

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

[R07-152]

PREAMBLE

- 1. Sections Affected**
R2-5-403
- Rulemaking Action**
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 41-763(2) and (6)
Implementing statute: A.R.S. § 41-783(17)
- 3. The effective date of the rule:**
June 30, 2007
- 4. A list of all previous notices appearing in the Register addressing the final rule.**
Notice of Rulemaking Docket Opening: 12 A.A.R. 690, March 3, 2006
Notice of Proposed Rulemaking: 13 A.A.R. 4, January 5, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Christine Bronson, Human Resources Consultant
Address: 100 N. 15th Avenue
Suite 261
Phoenix, AZ 85007
Telephone: (602) 364-1693
Fax: (602) 542-2796
E-mail: Christine.Bronson@azdoa.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
R2-5-403 explains the employee annual leave benefit eligibility, accrual, maximum accumulation, provisions for donation, use, and disposition upon transfer to another agency or separation from state government. This rulemaking, in conformance with H.B. 2231, Laws 2006, Ch. 11, amends Annual Leave rule subsection (E) to allow for the transfer of accumulated annual leave if an employee or a member of an employee's immediate family has a seriously incapacitating and extended disability caused by pregnancy or childbirth. A new subsection is added to R2-5-403 to permit payment of annual leave to a non-separating employee under certain circumstances. The amended rule also conforms to current rulemaking format and style requirements.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on its evaluation of or justification for the rule or did 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, any analysis of each study, and other supporting material:**
The agency did not review any study relevant to the rule.
- 8. 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:**

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Not applicable

9. **The summary of the economic, small business, and consumer impact:**

This rule does not directly impact small businesses or consumers. The economic impact would be restricted to a transfer of annual leave time from one employee in an agency to another employee in the same agency or another state service agency. A transfer within the same agency would be on a dollar-for-dollar basis without increasing or decreasing expenditures. The cost for a transfer to another agency would be borne by the receiving agency and could increase the receiving agency's expenditures.

10. **A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):**

In subsection (D)(3), some of the language in the proposed rulemaking was removed from the final rulemaking. The Department has decided not to move forward with all of the proposed changes at this time. Minor, non-substantive changes were made between publication of the notice of proposed rulemaking and this notice of final rulemaking.

11. **A summary of the comments made regarding the rule and the agency response to them:**

As part of the initial rulemaking process, the agency solicited input from ADOA Personnel Managers and staff assigned to the satellite Human Resources (HR) offices. Following submission of the Notice of Proposed Rulemaking, no comments were received. An oral proceeding was not scheduled regarding the rule and no additional comments were received.

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

None

13. **Incorporations by reference and their location in the rule:**

None

14. **Was this rule previously made as an emergency rule?**

No

15. **The full text of the rule follows:**

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION

ARTICLE 4. BENEFITS

Section
R2-5-403. Annual Leave

ARTICLE 4. BENEFITS

R2-5-403. Annual Leave

A. Definition. "Annual leave" means a period of approved absence with pay that is not chargeable to another category of leave.

B. Accrual.

1. All employees except temporary, emergency, clerical pool, and part-time employees shall accrue annual leave in accordance with the following schedule:

Credited Service	Hours Bi-weekly
Fewer than 3 years	3.70
3 years but fewer than 7 years	4.62
7 years but fewer than 15 years	5.54
15 years or more	6.47

2. Temporary, emergency, and clerical pool employees shall not accrue annual leave.

3. Part-time employees who:

- a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of annual leave; ~~or~~
- b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time shall accrue annual leave at the next

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lower rate;

c. Work less than 1/4 time shall not accrue annual leave.

3. ~~Temporary, emergency, clerical pool, and part time employees who work less than 1/4 time shall not accrue annual leave.~~
4. Eligible employees accrue annual leave on the last day of each bi-weekly pay period if the employee is in a pay status for at least 1/2 of the scheduled work hours in that pay period.
5. Service in a position that became covered in accordance with A.R.S. Title 41, Chapter 4 (formerly A.R.S. Title 38, Chapter 6), is considered credited service in determining accrual rate change dates.
6. The effective date for change in the accrual rate is the first day of the pay period immediately following the attainment of the required credited service.

C. Credited service.

1. Credited service shall be calculated from the first day of the first complete pay period worked.
2. Credited service shall include:
 - a. A period of service as an employee of a state budget unit before a break in service of less than two years that is not the result of disciplinary action;
 - b. A period of leave without pay of 240 hours or less;
 - c. ~~Approved~~ Family Medical Leave Act (FMLA) leave;
 - d. Military leave taken under A.R.S. §§ 26-168, 26-171, or 38-610; and
 - e. Active military service of an employee who is restored to state service under A.R.S. § 38-298.

D. Accumulation.

1. Except as provided in subsections (D)(2), ~~and (D)(3), and (D)(4)~~, an employee shall forfeit annual leave accumulated in excess of 240 hours as of the last day of the last pay period that begins in a calendar year, ~~unless the Director authorizes an exception in an individual case. An application for exception submitted to the Director shall contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both.~~
2. An agency head may request an exception to the accumulation limit contained in subsection (D)(1) for an employee in an individual case. An agency head seeking an exception shall submit a written request to the Director that contains a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both. The Director may approve, modify, or deny the request.
- ~~2-3.~~ An employee who ~~accrues~~ earns additional annual leave for working on a day on which a state holiday is observed may exceed the 240-hour limitation by up to 24 hours.
- ~~3-4.~~ An employee may retain annual leave accumulated as a result of service that became covered in accordance with A.R.S. Title 41, Chapter 4, (formerly A.R.S. Title 38, Chapter 6), without regard to the accumulation limit contained in subsection (D)(1).

E. Donation of annual leave.

1. Definitions. For the purposes of subsection (E):
 - a. "Immediate family" means the recipient employee's parent, spouse, or child, whether natural, adopted, foster, or step.
 - b. "*Family*" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, or niece. A.R.S. § 41-783(17)(a)
 - c. "Disability that is caused by pregnancy or childbirth" means, as certified by a licensed health care practitioner:
 - i. An employee is unable to work due to the employee's pregnancy, childbirth, or medical care associated with the pregnancy or childbirth; or
 - ii. A member of the employee's immediate family requires assistance to perform regular daily activities due to the immediate family member's pregnancy, childbirth, or medical care associated with the pregnancy or childbirth.
 - ~~e-d.~~ "Extended illness or injury" means a period of at least three consecutive weeks to a maximum of six consecutive months.
 - e. "Seriously incapacitating" means, as certified by a licensed health care practitioner:
 - i. An illness, injury, pregnancy, or childbirth that involves in-patient care; or
 - ii. An illness, injury, pregnancy, or childbirth that involves continuing treatment.
2. Eligibility: to receive donation of annual leave. An employee who has exhausted all available leave balances is eligible to receive donations of annual leave if, as certified by a licensed health care practitioner:
 - a. The employee is unable to work due to:
 - i. A seriously incapacitating and extended illness or injury, or
 - ii. A seriously incapacitating and extended disability that is caused by pregnancy or childbirth; or
 - b. The employee needs to care for a member of the employee's immediate family who has:
 - i. A seriously incapacitating and extended illness or injury, or

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- ii. A seriously incapacitating and extended disability that is caused by pregnancy or childbirth.
 - a-3. Eligibility to donate annual leave. An employee may donate annual leave to ~~an individual another employee~~ who has ~~no accumulated annual exhausted all available leave balances if the individual is:~~
 - i-a. ~~Another~~ The recipient employee is employed in the same agency as the donating employee; or
 - ii-b. ~~A~~ The recipient employee is a family member of the donating employee who is and employed in another agency.
 - b. ~~The recipient employee in the same agency or the recipient family member in another agency may use the donated annual leave to care for the recipient or an immediate family member who has a seriously incapacitating illness or injury.~~
 - e. ~~A recipient employee or family member may use a maximum of six consecutive months of annual leave donated for each qualifying occurrence unless the recipient employee or family member applies for Long-term Disability (LTD) by the end of the fifth month. The recipient employee or family member then may continue to use donated annual leave until an LTD determination is made.~~
 - d-4. Exhaustion of available leave. Before using donated annual leave, a recipient employee:
 - i-a. ~~With a qualifying illness, or injury, or disability caused by pregnancy or childbirth shall exhaust all available sick leave, compensatory leave, and annual leave; or~~
 - ii-b. ~~Whose immediate family member has a qualifying illness, or injury, or disability caused by pregnancy or childbirth shall exhaust 40 hours of sick leave granted in accordance with R2-5-404(A)(4), if available, and all available compensatory leave and all annual leave.~~
 - 3. ~~Unused leave. If the recipient employee separates from state service, recovers before using all donated leave, or the need for the donated annual leave is otherwise abated, the agency shall return unused leave to contributors on a pro-rata basis.~~
 - 4-5. Calculation of hours donated. An agency head shall adjust the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient employee. To calculate the number of hours of donated annual leave:
 - a. Multiply the actual number of hours donated by the donating employee's hourly rate of pay; and
 - b. Divide the result by the recipient employee's hourly rate of pay.
 - 6. Maximum duration. A recipient employee may use a maximum of six consecutive months of donated annual leave for each qualifying occurrence unless the recipient employee applies for Long-term Disability (LTD) by the end of the fifth month. The recipient employee then may continue to use donated annual leave for up to 60 additional days or until LTD benefit payments begin, whichever is sooner.
 - 7. Unused leave. ~~If the recipient employee separates from state service, recovers before using all donated leave, attains the maximum as permitted under the provisions of subsection (E)(6), or the need for the donated annual leave is otherwise abated, the agency head shall return unused leave to contributors on a pro-rata basis.~~
- F. Use of annual leave. An employee may take annual leave at any time approved by the agency head. An agency head shall not advance annual leave to an employee.
- G.** Payment. Subject to funding availability:
- 1. An agency head may pay an employee at any time for all or any portion of the employee's annual leave that was earned as the result of working on a day on which a state holiday is observed at the employee's current rate of pay.
 - 2. The Director may approve pay to a non-separating employee for all or any portion of the employee's accumulated and unused annual leave at the employee's current rate of pay subject to the following:
 - a. Agency procedures. Before requesting approval to pay an employee under subsection (G)(2), an agency head shall develop written standards and procedures that provide for equal consideration of all employees similarly situated. The agency head shall submit proposed standards and procedures and any subsequent changes to the Director for approval. The agency's procedures shall include at minimum:
 - i. Request and approval procedures;
 - ii. Documentation required to support the request for payment;
 - iii. Any limitations, as applicable, including, but not limited to: the maximum number of times an employee may receive payment under subsection (G)(2); the maximum number of hours an employee may be paid per occurrence; the minimum number of hours of annual leave an employee must have used in the previous 12 months; and the minimum balance an employee is required to maintain after payout, if any.
 - b. Restrictions. If payment would reduce the employee's annual leave balance to fewer than 240 hours, the agency head shall obtain the employee's concurrence.
- G.H.** Movement
- 1. ~~to~~ To another agency. ~~An~~ If an employee ~~who~~ moves from one agency to another state service agency, ~~shall transfer all the employee's accumulated and unused annual leave shall be transferred~~ to the employee's annual leave account in the new agency, ~~unless the provisions of (H)(2) apply.~~
 - 2. To an employment status ineligible for leave accrual. If an employee becomes ineligible for accrual of annual leave under R2-5-401(A), the agency head, or the agency head of the losing agency if the employee moves to another state service agency, shall pay the employee for all unused and unforfeited annual leave at the employee's regular rate of

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pay immediately before the change in status.

~~H.L.~~ Separation. An agency head shall pay an employee who separates from state service for all unused and unforfeited annual leave at the employee's current rate of pay.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

[R07-158]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R3-2-905 | 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. § 3-710(F)
Implementing statute: A.R.S. § 3-716
- 3. The effective date of the rule:**
June 30, 2007
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Emergency Rulemaking: 12 A.A.R. 4063, November 3, 2006
Notice of Rulemaking Docket Opening: 12 A.A.R. 4185, November 13, 2006
Notice of Proposed Rulemaking: 12 A.A.R. 4652, December 22, 2006
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Dart Easterday, Administrator, Dairy/Egg/MPI Programs |
| Address: | Arizona Department of Agriculture
1688 W. Adams
Phoenix, AZ 85007 |
| Telephone: | (602) 542-0869 |
| Fax: | (602) 542-4194 |
| E-mail: | deasterday@azda.gov |
- 6. An explanation of the rule, including the agency's reasons for initiating the rules:**
This rulemaking is necessary to increase revenues from egg inspections in order to cover basic administrative costs related to services provided by the Department. An emergency rulemaking went into effect on October 1, 2006, in order to avoid an imminent budget reduction and protect the public health, safety and welfare. Without an increase in fees, the Department would be forced to reduce the number of inspectors which would result in fewer inspections. Further, without the ability to monitor the quality of eggs that reach the consumer, the public health, safety and welfare would be placed in jeopardy.
- 7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. 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:**
While the rule will not diminish a previous grant of authority, without the requested change, the rule will diminish the ability of the Department to implement its authority. As described above, the rule is necessary to protect the general public.
- 9. The summary of the economic, small business, and consumer impact:**
This rulemaking will have a nominal impact on firms licensed by the agency to sell shell eggs and egg products. As the increase involves a fraction of 1/10th of one cent per dozen eggs or pound of egg products. Many egg dealers that

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fit into the category of a small business will experience increases of less than one dollar on quarterly fee reports. Most of the cost of this increase will be borne by large dealers that do not fit into the small business category.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

None

11. A summary of the comments made regarding the rule and the agency response to them:

No verbal or written comments were received by the agency.

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

None

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

None

14. Was this rule previously made as an emergency rule?:

Yes. Notice of Emergency Rulemaking: 12 A.A.R. 4063, November 3, 2006. An extension of the emergency rule was approved by the Attorney General on April 7, 2007. The Emergency renewal was published at: 13 A.A.R. 1509, April 27, 2007.

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

Section

R3-2-905. Inspection Fee Rate

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

R3-2-905. Inspection Fee Rate

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of ~~2.3 mills (.00233)~~ 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of ~~2.3 mills (.00233)~~ 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY

[R07-154]

PREAMBLE

1. Sections Affected

R4-24-101
R4-24-303

Rulemaking Action

Amend
Amend

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

Authorizing statute: A.R.S. § 32-2003(5) and Laws 2006, Ch. 196, § 4

Implementing statute: A.R.S. § 32-2043

3. The effective date for the rules:

June 30, 2007

4. List of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 12 A.A.R. 4105, November 3, 2006

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Notice of Proposed Rulemaking: 12 A.A.R. 4654, December 22, 2006

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

Name: Heidi Herbst Paakkonen, Executive Director
Address: Board of Physical Therapy
1400 W. Washington, Ste. 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
E-mail: Heidi.herbst-paakkonen@ptboard.state.az.us

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

During the 2006 legislative session, the legislature amended A.R.S. § 32-2043 to allow a certified physical therapist assistant to perform selected interventions under general supervision. The legislature required the Board to make rules prescribing requirements relating to the supervision of physical therapist assistants and other assistive personnel. This rulemaking fulfills that requirement.

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

None

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

Not applicable

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

The major economic impact results from the legislative action allowing a physical therapist assistant to perform selected interventions under general supervision. The rulemaking defines words that the legislature used but did not define and prescribes minimal requirements for a physical therapist and physical therapist assistant when the physical therapist assistant works under the general supervision of the physical therapist.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Board made the following changes, none of which is substantial under the standards at A.R.S. § 41-1025(B):

- In R4-24-101(32) and R4-24-303(F)(3) (now R4-24-303(F)(2)), the phrase "telephone call" was changed to "communication" because the Board determined that a physical therapist assistant might communicate with a supervisor using a communication vehicle other than a telephone.
- R4-24-303(A)(4) was changed to clarify that a physical therapist is responsible for ensuring that only the patient's physical therapy record is complete and accurate.
- R4-24-303(A)(5) was changed to clarify that a physical therapist is responsible for accurately reporting the services for which a patient is billed and ensuring that the patient's record supports the information reported.
- R4-24-303(C)(3): The phrase "A physical therapy aide" was changed to "Assistive personnel other than a PTA" because "assistive personnel," as defined at A.R.S. § 32-2001 includes individuals other than PTAs and physical therapy aides.
- R4-24-303(F)(2) was deleted because the Board determined the information was duplicative of that required under R4-24-303(G) and it was burdensome to require both a physical therapist and physical therapist assistant to record the same information. Because a physical therapist is ultimately responsible for ensuring that a patient's physical therapy record is complete and accurate, the physical therapist will review the information documented by the physical therapist assistant under R4-24-303(G).

11. A summary of the comments made regarding the rules and the agency response to them:

Thirty public comments were received. Most of the comments were from physical therapists. Representatives of two organizations involved in providing home health services commented. Several of the comments addressed the legislation enabling a physical therapist assistant to work under general supervision rather than the rulemaking or addressed matters tangential to the rulemaking. Comments addressing the rulemaking and the Board's analysis of and response to each follow:

Arizona Administrative Register / Secretary of State

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COMMENT	ANALYSIS	RESPONSE
R4-24-101(26) and R4-24-303(F)(4) (now R4-24-303(F)(3)): The definition of "on-call" is problematic because it requires a PT to go to the location at which a PTA is providing a treatment intervention if, after consultation with the PTA, the PT determines this is in the best interest of the patient. The PT could be many miles away and reaching the patient could be difficult.	A PT certainly will want to go to the location at which a PTA is providing a treatment intervention if the PT, after consulting with the PTA, determines it is in the best interest of the patient to do so. The time, distance, and difficulty of doing so are factors the PT will consider before deciding that a particular PTA can work with a particular patient under general supervision.	No change
R4-24-101(32) and R4-24-303(F)(3) (now R4-24-303(F)(2)): Requiring a PT to respond to a telephone call from a PTA within 15 minutes is unreasonable. This should be changed to 5 minutes; 45 minutes; 60 minutes. Requiring communication to occur by telephone is too limiting.	The Board believes that requiring a response within 15 minutes is consistent with the intent of the legislature, which indicated that a supervising PT should be "readily available." The Board agrees that requiring communication to occur by telephone is limiting. The legislature indicated only that communication occur by "telecommunication."	No change The Board changed "telephone call" to "communication."
R4-24-303(A)(4): Clarify that a PT is responsible for ensuring that only a patient's physical therapy record is complete and accurate rather than the patient's entire record.	The Board agrees with the suggestion.	The phrase "physical therapy" was inserted before the word "record."
R4-24-303(A)(5): It is impossible for a PT to ensure that the fees charged to a patient are accurate because a PT generally does not do the billing. It is burdensome to require a PT to do what the PT cannot do.	The Board agrees.	The Board amended the language to clarify that a PT is responsible for accurately reporting the services to be billed and ensuring that the services are reflected in the patient's physical therapy record.
R4-24-303(B)(1): It is unreasonable to expect a PT to document on each date of service.	This requirement is consistent with A.R.S. § 32-2043(H). The PT is documenting only the services that the PT provides. If the PT does not document the services provided, the PT will not be able to ensure that the patient's record is complete and accurate or ensure that the services reported for billing are accurate.	No change
R4-24-303(B)(2): It is burdensome to require a PT to document whether it is appropriate to use assistive personnel every time that a patient is treated. This is not something that changes often.	The Board agrees.	The requirement for documentation at the time of each service was deleted.
R4-24-303(C): As written the rule prohibits a PT aide from accompanying a PTA to a home to assist with a treatment that requires two individuals to perform.	The comment is correct. The legislature intends that supervision of all assistive personnel be provided by a PT. A PTA is never authorized to supervise a PT aide.	No change

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<p>R4-24-303(C)(2): Will allowing a PT to provide general supervision to two PTAs put patients at risk given deletion of the distance provision?</p>	<p>In recognition of the difference between rural and urban settings, the Board determined that a provision requiring a PT to go to a patient on the day that a PTA provides a physical therapy intervention was more appropriate than a distance provision. A PT is allowed but not required to provide general supervision to two PTAs simultaneously. The PT will use professional judgment in deciding whether to provide general supervision to no, one, or two PTAs.</p>	<p>No change</p>
<p>R4-24-303(D)(2): Requiring that a PTA have 2,000 hours of work under onsite supervision before being allowed to work under general supervision is not necessary because new PTA graduates are qualified to work in any setting. Also, it is unrealistic to expect a weekend PT to know whether a PTA has 2,000 hours of work under onsite supervision. The Board should make this determination and post the information on the Board's web site.</p>	<p>A.R.S. § 32-2043(G) requires a PT to verify the qualifications of a PTA working under the PT's supervision and A.R.S. § 32-2043(H) requires the PT to ensure the delivery of care by assistive personnel is safe, effective, and efficient. The Board determined that requiring a PTA to have 2,000 hours working under onsite supervision before working under general supervision is the minimum necessary to enable a PT to fulfill the PT's statutory obligations. The Board also believes that 2,000 hours of working under onsite supervision provides a PTA with experience not obtained in school such as how to accept delegation from a PT and how to work in a variety of practice settings.</p>	<p>No change</p> <p>The Board does not have the resources and is not in position to verify the hours worked under onsite supervision for each PTA.</p>
<p>R4-24-303(E): This subsection seems to suggest that only assistive personnel working under onsite supervision have to be qualified.</p>	<p>The Board agrees that the language should be clarified.</p>	<p>The phrase "or general" was inserted following "onsite."</p>
<p>R4-24-303(F)(2) and (G): R4-24-303(F)(2) duplicates the requirement in subsection (G). It is burdensome to require both the PT and PTA to maintain records of the same treatment.</p>	<p>The Board agrees. Because a PT is required under R4-24-303(A)(4) to ensure that a patient's physical therapy record is complete and accurate, it is not necessary to have the PT maintain a record separate from that maintained by the PTA.</p>	<p>Subsection (F)(2) was deleted and the following subsections were relabeled accordingly.</p>
<p>R4-24-303(F)(5) (now R4-24-303(F)(4)): Rather than requiring a PT to perform a reevaluation and provide treatment every fourth visit or every 30 days, whichever occurs first, recommend that the PT do a reevaluation and treatment every third/sixth visit.</p>	<p>Because a PT is responsible for managing all aspects of the physical therapy care of a patient and for the patient care given by assistive personnel working under the PT's supervision, it is important that the PT reevaluate a patient at least every fourth visit or every 30 days. The Board determined that this requirement protects the patient and does not burden the PT. The rules establish minimum standards. A PT who believes it is important to perform a reevaluation and treatment more often may do so.</p>	<p>No change</p>

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The language currently at R4-24-303(F) is important and should not be deleted. The amount billed should be consistent with the level of training of the individual providing the service and the level of expertise required to avoid over use of PTAs.	The Board agrees. This important idea is now at R4-24-303(A)(5).	No change
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12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

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

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY

ARTICLE 1. GENERAL PROVISIONS

Section

R4-24-101. Definitions

ARTICLE 3. REGULATION OF PHYSICAL THERAPY

Section

R4-24-303. Patient Care Management

ARTICLE 1. GENERAL PROVISIONS

R4-24-101. Definitions

In addition to the definitions in A.R.S. § 32-2001, in this Chapter:

1. No change
2. No change
 - a. No change
 - b. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change
16. No change
17. No change
 - a. No change
 - b. No change
 - c. No change
18. No change
19. No change
20. No change

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- 21. No change
- 22. No change
- 23. No change
- 24. No change
- 25. No change
- 26. “On call,” as used in the definition of “general supervision” prescribed under A.R.S. § 32-2001, means a supervising physical therapist is able to go to the location at which and on the same day that a physical therapist assistant provides a selected treatment intervention if the physical therapist, after consultation with the physical therapist assistant, determines that going to the location is in the best interest of the patient.
- 26-27.No change
- 27-28.No change
- 28-29.No change
- 29-30.No change
- 30-31.No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 32. “Readily available,” as used in the definition of “general supervision” prescribed under A.R.S. § 32-2001, means a supervising physical therapist is able to respond within 15 minutes to a communication from a physical therapist assistant providing a selected treatment intervention under general supervision.
- 31-33.No change
- 32-34.No change
- 35. “Supervising physical therapist” means an individual licensed under this Chapter who provides onsite or general supervision to assistive personnel.
- 33-36.No change
- 34-37.No change

ARTICLE 3. REGULATION OF PHYSICAL THERAPY

R4-24-303. Patient Care Management

- A. A physical therapist is responsible for the scope of patient management in the practice of physical therapy as defined by A.R.S. § 32-2001(9). ~~The~~ For each patient, the physical therapist shall:
 - 1. ~~Perform and document the an initial evaluation of each patient;~~
 - 2. ~~Perform and document periodic reevaluation of each patient;~~
 - 3. ~~Document a discharge summary of the patient and the patient’s response to the course of treatment at discharge; and~~
 - 4. ~~Perform and document all therapeutic interventions that require the expertise of a physical therapist~~ Ensure that the patient’s physical therapy record is complete and accurate; and
 - 5. Ensure that services reported for billing, whether billed directly to the patient or through a third party, are accurate and consistent with information in the patient’s physical therapy record.
- B. ~~A physical therapist shall determine and document the assistive personnel’s education and training before delegating in accordance with A.R.S. § 32-2043.~~
- C. ~~For~~ On each date of service, a physical therapist shall:
 - 1. ~~provide Perform and document each all-therapeutic interventions intervention that require requires the expertise of a physical therapist; and shall determine whether the use of assistive personnel to deliver services is safe, effective, and efficient for each patient.~~
 - 2. Determine, based on a patient’s acuity and treatment plan, whether it is appropriate to use assistive personnel to perform a selected treatment intervention or physical therapy task for the patient.
- D. ~~The documentation for each treatment session shall be signed manually or electronically by either the physical therapist or the physical therapist assistant.~~
- E-C. ~~A physical therapist shall concurrently not supervise no more than three assistive personnel at any time. If a physical therapist supervises three assistive personnel, are supervised, at least one shall be a the physical therapist assistant. shall ensure that:~~
 - 1. At least one of the assistive personnel is a physical therapist assistant.
 - 2. No more than two of the assistive personnel are physical therapist assistants performing selected treatment interventions under general supervision, and
 - 3. Assistive personnel other than a physical therapist assistant perform a physical therapy task only under the onsite supervision of a physical therapist.
- D. Before delegating performance of a selected treatment intervention to a physical therapist assistant working under general supervision, the supervising physical therapist shall ensure that the physical therapist assistant:

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1. Is certified under this Chapter, and
 2. Has completed at least 2,000 hours of experience as a physical therapist assistant working with patients under onsite supervision.
- E.** Before delegating performance of a selected physical therapy intervention or physical therapy task to assistive personnel working under general or onsite supervision, the supervising physical therapist shall ensure that the assistive personnel is qualified by education or training to perform the selected physical therapy intervention or physical therapy task in a safe, effective, and efficient manner.
- F.** A physical therapist who provides general supervision for a physical therapist assistant shall:
1. Be licensed under this Chapter;
 2. Respond to a communication from the physical therapist assistant within 15 minutes;
 3. Go to the location at which and on the same day that the physical therapist assistant provides a selected treatment intervention if the physical therapist, after consultation with the physical therapist assistant, determines that going to the location is in the best interest of the patient; and
 4. Perform a reevaluation and provide each therapeutic intervention for the patient that is done on the day of the reevaluation every fourth treatment visit or every 30 days, whichever occurs first.
- G.** A physical therapist assistant who provides a selected treatment intervention under general supervision shall document in the patient record:
1. The name and license number of the supervising physical therapist;
 2. The name of the patient to whom the selected treatment intervention is provided;
 3. The date on which the selected treatment intervention is provided;
 4. The selected treatment intervention provided; and
 5. Whether the physical therapist assistant consulted with the supervising physical therapist during the course of the selected treatment intervention and if so, the subject of the consultation and any decision made.
- F.** ~~A physical therapist shall provide oversight of all documentation for services rendered to each patient, including awareness of fees charged or reimbursement methodology used, and what constitutes an unreasonable or fraudulent fee.~~