~~
 - iv. ~~Direct phone space~~ ~~\$20.00 per unit monthly~~
 - v. ~~Retail sales space~~ ~~\$20.00 per sq. ft per year~~
 - vi. ~~Public address system~~ ~~\$25.00 per month subscription~~
 - vii. ~~After hours terminal use~~ ~~\$150.00 per hour, or part thereof in excess of 10 minutes, after scheduled terminal closure~~
- d. ~~Fuel flowage fees~~ ~~\$0.03 per gallon of fuel pumped~~
- e. ~~Equipment use fees~~
 - i. ~~Auxiliary power unit~~ ~~\$10.00 per use~~
 - ii. ~~Aircraft tug~~ ~~\$20.00 per use~~
 - iii. ~~Portable heater~~ ~~\$10.00 per use~~
 - iv. ~~Passenger stairs~~ ~~\$10.00 per use~~
 - v. ~~Non-aviation equipment~~ ~~Per established fees as part of the~~

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	ADOT Equipment Rate Schedule
f. Miscellaneous fees	
i. After-hours runway inspection for commercial-use permittee	\$50.00 per landing/ take-off, or, if on standby, for each 30-minute increment
ii. Storage of crash debris	\$5.00 per sq. ft. per month or increment of a month beyond 72 hours
iii. Clean up of hazardous materials	Direct costs
iv. Repairs of damage to airport property	Direct costs
v. Disabled aircraft assistance	Direct costs
vi. Disabled aircraft support equipment	Direct costs
2. Ground transportation fees. All commercial ground transportation use permit holders shall be required to report and pay monthly fees of \$0.30 per passenger transported either to or from the airport.	
3. Vehicle parking fees. The airport management may designate restricted parking areas within the airport boundaries and charge the following fees:	
a. Ground transportation use permit parking	\$5.00 per vehicle per day or any portion of any 24-hour period.
	\$50.00 per vehicle per month in designated areas
b. Rental car parking	Auto storage, in a designated area, as set forth in the use permit terms.
e. Private or commercial vehicles	Overnight parking, commercial vehicles in excess of designated number as specified by License Agreement or Use Permit, and private vehicles, \$5.00 per vehicle per 24-hour period or \$50.00 per vehicle per month in designated area.
4. Terminal retail sales of goods or services. Fees shall be a percentage of gross receipts after federal, state and local taxes, as defined in A.R.S. § 42-1301(7), of all retail sales, except as negotiated in each use permit. Use permits shall be based upon highest and best bids but shall contain provisions for not less than the percentage set forth in this schedule:	
a. Air tours originating at the airport	7%
b. Food and beverage	15%
e. Rental of personal property, including but not limited to car rentals	15%

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- d. Retail sales of merchandise 15%
- e. Personal services businesses 15%
including but not limited to shoe shine, beauty and barber shops and others
- f. Other As negotiated
- 5. Use of other facilities outside the terminal As negotiated

- B.** The fees and charges established in subsection (A) do not apply to:
1. The use of leased facilities pursuant to under an airport ground lease.
 2. The use of airport facilities, equipment, or services included in an airport ground lease in effect on July 1, 1993.

Table 1. Grand Canyon National Park Airport Fees and Charges

<u>Landing Fees</u>	
<u>Commercial flight operations landing at the airport including, but not limited to, air carrier, air taxi, air tour, and air freight:</u>	
<u>Single-engine fixed wing, multi-engine fixed wing, and rotorcraft</u>	<u>\$1.00 per 1,000 lbs., or part thereof, of FAA-certified maximum landing weight</u>
<u>Aircraft Parking Fees</u>	
<u>Restricted aircraft parking areas within airport boundaries designated by airport management:</u>	
<u>Single-engine fixed wing and rotorcraft</u>	<u>\$30.00 per month, if parked in designated public tie-down areas</u>
<u>Multi-engine fixed wing</u>	<u>\$40.00 per month, if parked in designated public tie-down areas</u>
	<u>The daily rate shall be 1/10 of the applicable monthly rate</u>
<u>Terminal Fees</u>	
<u>Terminal counter space</u>	<u>\$20.00 per sq. ft., per year</u>
<u>Terminal office space</u>	<u>\$15.00 per sq. ft., per year</u>
<u>Advertising space</u>	<u>\$2.00 per sq. ft. (sign size), per month, for terminal and counter areas</u> <u>\$5.00 per sq. ft. (sign size), per month, for outdoor sign space</u>
<u>Direct phone space</u>	<u>\$20.00 per unit, per month</u>
<u>Retail sales space</u>	<u>\$20.00 per sq. ft., per year</u>
<u>Public address system</u>	<u>\$25.00 per monthly subscription</u>
<u>After-hours terminal use</u>	<u>\$150.00 per hour, or part thereof, in excess of ten minutes after scheduled terminal closure</u>
<u>Fuel Flowage Fees</u>	
<u>Fuel flowage</u>	<u>\$0.03 per gallon of fuel delivered to the airport</u>
<u>Equipment Use Fees</u>	
<u>Auxiliary power unit</u>	<u>\$10.00 per use</u>
<u>Aircraft tug</u>	<u>\$20.00 per use</u>
<u>Portable heater</u>	<u>\$10.00 per use</u>
<u>Passenger stairs</u>	<u>\$10.00 per use</u>
<u>Non-aviation equipment</u>	<u>As established under the ADOT Equipment Rate Schedule</u>

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<u>Miscellaneous Fees</u>	
<u>After-hours runway inspection for commercial use permit holder</u>	<u>\$50.00 per landing, take-off, or if on standby, for each 30-minute increment</u>
<u>Storage of crash debris</u>	<u>\$5.00 per sq. ft., per month, or increment of a month beyond 72 hours</u>
<u>Clean up of hazardous materials</u>	<u>Direct costs</u>
<u>Repairs of damage to airport property</u>	<u>Direct costs</u>
<u>Disabled aircraft assistance</u>	<u>Direct costs</u>
<u>Disabled aircraft support equipment</u>	<u>Direct costs</u>
<u>Ground Transportation Fees</u>	
<u>All commercial ground transportation use permit holders shall report and pay monthly the following fee:</u>	
<u>Ground transportation</u>	<u>\$0.30 per passenger transported each way; either to or from the airport</u>
<u>Vehicle Parking Fees</u>	
<u>Restricted parking areas within airport boundaries designated by airport management:</u>	
<u>Ground transportation use permit parking</u>	<u>\$5.00 per vehicle, per day, or any portion of any 24-hour period</u> <u>\$50.00 per vehicle, per month, in designated areas</u>
<u>Rental car parking</u>	<u>Auto storage, in a designated area, as established by use permit terms</u>
<u>Overnight parking, commercial vehicles in excess of designated number as specified by license agreement or use permit, and private vehicles</u>	<u>\$5.00 per vehicle, per 24-hour period; or</u> <u>\$50.00 per vehicle, per month, in designated area</u>
<u>Terminal Retail Sales of Goods or Services</u>	
<u>Fees shall be a percentage of gross receipts, as defined in A.R.S. § 42-5001, of all retail sales after federal, state, and local taxes, except as negotiated in each use permit. Use permits shall be based upon highest and best bids but shall contain provisions for not less than the percentage set forth in this schedule:</u>	
<u>Air tours originating at the airport</u>	<u>7%</u>
<u>Food and beverage</u>	<u>15%</u>
<u>Rental of personal property, including but not limited to car rentals</u>	<u>15%</u>
<u>Retail sales of merchandise</u>	<u>15%</u>
<u>Personal services businesses, including but not limited to shoe shine, beauty and barber shops and others</u>	<u>15%</u>
<u>Other</u>	<u>As negotiated</u>
<u>Use of Other Facilities Outside the Terminal</u>	
<u>Use of other facilities outside the terminal</u>	<u>As negotiated</u>

R17-2-202. Airport use permits Use Permits

- A. A user operating commercially at the airport shall first obtain a use permit or shall be subject to a \$100.00 fine for each infraction. Use permits shall be required for the following activities:
1. Commercial aviation;
 2. Commercial ground transportation;

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3. Commercial fuel handling; and
 4. Airport business.
- B. An aircraft owner or operator desiring to dispense fuel to ~~his~~ the owner's or operator's own aircraft ~~must~~ shall first obtain a self fueling/handling permit or ~~shall~~ be subject to a \$100.00 fine for each infraction.
- C. ~~Use permits~~ A use permit shall contain, ~~as~~ at a minimum, the following requirements:
1. Minimum insurance coverage in the amount ~~as~~ set forth by the Department of ~~Administration~~ Administration's Risk Management Section, naming the state as co-insured;
 2. Billing, payment, and audit ~~requirements~~ procedures and the penalties for non-compliance;
 3. ~~The reporting of data~~ Data reporting in a timely manner upon request of the airport management or other agency. This data may include, but is ~~be~~ limited to:
 - a. Gross receipts,
 - b. Aircraft landings,
 - c. Aircraft ~~tie-downs~~ tie-downs,
 - d. Equipment utilized,
 - e. Enplanements,
 - f. Gallons and types of fuel pumped, and
 - g. Passengers transported ~~to and from each way, to or from~~ the airport;
 4. A list of all employees having access to airport security areas and any changes in ~~such a~~ the list. In addition, the ~~FBO~~ fixed base operator shall provide verification of compliance with ~~required~~ employee security checks ~~in accordance with required under~~ federal, state, and local laws, rules, regulations, and policies governing the use of the airport;
 5. Evidence of compliance with all other jurisdictions' requirements for permits, licenses, insurance and certificates; and
 6. Detailed descriptions of any space within the public use terminal assigned to the commercial user and provisions describing allowable uses for the space as well as minimum expected maintenance of the facilities provided.

R17-2-203. Minimum requirements ~~Requirements for fixed base operators~~ Fixed Base Operators

- A. Prior to entering into a contract ~~and prior to~~ or commencing any operation on the airport as a fixed base operator, each ~~FBO~~ fixed base operator shall:
1. Hold a commercial fuel handling use permit;
 2. Submit to the Assistant Director, a verified statement containing a detailed description of the scope of the intended operation. This statement shall include:
 - a. ~~Include the~~ The means and methods to be employed to accomplish the aviation operation, including how operating standards and requirements shall be met; and
 - b. ~~Include the~~ The nature of ownership and the responsible parties. If the responsible party is:
 - i. An individual, include the person's name and address;
 - ii. A partnership, include the names and addresses of all the partners;
 - iii. A corporation, association, or other organization, include the names of the president, vice president, secretary, and managing officer or managing employee;
 3. ~~Have had~~ Possess a minimum ~~experience~~ of three years experience, ~~during~~ within the past five years, in managing a fixed base operation on an airport.
 - a. ~~This~~ The experience requirement applies either to:
 - i. The individual owner, if a sole proprietorship;
 - ii. One of the partners, if a partnership; or
 - iii. The permanent full-time managing officer or employee, if a corporation.
 - b. If more than one person shares the full-time management responsibilities and duties of the organization ~~are shared by more than one individual, then~~ their collective management experience may apply provided that such experience shall have been in if that experience encompasses each particular service or operation proposed;
 4. Provide to the Assistant Director, a complete certified financial statement prepared by an independent accounting firm;
 5. Provide to the Division, evidence of current public liability insurance coverage in the minimum amount ~~as~~ set forth by the Department of ~~Administration~~ Administration's Risk Management Section, naming the state as co-insured. Hangarkeeper's liability insurance may be required if aircraft are on the premises for safekeeping, storage, service, or repair;
 6. Submit to the Division, a verified statement that there is a commitment from a fuel supplier to supply fuel. ~~Such~~ The commitment shall specify the types and volumes of fuel available to the ~~FBO~~ fixed base operator.
- B. Upon commencing operations, a fixed base operator shall:
1. ~~Be required to make available~~ Provide to the Division ~~a financial statement annually, an annual financial statement at the close of the state's fiscal year.~~
 2. Obtain and keep current, during the term of its use permit, all required federal, state, and local licenses ~~required~~ and

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~~shall comply ensure compliance~~ with all federal, state, and local laws, rules, regulations, and policies governing the use of the ~~Airport~~ airport.

3. ~~Be~~ Remain available as required by airport management, either individually or in connection with the other ~~FBO's~~ fixed base operators situated at the airport, to provide service and to respond to emergencies during after-hours.
4. Report all data pertaining to gallons and types of fuel pumped. ~~The FBO shall report and~~ other types of information as required by additional use permits. Reports shall be provided ~~in a timely manner~~ to the airport management and other requesting agencies in a timely manner.
5. Report all activity for which fees are established and pay all fees before the ~~tenth~~ 10th calendar day of ~~the~~ each month.
6. Retain all financial records at the airport. ~~The FBO shall maintain those records~~ for five years and comply with all auditing requirements set forth in the use permit.
7. Provide airport management with a list of all employees having access to airport security areas and notify airport management of any changes. ~~In addition, the FBO shall provide verification of compliance with required employee security checks in accordance with federal, state and local rules, regulations and policies governing the use of the airport.~~
8. Provide verification of compliance with employee security checks required under federal, state, and local laws, rules, regulations, and policies governing the use of the airport.
- 8.9. ~~Comply with all FAA and NFPA inspection criteria. The FBO shall provide airport management with a copy of their written fueling operations procedures, safety and inspection manuals and records, as required by FAA and NFPA regulations. The FBO shall have an approved, written, spill prevention contingency and control plan which meets all applicable standards.~~
10. Provide airport management with a copy of written fueling operations procedures, safety and inspection manuals, and records, as required by FAA and NFPA regulations.
11. Maintain an approved, written, spill-prevention contingency and control plan that meets all applicable standards.

R17-2-204. Airport ground leases Ground Leases

- A. The Division may enter into leases for airport property for the operation of businesses which foster the development of the airport.
- B. All leases for airport property, other than the existing or any future public use terminal facility, shall be based on a competitive ~~bids~~ sealed proposal process as specified in A.R.S. § 41-2534. At a minimum, leases shall be based on a price per square foot of property as valued through an appraisal of that property. In addition, leases shall contain provisions for not less than the percentage set forth in the following schedule:
 1. Food and beverage - 5%
 2. Rental of personal property - 10%
 3. Retail sales of merchandise - 10%
 4. Other - As negotiated

R17-2-205. Airport Parking Limitations; Prohibited Activities

This Section shall apply to all persons or entities who use the airport and its facilities:

- A. On a special occasion, or during an emergency, airport management may impose parking limitations as circumstances require.
- B. A person or entity using the airport and its facilities shall not:
 - A.1. ~~No parking zones. No one may park~~ Park a vehicle in areas ~~an area~~ designated as a no parking zones zone. ~~No parking zones shall be designated by signage or red painted curbs. as indicated by a sign or red painted curb;~~
 - B.2. ~~Driving~~ Drive or parking park a vehicle in any area on airport property ~~which has been that is~~ closed by the use of barricades ~~a barricade, chains~~ chain, or other traffic control ~~device~~ device is prohibited. ~~On special occasions, and in emergencies, parking limitations may be imposed by Airport Management as required by the particular circumstances.~~
 - C.3. ~~Parking~~ Park a vehicle on a pedestrian paths path, sidewalks sidewalk, or safety zones zone is prohibited.
 - D.4. ~~Parking~~ Park a vehicle in such a manner or location as to ~~that obstruct~~ obstructs another parked vehicle is prohibited. ~~;~~
 - or
 - E.5. ~~No camping is allowed~~ Camp on the airport property except in a designated areas camping area.

R17-2-206. Airport Impoundment Procedures; Notice of Impound

This rule ~~Section~~ shall apply applies to all persons or entities ~~who use~~ using the airport and its facilities:

- A.1. The ~~Airport Management~~ airport management may remove and impound any aircraft or other ~~vehicles~~ vehicle found on state property where an owner has:
 - 1-a. Parked the aircraft or vehicle in an area designated and posted as a restricted area;
 - 2-b. Parked the aircraft or vehicle in violation of these rules;
 - 3-c. Abandoned the aircraft or vehicle on airport property for more than 14 days without prior notification and per-

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- mission of ~~Airport Management~~ airport management;
- ~~4.d. Whose owner has failed~~ Failed to pay parking fees for 15 days after the date of the first statement a parking state-
ment is attached to the aircraft or vehicle indicating that a parking fee is due. The parking statement shall be
attached to the aircraft or other vehicle; or
- ~~5.e. Parked in such a way as to constitute~~ the aircraft or vehicle in a manner or location that constitutes a hazard or
impediment to the general public or to the movement and operation of aircraft or emergency equipment.
- ~~B.2. At the time of removal for impound, a Notice of Impound shall be posted by airport officials as near to the location~~
~~from which the aircraft or vehicle was removed as is practical, and a copy of the notice shall be mailed by airport offi-~~
~~cial to the address listed on the aircraft, or vehicle registration in the aircraft or vehicle, or in the airport records. If no~~
~~address is known to the Airport Manager, the notice shall be published twice in a daily newspaper with a general cir-~~
~~culation in Coconino County, within a period of ten working days from time of impound. The notice shall describe~~
~~the aircraft or vehicle, the parking violation requiring impoundment, the location at which the aircraft or vehicle is~~
~~being impounded, the name and address of the person to see about the impound, and the owner's right to file a request~~
~~for a hearing under subsection (D) of this Section. Notice of Impound.~~
 - ~~a. Airport officials, at the time of removal for impound, shall post a Notice of Impound as near to the location from~~
~~which the aircraft or vehicle was removed as is practical, and a copy of the notice shall be mailed to the address~~
~~listed on the:~~
 - ~~i. Aircraft or vehicle;~~
 - ~~ii. Vehicle registration in the aircraft or vehicle; or~~
 - ~~iii. Airport records.~~
 - ~~b. Airport management, within a period of 10 business days from the time of impoundment, shall twice publish a~~
~~Notice of Impound in a daily newspaper with a general circulation in Coconino County, if no address is known.~~
~~The notice shall describe the:~~
 - ~~i. Aircraft or vehicle;~~
 - ~~ii. Parking violation which necessitated the impoundment;~~
 - ~~iii. Location to which the aircraft or vehicle was impounded;~~
 - ~~iv. Name and address of the person to contact regarding the impoundment; and~~
 - ~~v. Owner's right to file a request for a hearing under subsection (E).~~
- ~~3. The Airport Manager shall have:~~
 - ~~a. A vehicle removed by a tow company licensed by the Department of Public Safety; and~~
 - ~~b. An aircraft removed by a fixed base operator licensed by the ADOT Aeronautics Division.~~
- ~~C.4. Costs to owner. The owner of the aircraft or vehicle shall be responsible for all costs involved in removing the~~
~~removal, impounding impoundment, and storage of such the aircraft or vehicle, and plus any costs incurred by publi-~~
~~cation of the Notice of Impound. The Airport Manager shall have any vehicle towed by a tow company licensed by~~
~~the Department of Public Safety, or any aircraft towed by a Fixed-Base Operator licensed by ADOT Aeronautics~~
~~Division.~~
- ~~D.5. Hearing requests. Any person affected by subject to a decision made within the Aeronautics Division pursuant to~~
~~under this Chapter may request a hearing before the Director of Aeronautics. The person shall request such a the hear-~~
~~ing in writing to the Division Director not more than 30 days after the action of the Aeronautics Division. Except for~~
~~the modification of the time limits provided in this Section, the hearing shall be held in accordance with under A.R.S.~~
~~Title 41, Chapter 6, Article 6.~~

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

[R06-221]

PREAMBLE

1. Sections Affected

Rulemaking Action

- R19-3-1001
- R19-3-1002
- R19-3-1003
- R19-3-1004
- R19-3-1005
- R19-3-1006

- Amend
- Amend
- Amend
- Amend
- Repeal
- Repeal

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R19-3-1007
R19-3-1008

Amend
Amend

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

Authorizing statute: A.R.S. § 5-504 (B) and (C)

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 2611, June 25, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 4572, November 12, 2004

Notice of Rulemaking Docket Opening: 12 A.A.R. 1859, June 2, 2006

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

Name: J. Art Macias Jr., Executive Director

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: amacias@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4488

E-mail: pdinunzio@azlottery.gov

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

Article 10 sets forth provisions unique to the conduct of Lottery promotions to increase sales, public awareness of Lottery games and benefits, and retailer participation in Lottery programs. These rules are being amended to consolidate the types of promotions into more general categories. Detailed information regarding individual promotions are fully described in the Promotion Profile as required by these rules. The rules also explain how to determine a winning promotion, the procedures required to claim promotional items, and disputes concerning promotions.

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 rules for Article 10, Promotions, describe various types of Lottery promotions and procedures relating to these promotions. The Lottery anticipates amendments to Article 10 will impact the agency, Lottery retailers, Lottery players, and potentially state revenues.

A. *The Arizona State Lottery.* Costs to the agency related to this rulemaking are included in the agency's appropriated budget. They include the cost of cash or merchandise prizes, as well as administrative operating expenses associated with personnel, point-of-sale items, and related advertising. The Lottery does not anticipate any additional costs to the agency as a result of this rulemaking.

B. *Businesses Directly Affected by this Rulemaking.* Businesses affected by these rules are Lottery retailers who sell Lottery game products to the public. The only impact the rules have upon Lottery retailers is to specify how to determine a winning promotion, and if applicable, the premium amount. Currently, retailers receive \$.065 commission for each \$1 Lottery game transaction. An increase in sales as a result of Lottery promotions will also increase the amount of commissions earned by retailers.

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C. *Consumers and the Public.* There are no costs to the public associated with this rulemaking. The description of promotion procedures will assist players in understanding how to participate in Lottery promotions and claim winning promotional prizes.

D. *State Revenues.* These rules allow the Lottery to introduce various product promotions, thus providing the state with a potential to increase revenue.

This rulemaking clarifies Lottery promotion procedures and will not have any identifiable economic impact on political subdivisions of the state, private and public employment, or the general public.

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: J. Art Macias Jr., Executive Director

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: amacias@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4488

E-mail: pdinunzio@azlottery.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:

Date: August 11, 2006

Time: 10:00 a.m.

Location: Arizona Lottery
4740 E. University Drive
Phoenix, AZ 85034

Nature: Oral Proceeding

The close of record is 5:00 p.m. on August 10, 2006, for written comments and at the end of the oral proceeding for verbal comments.

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 10. PROMOTIONS

Section

R19-3-1001. Definitions

R19-3-1002. Promotion Profile

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- R19-3-1003. Promotion ~~Play Style~~ Playstyle – Promotion Type
- R19-3-1004. Determination of a Winning Promotion
- R19-3-1005. ~~Promotion Ticket Ownership and Payment for Promotion Winnings~~ Repealed
- R19-3-1006. ~~Promotion Validation Requirements~~ Repealed
- R19-3-1007. Procedure for Claiming Prizes and Claim Period
- R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

ARTICLE 10. PROMOTIONS

R19-3-1001. Definitions

In this Article, unless the context otherwise requires:

- ~~1. “Best interests of the Lottery” means advantageous to the Lottery as determined by the Director.~~
- ~~2.~~1. “Category” means player, consumer, retailer, vendor, or other person who participates in the promotion.
- ~~3.~~2. “Charitable organization” means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under § 502(c)(3) of the United States Internal Revenue Code.
3. “Media” means the method of communication, as in television, radio, print, outdoor, or internet, with wide reach and influence.
4. “Prize type” means cash, free ticket or tickets from same or different game product, ticket coupon, drawing coupon, discount on same or different game product or vendor product, or merchandise prize; tickets, coupon or coupons, merchandise, retailer or vendor product or service, or discount on retailer or vendor product or service.
5. “Promotion” means a program designed to increase awareness of the Lottery, Lottery beneficiaries, and Lottery games and ~~that is intended to increase the sale of Lottery tickets to produce the maximum amount of net revenue for the state by offering an incentive to buy.~~
6. “Promotion playstyle” means the type of process or procedure used to control the promotion.
7. “Promotion Profile” means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential promotion fundamentals required by these rules for a promotion.
- ~~6.~~8. “Promotional merchandise” means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.
- ~~7.~~9. “Promotional ticket” means a ~~Arizona~~ Lottery ticket from a current, active game or a specially designed game provided by the Lottery for use in a promotion.
- ~~8.~~10. “Targeted game or targeted games” means the specific game or games a promotion is intended to increase sales or awareness of.
- ~~9.~~11. “Tickets” means one or more Lottery game plays from the targeted game or games.

R19-3-1002. Promotion Profile

- ~~A. The Commission shall approve orders in accordance with A.R.S. § 5-504(C) for the specific Promotion Profile prior to the promotion being introduced to the public for participation. Each promotion shall have a Promotion Profile and at a minimum, the Profile shall contain the following information:~~
- ~~B. At a minimum, the Promotion Profile for each promotion shall contain the following information:-~~
 - ~~1. Promotion name;~~
 - ~~2. Prize type and structure, including the estimated number and size of monetary prizes, free tickets, and merchandise prizes available, if applicable; Promotion playstyle;~~
 - ~~3. Play style – Promotion Type; Category;~~
 - ~~4. Category; Targeted game, games or Lottery beneficiaries involved in the promotion;~~
 - ~~5. Targeted game or games or products involved in the Promotion; Promotion description;~~
 - ~~6. Special feature, if any; Promotion selection criteria, if applicable;~~
 - ~~7. Retail sales price; Prize type and structure, including the estimated number and size of monetary prizes, free tickets, coupons, certificates, discounts, and merchandise prizes available, if applicable;~~
 - ~~8. Promotion date range (beginning and ending promotion dates, term of the promotion; Retail sales price, if applicable;~~
 - ~~9. Time range, if applicable; Promotion date range (beginning and ending promotion dates);~~
 - ~~10. Day or days of the week, if applicable; Time range, if applicable;~~
 - ~~11. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable; Day or days of the week, if applicable;~~
 - ~~12. Promotion selection criteria, if applicable. Special feature, if any; and~~
 - ~~13. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.~~
- ~~B. The Commission shall approve the Promotion Profile prior to the promotion being introduced to the public for participation.~~

R19-3-1003. Promotion ~~Play Style~~ Playstyle - Promotion Type

A. The ~~Play style~~ playstyle for a specific promotion shall be fully described in the Promotion Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:

1. ~~Second Chance Drawing - non-winning tickets - Players.~~
2. ~~Second Chance Drawing - entry forms - Players.~~
3. ~~Second Chance Drawing - low or mid-tier winners - Players.~~
4. ~~Increased Prize Payment.~~
5. ~~Buy X and Get Y Free - tickets.~~
6. ~~Buy X and Get Y Free - ticket coupon.~~
7. ~~Buy X and Get Y Free - drawing coupon.~~
8. ~~Buy X and Get Y Free - merchandise.~~
9. ~~Buy X and Get Y Free - cash prize.~~
10. ~~Buy X and Get Y Free, every Nth transaction - tickets.~~
11. ~~Buy X and Get Y Free, every Nth transaction - ticket coupon.~~
12. ~~Buy X and Get Y Free, every Nth transaction - drawing coupon.~~
13. ~~Buy X and Get Y Free, every Nth transaction - merchandise prize.~~
14. ~~Buy X and Get Y Free, every Nth transaction - cash prize.~~
15. ~~Buy X and Get Y Free, every Nth transaction - Partner Play.~~
16. ~~Buy X and Get Y Free, No Match - tickets.~~
17. ~~Buy X and Get Y Free, No Match - ticket coupon.~~
18. ~~Buy X and Get Y Free, No Match - drawing coupon.~~
19. ~~Buy X and Get Y Free, No Match - merchandise prize.~~
20. ~~Buy X and Get Y Free, No Match - cash prize.~~
21. ~~Buy X and Get Y Free, Day of the Week - tickets.~~
22. ~~Buy X and Get Y Free, Day of the Week - ticket coupon.~~
23. ~~Buy X and Get Y Free, Day of the Week - drawing coupon.~~
24. ~~Buy X and Get Y Free, Day of the Week - merchandise prize.~~
25. ~~Buy X and Get Y Free, Day of the Week - cash prize.~~
26. ~~Buy X and Get Y Free, Multi-Draw - tickets.~~
27. ~~Buy X and Get Y Free, Multi-Draw - ticket coupon.~~
28. ~~Buy X and Get Y Free, Multi-Draw - drawing coupon.~~
29. ~~Buy X and Get Y Free, Multi-Draw - merchandise prize.~~
30. ~~Buy X and Get Y Free, Multi-Draw - cash prize.~~
31. ~~Buy X and Get Y Free, Non-Winning Tickets - tickets.~~
32. ~~Buy X and Get Y Free, Non-Winning Tickets - ticket coupon.~~
33. ~~Buy X and Get Y Free, Non-Winning Tickets - drawing coupon.~~
34. ~~Buy X and Get Y Free, Non-Winning Tickets - merchandise prize.~~
35. ~~Buy X and Get Y Free, Non-Winning Tickets - cash prize.~~
36. ~~Complete Survey - Tickets.~~
37. ~~Complete Survey - Ticket Coupon.~~
38. ~~Complete Survey - Drawing Coupon.~~
39. ~~Complete Survey - Merchandise Prize.~~
40. ~~Complete Survey - Cash Prize.~~
41. ~~Buy X Get Y Free Coupon - Direct Mail.~~
42. ~~Buy X Get Y Free Coupon - Newspaper.~~
43. ~~Happy Birthday Club Coupon.~~
44. ~~Special Events - Non-winning Tickets.~~
45. ~~Special Events - Spin of the Lottery Prize Wheel.~~
46. ~~Special Events - Various Games of Little or No Skill.~~
47. ~~Special Events - Guess How Many?.~~
48. ~~Special Events - Where's Willy?.~~
49. ~~Second Chance Drawing - Retailer.~~
50. ~~Retailer Incentive - Sales.~~
51. ~~Retailer Incentive - Point of Sale.~~
52. ~~Mystery Shopper - Retailer.~~
53. ~~Ask for the Sale - Retailer.~~
54. ~~Ask Me What the Jackpot Is - Retailer.~~
55. ~~Ask Me What the Grand Prize Is - Retailer.~~
56. ~~Retailer's Second Chance Drawing - Retailer/Player.~~

57. ~~Cross Promotion – Vendor.~~
58. ~~Radio Promotion – Vendor.~~
59. ~~Charitable Organization.~~
60. ~~Public Contest – not related to specific Lottery game.~~
61. ~~Customer Service – Tickets.~~
62. ~~Customer Service – Ticket Coupon.~~
63. ~~Customer Service – Merchandise.~~
64. ~~POWERBALL™ Doubler Promotion.~~
65. ~~POWERBALL™ MUSL Promotions.~~
1. Second Chance Drawing – Player.
2. Second Chance Drawing – Retailer.
3. Retailer’s Second Chance Drawing – Retailer/Player.
4. Increased Prize Payment.
5. Buy X and Get Y Free – Player.
6. Sell X and Get Y Free – Retailer.
7. Validate X and Get Y Free - Retailer.
8. Buy X and Get Y Free, Every Nth Transaction – Player.
9. Sell X and Get Y Free, Every Nth Transaction – Retailer.
10. Complete Survey.
11. Special Events – Player.
12. Retailer Incentive.
13. Cross Promotion.
14. Media Promotion.
15. Customer Service.
16. Mystery Shopper – Retailer.
17. Ask For the Sale – Retailer.
18. Charitable Organization.
19. Public Contest – not related to specific Lottery game.
20. Multi-State Lottery (MUSL) Promotions.

- B. More than one promotion may run concurrently.
- C. Promotion may be held only on specific days of the week.
- D. Promotion may be held only during specific hours of the day.
- E. Promotion may be available for selected regions, zones, retailer groups or player groups. Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.

R19-3-1004. Determination of a Winning Promotion

Eligibility to win a prize is based on compliance with the designated Play-style promotion playstyle as follows:

1. ~~Second Chance Drawing – non-winning tickets – Players. The player shall send the Lottery game non-winning ticket or tickets from the targeted games or games required in the Promotion Profile to the Lottery office for entry into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.~~
2. ~~Second Chance Drawing – entry forms – Players. The player shall send a completed entry form required in the Promotion Profile to the Lottery office or designated Lottery vendor for entry into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.~~
3. ~~Second Chance Drawing – low or mid-tier winners – Players. Players who win a particular prize denomination in the targeted game or games shall automatically be entered into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.~~
4. ~~Increased Prize Payment. Players who win a particular prize denomination in the targeted game or games shall win an additional amount specified in the Promotion Profile, i.e. double prize payout for a division 4 winners in Lotto, 20% increase in all prizes in the Pick 3™ game on each Monday in May.~~
5. ~~Buy X and Get Y Free – tickets. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a predetermined number of additional tickets free according to the Promotions Profile.~~
6. ~~Buy X and Get Y Free – ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.~~
7. ~~Buy X and Get Y Free – drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or mer-~~

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- merchandise prize designated in the Promotion Profile.
8. Buy X and Get Y Free—merchandise. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a merchandise prize according to the Promotions Profile.
 9. Buy X and Get Y Free—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a cash prize according to the Promotions Profile.
 10. Buy X and Get Y Free, every Nth transaction—tickets. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a predetermined number of additional tickets free according to the Promotions Profile.
 11. Buy X and Get Y Free, every Nth transaction—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 12. Buy X and Get Y Free, every Nth transaction—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 13. Buy X and Get Y Free, every Nth transaction—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a merchandise prize according to the Promotions Profile.
 14. Buy X and Get Y Free, every Nth transaction—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a cash prize according to the Promotions Profile.
 15. Buy X and Get Y Free, every Nth transaction—Partner Play. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player and the selling retailer clerk will receive an exact free ticket according to the Promotions Profile.
 16. Buy X and Get Y Free, No Match—tickets. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a predetermined number of tickets free according to the Promotions Profile.
 17. Buy X and Get Y Free, No Match—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 18. Buy X and Get Y Free, No Match—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 19. Buy X and Get Y Free, No match—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a merchandise prize according to the Promotions Profile.
 20. Buy X and Get Y Free, No Match—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a cash prize according to the Promotions Profile.
 21. Buy X and Get Y Free, Day of the Week—tickets. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a predetermined number of tickets free according to the Promotions Profile.
 22. Buy X and Get Y Free, Day of the Week—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 23. Buy X and Get Y Free, Day of the Week—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 24. Buy X and Get Y Free, Day of the Week—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a merchandise prize according to the Promotions Profile.
 25. Buy X and Get Y Free, Day of the Week—cash prize. Each time a player buys a predetermined number of the targeted

- game or games tickets on a particular day or days of the week, the player will receive a cash prize according to the Promotions Profile.
26. Buy X and Get Y Free, Multi Draw—tickets. Each time a player buys a predetermined number of the targeted game or games tickets for more than one drawing (for X number of drawings), the player will receive a predetermined number of tickets free according to the Promotions Profile.
 27. Buy X and Get Y Free, Multi Draw—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets for more than one drawing (for X number of drawings), the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 28. Buy X and Get Y Free, Day of the Week—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets for more than one drawing (for X number of drawings), the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 29. Buy X and Get Y Free, Multi Draw—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets for more than one drawing (for X number of drawings), the player will receive a merchandise prize according to the Promotions Profile.
 30. Buy X and Get Y Free, Multi Draw—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets for more than one drawing (for X number of drawings), the player will receive a cash prize according to the Promotions Profile.
 31. Buy X and Get Y Free, Non-Winning Tickets—tickets. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a predetermined number of tickets free according to the Promotions Profile.
 32. Buy X and Get Y Free, Non-Winning Tickets—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
 33. Buy X and Get Y Free, Non-Winning Tickets—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 34. Buy X and Get Y Free, Non-Winning Tickets—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a merchandise prize according to the Promotions Profile.
 35. Buy X and Get Y Free, Non-Winning Tickets—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a cash prize according to the Promotions Profile.
 36. Complete Survey—Tickets. If a player completes a survey, the player will receive a predetermined number of the targeted game or games tickets free according to the Promotions Profile.
 37. Complete Survey—Ticket Coupon. If a player completes a survey, the player will receive a coupon to be redeemed for a predetermined number of tickets free with the purchase of the same game tickets according to the Promotions Profile.
 38. Complete Survey—Drawing Coupon. If a player completes a survey, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
 39. Complete Survey—Merchandise Prize. If a player completes a survey, the player will receive a merchandise prize according to the Promotions Profile.
 40. Complete Survey—Cash Prize. If a player completes a survey, the player will receive a cash prize according to the Promotions Profile.
 41. Buy X Get Y Free Coupon—Direct Mail. Players who receive the Buy X Get Y Free coupon in the mail may redeem the coupon at any Lottery retailer for a Lottery ticket stated on the coupon and listed in the Promotion Profile.
 42. Buy X Get Y Free Coupon—Newspaper. Players who receive the Buy X Get Y Free coupon in the local Newspaper may redeem the coupon at any Lottery retailer for a Lottery ticket stated on the coupon and listed in the Promotion Profile.
 43. Happy Birthday Club Coupon. Players who mail a form with their name, address, phone number and birthday to the Lottery will receive a coupon which can be redeemed at any Lottery retailer for one Lottery ticket on their birthday.
 44. Special Events—Non-winning Tickets. Each time a player turns in a predetermined number of the targeted game or games non-winning tickets to a special event location, the player will receive a merchandise prize according to the Promotions Profile.

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45. Special Events – Spin of the Lottery Prize Wheel. Each player who visits a special event location may spin the Lottery Prize Wheel once. The player shall win the prize indicated on the Lottery Prize Wheel. Wheel must complete at least one complete revolution.
46. Special Events – Various Games of Little or No Skill. Each player who visits a special event location may play any number of carnival type games to win the prize indicated in the Promotion Profile and listed at the special event game.
47. Special Events – Guess How Many? Each player who visits a special event location shall complete a form with their name, address, phone number and guess how many items are in a container (for example, large plastic “L” with loose change, money bag, iced tea jug with Lottery Scratchers). The predetermined number of players who come closest to correct amount shall win the prize indicated in the Promotion Profile.
48. Special Events – Where’s Willy? Clues to Windfall Willie’s whereabouts shall be announced on the participating radio station daily. Players who correctly locate Willie shall be entered into drawing for cash or merchandise prizes listed in the Promotion Profile.
49. Second Chance Drawing – Retailer. The Arizona Lottery retailer shall send the entry form required in the Promotion Profile to the Lottery office for entry into a Grand Prize Drawing. The retailer selected in the prize drawing procedures shall win the cash or merchandise prize designated in the Promotion Profile.
50. Retailer Incentive – Sales. Retailers who increase Lottery ticket sales for the targeted game or games by a particular percent during the designated period specified in the Promotion Profile shall win the corresponding prize listed in the Promotion Profile.
51. Retailer Incentive – Point of Sale. Retailers who display a defined number of point of sale pieces during the designated period specified in the Promotion Profile shall win the corresponding prize listed in the Promotion Profile.
52. Mystery Shopper – Retailer. The Lottery shall send out mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Retailers who display point-of-sale materials and promote the targeted game or games according to the Promotion Profile shall win the designated prize.
53. Ask for the Sale – Retailer. Retailers participating in the promotion shall ask all customers if they want to purchase a Lottery ticket for the targeted game or games. If the Retailer does not ask a customer, the customer shall receive a free Lottery ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game or games according to the Promotion Profile.
54. Ask Me What the Jackpot Is – Retailer. Customers who ask a participating retailer what the targeted game’s jackpot is and the retailer does not know the jackpot amount, the customer shall receive a free ticket from the targeted game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game according to the Promotion Profile.
55. Ask Me What the Grand Prize Is – Retailer. Customers who ask a participating retailer what the targeted game’s Grand Prize is and the retailer does not know the grand prize amount, the customer shall receive a free ticket from the targeted game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game according to the Promotion Profile.
56. Retailer’s Second Chance Drawing – Retailer/Player. Retailers participating in the promotion shall ask all players to place their non-winning tickets in a Drawing Container at the retailer’s location. The retailer shall perform random drawings according to the Promotions Profile. The players selected in the drawing procedure shall win the merchandise prize designated on the point of purchase item at the store. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game or games or promotional merchandise items, such as t-shirts, ball caps and sipper cups, according to the Promotion Profile.
57. Cross Promotion – Vendor. Players who present a predetermined number of non-winning tickets of the targeted game or games to a particular vendor shall win a merchandise or service prize or merchandise or service discount according to the Promotion Profile. For example, 5 non-winning POWERBALL tickets presented to Vendor A receives a 12 ounce name brand soft drink. Non-winning ticket presented to Vendor B receives \$1 off price of meal. Coupon on 12 packs of a name brand soft drink can be redeemed for one free POWERBALL ticket at Vendor A. 5 non-winning tickets receive a free game of bowling, goofy golf, 2 for 1 movie tickets, etc.
58. Radio Promotion – Vendor. The caller to a radio station who answers a Lottery trivia question correctly or the Nth caller at a specific time may win a free ticket from the targeted game or games or promotional merchandise prize as described in the Promotion Profile. The Lottery may provide the participating radio station with a predetermined number of tickets from the targeted game or games or promotional merchandise items.
59. Charitable Organization. The Lottery may provide a qualifying charitable organization with a predetermined number of the targeted game or games tickets or promotional merchandise to distribute to customers during their charitable event. The Lottery may approve the charity’s program in writing and complete a Promotion Profile.
60. Public Contest – not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile. Public contest may be for the purpose of obtaining desired public comment prior to making promotional decisions by the Lottery.
61. Customer Service – Tickets. If a player is inconvenienced or is unhappy as a result of Lottery actions below the usual

level of service the Lottery provides, the Lottery may provide the player with a predetermined number of tickets free according to the Promotions Profile.

62. Customer Service—Ticket Coupon. If a player is inconvenienced or is unhappy as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with a coupon to be redeemed for a predetermined number of tickets free with the purchase of the same game tickets according to the Promotions Profile.
63. Customer Service—Merchandise. If a player is inconvenienced or is unhappy as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with a merchandise prize according to the Promotions Profile.
64. POWERBALL™ Doubler Promotion. A player who purchases a predetermined number of POWERBALL™ tickets for a single draw are eligible to double the amount of any cash Set Prize won in a drawing held during the promotional period. A qualifying play which wins one of the eight cash Set Prizes will receive double if, in a separate random drawing announced during the live POWERBALL™ drawing, the “Double Prize” chance is selected.
65. POWERBALL™—MUSL Promotions. The Lottery may participate in POWERBALL™ promotions adopted by the MUSL board:
 1. Second Chance Drawing – Player. The player shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile. The player or players selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
 2. Second Chance Drawing – Retailer. The retailer shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile, or the Lottery may use information collected on its database as defined in the Promotion Profile to qualify the retailer. The retailer or retailers selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
 3. Retailer’s Second Chance Drawing – Retailer/Player. Retailers participating in the promotion shall ask players to deposit the required coupon, tickets or entry form into a Drawing Container at the retailer’s location. The retailer shall perform random drawings according to the Promotion Profile. The players selected in the drawings shall win the prize type designated in the Promotion Profile. The Lottery shall provide the participating retailer with a predetermined number of prizes for the promotion.
 4. Increased Prize Payout. Players who win a particular prize denomination in the target game or games shall win an additional amount specified in the Promotion Profile. The Promotion Profile shall define any required level of participation to be eligible.
 5. Buy X and Get Y Free – Player. Each time a player buys a predetermined number of tickets from the targeted game or games, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement and the Get Y Free shall be specified in the Promotion Profile.
 6. Sell X and Get Y Free – Retailer. Each time a retailer sells a predetermined number of tickets from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement and the Get Y Free shall be specified in the Promotion Profile.
 7. Validate X and Get Y Free – Retailer. Each time a retailer validates a predetermined number or prize amount from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Validate X requirement and the Get Y Free shall be specified in the Promotion Profile.
 8. Buy X and Get Y Free, Every Nth Transaction – Player. Each time a player buys a predetermined number or type of ticket or tickets from the target game or games and that purchase is the Nth transaction produced by the on-line system, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
 9. Sell X and Get Y Free, Every Nth Transaction – Retailer. Each time a retailer sells a predetermined number of tickets from the target game or games and that sale is the Nth transaction produced by the on-line system, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
 10. Complete Survey. The player or retailer who completes a designated survey shall receive the prize type designated in the Promotions Profile.
 11. Special Events – Players. Players who attend a Lottery sponsored special event may participate in activities designed to promote Lottery products. Player participation may include spinning the Lottery prize wheel, various carnival type games of little or no skill, or purchase of tickets for targeted game or games. The prize type shall be designated and awarded according to the Promotion Profile.
 12. Retailer Incentive. The retailer shall become eligible to earn the designated prize type through participation as defined in the Promotion Profile.
 13. Cross Promotion. Players who present a predetermined number of non-winning tickets of the targeted game or games to a participating retailer or vendor shall win the prize type designated in the Promotion Profile.
 14. Media Promotion. Players who participate in media related promotions shall be eligible to receive the prize type designated in the Promotion Profile. The Lottery shall provide the participating media outlet with coupons or tickets from the targeted game or games or promotional merchandise items.

Notices of Proposed Rulemaking

15. Customer Service. If a player is inconvenienced or dissatisfied as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with the prize type designated in the Promotions Profile.
16. Mystery Shopper – Retailer. The Lottery shall send mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Each retailer who meets the requirements specified in the Promotion Profile shall win the designated prize type.
17. Ask For The Sale – Retailer. Each retailer participating in the promotion shall ask all customers who are determined to be of legal gaming age if they want to purchase a Lottery ticket for the targeted game or games. If the retailer does not ask an eligible customer, the customer shall receive a free coupon or ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of coupons or tickets from the targeted game or games according to the Promotion Profile.
18. Charitable Organization. The Lottery shall provide a qualifying charitable organization with a predetermined number of tickets, coupons, or promotional merchandise from a targeted game or games to distribute during their charitable event.
19. Public Contest – not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile.
20. Multi-State Lottery (MUSL) Promotions. The Lottery may participate in a Multi-State Lottery game-related promotion adopted by the MUSL board.

R19-3-1005. Promotion Ticket Ownership and Payment for Promotion Winnings Repealed

- ~~A.~~ Until a ticket is signed, the ticket is owned by its physical possessor.
- ~~B.~~ When signed, the claimant whose signature appears on the ticket is entitled to the corresponding prize.
- ~~C.~~ The Arizona Lottery shall only make payment to the claimant, less any authorized debt set-off amounts, who is also the ticket holder.
- ~~D.~~ All prize levels are specified in the Promotion Profile. Each play winning any prize entitles the winner to the prize or prize amount specified in the Promotion Profile.

R19-3-1006. Promotion Validation Requirements Repealed

- ~~A.~~ Each promotion ticket shall be valid and validated prior to payment of a prize.
- ~~B.~~ To be a valid promotion ticket and eligible to receive a prize, a ticket shall satisfy all the requirements established by 19 A.A.C. 3.

R19-3-1007. Procedure for Claiming Prizes and Claim Period

- ~~A.~~ To claim a promotion prize, a claimant may take the ticket to a participating retailer or a Lottery office, or mail the ticket to a Lottery office designated in the Promotion Profile for validation in accordance with 19 A.A.C. 3 must follow the procedure provided in the Promotion Profile.
- ~~B.~~ In order for the claimant to receive payment, a winning promotion ticket shall be received by the Arizona Lottery or a retailer no later than the time specified in the Promotion Profile. Promotion details are subject to the terms of the Promotion Profile which may modify or specify the ownership, authentication, validation procedures, or the time period for claiming a prize.
- ~~C.~~ In the case of a drawing prize, the claimant must claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Arizona Lottery.

R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

- ~~A.~~ If a dispute between the Arizona Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director is authorized to replace the disputed ticket or promotion prize with a ticket or tickets promotion prize of equivalent value from any current promotion. The decision of the Director is a final, appealable agency action.
- ~~B.~~ If a defective promotion ticket is obtained, the Arizona Lottery shall replace the defective ticket with a ticket of equivalent value from any current promotion. Upon claim verification and payment of a prize, the Lottery shall be discharged of all liability to the claimant.
- ~~C.~~ The Arizona Lottery shall not be liable for paying the difference in a prize amount previously paid to a claimant and the actual amount that should be paid unless the claimant provides documentation establishing:
 1. The claimant was paid the lesser amount, and;
 2. The claimant is entitled to greater amount, according to the records on file at the Arizona Lottery and the criteria set forth in these rules and Lottery Commission Order authorizing promotion pursuant to A.R.S. § 5-504(C) or A.R.S. § 5-504(D).
- ~~C.~~ By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.