

## 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 23. BOARD OF PHARMACY

[R08-275]

#### PREAMBLE

- 1. Sections Affected**  
R4-23-205
- 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 statutes: A.R.S. § 32-1904(A)(1), (2), (5), and (6)  
Implementing statutes: A.R.S. §§ 32-1924, 32-1925, and 32-1931
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 2376, June 13, 2008
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
1700 W. Washington St., Suite 250  
Phoenix, AZ 85007  
Telephone: (602) 771-2727  
Fax: (602) 771-2749  
E-mail: dwright@azpharmacy.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
During the May 14-15, 2008 Board meeting, the Board discussed a projected revenue shortfall for FY2010, which begins on July 1, 2009. The Board staff explained that a new source of revenue is required by the November 2009 renewal period that will bring in at least \$264,000. This can only be accomplished by cutting spending or by raising renewal fees for certain licenses and permits that are currently below the maximum amount as set by the legislature. Most of the targeted fees were last changed November 1, 2002 or have never been raised. The Board voted to increase revenue by raising fees for the following licenses and permits:
  1. Pharmacist License Initial and Renewal currently at \$145/ two years (\$72.50 annually)  
Proposed increase to \$180/ two years (\$90 annually) resulting in new annual revenue of \$17.50 x 5,000 pharmacist = \$87,500.
  2. Pharmacy Permit Initial and Renewal currently at \$400/ two years (\$200 annually)  
Proposed increase to \$480/ two years (\$240 annually) resulting in new annual revenue of \$40 x 850 pharmacies = \$34,000.
  3. Nonprescription Drug Retail Permit, which have never been raised are currently at: Category I - \$100/ two years (\$50 annually) and Category II - \$200/ two years (\$100 annually)

Notices of Proposed Rulemaking

Proposed increase in Category I to \$120/ two years (\$10 annually) and Category II to \$240/ two years (\$20 annually) resulting in new annual revenue of \$10 x 2925 Category I permittees = \$29,250 and \$20 x 1575 Category II permittees = \$31,500.

4. Pharmacy Technician License Initial and Renewal currently at \$50/ two years (\$25 annually)

Proposed increase to \$72/ two years (\$22 annually) resulting in new annual revenue of \$11 x 5,500 pharmacy technicians = \$55,000.

5. Pharmacy Technician Trainee License Initial currently at \$25/ two years (\$12.50 annually)

Proposed increase to \$36/ two years (\$5.50 annually) resulting in new annual revenue \$5.50 x 4,000 pharmacy technicians trainees = \$22,000.

These increases will provide a total annual revenue increase of \$259,250 and leave an annual revenue shortfall of \$4,750.

The proposed rulemaking will include increases to the fees mentioned above in R4-23-205 (Fees). The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The Board believes that amending this rule will benefit the public health and safety by establishing reasonable fees giving the Board needed additional revenue that will allow the Board to continue to operate and serve the pharmacy community and the public.

**6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to 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:**

The agency did not review or rely on any study relevant to the rule.

**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 rule has a cost to the Board for the usual rulemaking-related costs, which are minimal. The rule is necessary to provide for the continued existence of the Board as a regulatory body. Because of the fund sweep by the Arizona Legislature in fiscal year 2008, the Board's fund was reduced to almost nothing. The Board has determined that a new source of revenue will be required by the November 2009 renewal period that results in at least \$264,000 additional revenue. This can only be accomplished by cutting spending or by raising renewal fees for certain licenses and permits, which are currently below their maximum amount set by the legislature and last changed November 1, 2002 or never changed. The Board believes that the fee increases are the best action, because the alternative would require terminating over half the Board staff. The amended rule will generate additional total new revenue of \$259,250 annually for Board operations, which is \$4,750 short of the target.

The amended rule will increase renewal costs for pharmacists, pharmacy technicians, pharmacy technician trainees, pharmacies, and nonprescription drug retailers. The impact on an individual pharmacist will be minimal and amount to an annual increase of \$17.50 or \$35 per biennial renewal period. The impact on individual pharmacy technicians will be minimal and amount to an annual increase of \$11 or \$22 per biennial renewal period. The impact on pharmacy technician trainees will be minimal and amount to an annual increase of \$5.50 or \$11 per license period. The impact on individual pharmacies will be minimal and amount to an annual increase of \$40 or \$80 per biennial renewal period. The impact on individual nonprescription drug retailers in Category I will be minimal and amount to an annual increase of \$10 or \$20 per biennial renewal period. The impact on individual nonprescription drug retailers in Category II will be minimal and amount to an annual increase of \$20 or \$40 per biennial renewal period.

The public, Board, pharmacists, pharmacy technicians, pharmacy technician trainees, nonprescription drug retailers, and pharmacies benefit from rules that are clear, concise, and understandable. The rule benefits the public health and safety by establishing reasonable fees giving the Board needed additional revenue that will allow the Board to continue to operate and serve the pharmacy community and the 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: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
1700 W. Washington St., Suite 250  
Phoenix, AZ 85007  
Telephone: (602) 771-2727  
Fax: (602) 771-2749

E-mail: dwright@azpharmacy.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:**

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, October 6, 2008. An oral proceeding is scheduled for:

Date: October 6, 2008  
Time: 10:00 a.m.  
Location: 1700 W. Washington St., 3rd Floor Board Room  
Phoenix, AZ 85007

A person may request information about the oral proceeding by contacting the person listed above.

**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 rule:**

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 2. PHARMACIST LICENSURE**

Section

R4-23-205. Fees

**ARTICLE 2. PHARMACIST LICENSURE**

**R4-23-205. Fees**

**A. Licensure fees:**

1. Pharmacist:
  - a. Initial licensure [Prorated according to A.R.S. § 32-1925(B)]: ~~\$145.~~ \$180.
  - b. Licensure renewal: ~~\$145.~~ \$180.
2. Pharmacy or graduate intern. Initial licensure: \$50.
3. Pharmacy technician:
  - a. Initial licensure [prorated according to A.R.S. § 32-1925(B)]: ~~\$50.~~ \$72.
  - b. Licensure renewal: ~~\$50.~~ \$72.
4. Pharmacy technician trainee: ~~\$25.~~ \$36.

**B. Reciprocity fee: \$300.**

**C. Application fee: \$50.**

**D. Vendor permit fees (Resident and nonresident):**

1. Pharmacy: ~~\$400~~ \$480 biennially (Including hospital, and limited service).
2. Drug wholesaler or manufacturer:
  - a. Manufacturer: \$1000 biennially.
  - b. Full-service drug wholesaler: \$1000 biennially.
  - c. Nonprescription drug wholesaler: \$500 biennially.
3. Drug packager or repackager: \$1000 biennially.
4. Nonprescription drug, retail:
  - a. Category I (30 or fewer items): ~~\$100~~ \$120 biennially
  - b. Category II (more than 30 items): ~~\$200~~ \$240 biennially
5. Compressed medical gas distributor: \$200 biennially
6. Compressed medical gas supplier: \$100 biennially

**E. Other Fees:**

1. Wall license.
  - a. Pharmacist: \$20.
  - b. Pharmacy or graduate intern: \$10.

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- c. Pharmacy technician: \$10.
- d. Pharmacy technician trainee: \$10.
- 2. Duplicate of any Board-issued license, registration, certificate, or permit: \$10.
- 3. Duplicate current renewal license: \$10.
- F. Fees are not refunded under any circumstances except for the Board's failure to comply with its established licensure or permit time-frames under R4-23-202 or R4-23-602.
- G. Penalty fee. Renewal applications submitted after the expiration date are subject to penalty fees as provided in A.R.S. §§ 32-1925 and 32-1931.
  - 1. Licensees: A fee equal to half the licensee's biennial licensure renewal fee under subsection (A) and not to exceed \$350.
  - 2. Permittees: A fee equal to half the permittee's biennial permit fee under subsection (D) and not to exceed \$350.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES  
HEALTH CARE INSTITUTIONS: LICENSING**

[R08-284]

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R9-10-201                          | Amend                           |
| R9-10-202                          | Amend                           |
| R9-10-203                          | Amend                           |
| R9-10-234                          | New Section                     |
- 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. §§ 36-132(A)(1), 36-132(A)(17), and 36-136(F)  
Implementing statute: A.R.S. §§ 36-405(A) and (B)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 3498, September 5, 2008 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Kathleen Phillips, Administrative Counsel and Rules Administrator  |
| Address:   | Department of Health Services<br>1740 W. Adams St., Suite 200<br>Phoenix, AZ 85007-3233                                |
| Telephone: | (602) 542-1264   |
| Fax:       | (602) 364-1150   |
| E-mail:    | phillik@azdhs.gov  |
| or         |  |
| Name:      | Kathy McCanna, Program Manager   |
| Address:   | Department of Health Services<br>Medical Facilities Licensing<br>150 N. 18th Ave., Suite 450<br>Phoenix, AZ 85007-3233 |
| Telephone: | (602) 364-3030   |
| Fax:       | (602) 364-4764   |
| E-mail:    | mccannk@azdhs.gov  |

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

Currently hospitals designate a specific area or unit in the hospital's facility to be used to provide a specific organized service, i.e. medical/surgical services, intensive care services, telemetry, etc. There are specific requirements, including staffing and physical plant requirements, for each organized service. If an individual requiring intensive care is admitted to a hospital, the individual may require, over the course of the individual's stay in the hospital, intensive care services, telemetry, and medical/surgical services. In order for the hospital to provide those services under the current system, the individual is moved to a different organized service unit for each type of organized service.

Hospitals are now being planned that will admit an individual to a unit and provide more than one organized service to the individual in a single multi-organized service unit, eliminating the need for physically transferring the individual to different organized service units during the individual's recovery. The rulemaking amends the rules to allow for this innovative delivery of care model.

The rulemaking also adds a definition of "continuing care nursery" to clarify which services may be provided in a multi-organized service unit.

The rulemaking updates several outdated statutory references.

Finally, the rulemaking removes an unclear provision in R9-10-203 regarding informed consent. The Department received public comment prior to this rulemaking indicating that this provision was unclear. The Department agrees and because the provision is unclear it is not enforced. The rules adequately regulate informed consent in R9-10-209 and R9-10-210. Therefore, the Department is removing this provision.

**6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to 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:**

The Department did not review or rely on any study related to this rulemaking package.

**7. 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

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

For the rulemaking identified in item 6, annual costs/revenues changes are designated as minimal when less than \$10,000, moderate when from \$10,000 to \$50,000, and substantial when greater than \$50,000 in additional costs or revenue.

**Cost bearers**

Hospitals

Although the rules allow a hospital more flexibility when designating areas for the provision of services, the rules do not require a hospital to have a multi-organized service unit. A hospital may incur additional physical plant costs if the hospital chooses to have a multi-organized service unit.

**Beneficiaries**

Hospitals

Because a hospital patient does not have to be moved from unit to unit, a multi-organized service unit may be more efficient and provide a financial benefit to a hospital.

Hospital patients

A hospital patient who previously had to be physically relocated as the patient recovered may benefit and recover more quickly when receiving all necessary organized services in one physical location.

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

Name: Kathleen Phillips, Administrative Counsel and Rules Administrator

Address: Department of Health Services  
1740 W. Adams St., Suite 200  
Phoenix, AZ 85007-3233

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: phillik@azdhs.gov

or

Name: Kathy McCanna, Program Manager

Notices of Proposed Rulemaking

Address: Department of Health Services  
Medical Facilities Licensing  
150 N. 18th Ave., Suite 450  
Phoenix, AZ 85007-3233

Telephone: (602) 364-3030

Fax: (602) 364-4764

E-mail: [mccannk@azdhs.gov](mailto:mccannk@azdhs.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: Tuesday, October 7, 2008

Time: 3:00 p.m.

Place: Department of Health Services  
1740 W. Adams St., Room 309  
Phoenix, AZ 85007

Close of record: 5:00 p.m. on Tuesday, October 7, 2008

A person may submit written comments on the proposed rules or the preliminary summary of the economic, small business, and consumer impact no later than 5:00 p.m., Tuesday, October 7, 2008 to the individuals listed in items 4 and 9. Persons with a disability may request reasonable accommodations by contacting Jessica Johnson at [johnsojm@azdhs.gov](mailto:johnsojm@azdhs.gov) or (602) 542-1513. Requests should be made as early as possible to allow sufficient time to arrange for the accommodation.

**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 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES  
HEALTH CARE INSTITUTIONS: LICENSING**

**ARTICLE 2. HOSPITALS**

Section

R9-10-201. Definitions  
R9-10-202. Application Requirements  
R9-10-203. Administration  
R9-10-234. Multi-organized Service Unit

**ARTICLE 2. HOSPITALS**

**R9-10-201. Definitions**

In addition to the definitions in A.R.S. § 36-401 and ~~9~~ A.A.C. ~~Title 9, Chapter~~ 10, Article 1, the following definitions apply in this Article:

1. “Accredited” has the same meaning as in A.R.S. § ~~36-422(I)~~ 36-422(J)(1).
2. 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
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- 14. No change
  - a. No change
  - b. No change
  - c. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. “Continuing care nursery” means a nursery where medical services and nursing services are provided to a neonate who does not require intensive care services.
- ~~22-23.~~ No change
- ~~23-24.~~ No change
- ~~24-25.~~ No change
  - a. No change
  - b. No change
  - c. No change
- ~~25-26.~~ No change
- ~~26-27.~~ No change
- ~~27-28.~~ No change
- ~~28-29.~~ No change
- ~~29-30.~~ No change
- ~~30-31.~~ No change
- ~~31-32.~~ No change
- ~~32-33.~~ No change
- ~~33-34.~~ No change
- ~~34-35.~~ No change
- ~~35-36.~~ No change
- ~~36-37.~~ No change
- ~~37-38.~~ No change
- ~~38-39.~~ No change
- ~~39-40.~~ No change
- ~~40-41.~~ No change
- ~~41-42.~~ No change
- ~~42-43.~~ No change
- ~~43-44.~~ No change
- ~~44-45.~~ No change
- ~~45-46.~~ No change
- ~~46-47.~~ No change
- ~~47-48.~~ No change
- ~~48-49.~~ No change
- ~~49-50.~~ No change
- ~~50-51.~~ No change
- ~~51-52.~~ No change
- ~~52-53.~~ No change
- ~~53-54.~~ No change
- ~~54-55.~~ No change
  - a. No change
  - b. No change
- ~~55-56.~~ No change

~~56-57~~. No change

~~57-58~~. No change

~~58-59~~. No change

a. No change

b. No change

~~59-60~~. No change

~~60-61~~. No change

~~61-62~~. No change

~~62-63~~. No change

64. No change

~~63-65~~. No change

~~65-66~~. No change

~~66-67~~. No change

~~67-68~~. No change

69. “Multi-organized service unit” means an inpatient unit in a hospital where more than one organized service may be provided to a patient in the inpatient unit.

~~68-70~~. No change

a. No change

b. No change

~~69-71~~. No change

~~70-72~~. No change

~~71-73~~. No change

~~73-74~~. No change

~~72-75~~. No change

~~74-76~~. No change

~~75-77~~. No change

~~76-78~~. No change

~~77-79~~. No change

a. No change

b. No change

c. No change

~~78-80~~. No change

~~79-81~~. No change

~~80-82~~. No change

a. No change

b. No change

~~81-83~~. No change

~~82-84~~. No change

~~83-85~~. No change

~~84-86~~. No change

~~85-87~~. No change

~~86-88~~. No change

~~87-89~~. No change

~~88-90~~. No change

a. No change

b. No change

~~89-91~~. No change

~~90-92~~. No change

~~91-93~~. No change

~~92-94~~. No change

~~93-95~~. No change

~~94-96~~. No change

~~95-97~~. No change

~~97-98~~. No change

~~96-99~~. No change

100. No change

~~98-101~~. No change

~~99-102~~. No change

~~101-103~~. No change

- ~~102-104.~~ No change
- ~~103-105.~~ “Satellite facility” has the same meaning as in A.R.S. § ~~36-422(F)~~ 36-422(J)(2).
- ~~104-106.~~ No change
- ~~105-107.~~ No change
- ~~106-108.~~ No change
- ~~107-109.~~ No change
- ~~108-110.~~ No change
- ~~109-111.~~ No change
  - a. No change
  - b. No change
- ~~110-112.~~ No change
- ~~111-113.~~ No change
- ~~112-114.~~ No change
  - a. No change
  - b. No change
  - c. No change
- ~~113-115.~~ No change
- ~~114-116.~~ No change
- ~~115-117.~~ No change
- ~~116-118.~~ No change
- ~~117-119.~~ No change
- ~~118-120.~~ No change
- ~~119-121.~~ No change
  - a. No change
  - b. No change
  - c. No change
- ~~120-122.~~ No change
- ~~121-123.~~ No change
- ~~122-124.~~ No change
- ~~123-125.~~ No change

**R9-10-202. Application Requirements**

- A.** For a hospital license, ~~in~~ in addition to the license application requirements in A.R.S. § 36-422 and ~~9~~ 9 A.A.C. ~~Title 9, Chapter 10, Article 1,~~ a governing authority applying for an initial or renewal license shall submit the following to the Department:
  - ~~1.~~ For a hospital license:
    - a. ~~A statement on a form provided by the Department of the licensed capacity requested for the hospital, including the number of inpatient beds for each organized service, not including well-baby bassinets.~~
    - 1. A statement of the licensed capacity requested for the hospital, on a form provided by the Department, including:
      - a. The number of inpatient beds for each organized service, not including well-baby bassinets; and
      - b. The number of inpatient beds for each multi-organized service unit, including:
        - i. An adult unit that provides both intensive care services and medical and nursing services other than intensive care services.
        - ii. A pediatric unit that provides both intensive care services and medical and nursing services other than intensive care services.
        - iii. A unit that provides both perinatal services and intensive care services for obstetrical patients, or
        - iv. A unit that provides both intensive care services for neonates and a continuing care nursery.
    - ~~b.2.~~ No change
    - ~~e.3.~~ A copy of an accreditation report if the hospital is accredited and chooses to submit a copy of the report instead of receiving a ~~license compliance~~ license compliance inspection by the Department ~~in compliance with~~ according to A.R.S. § 36-424(C).
  - 2.B.** For a single group license authorized in A.R.S. § 36-422(F) or (G), ~~in addition to the requirements in subsection (A),~~ a governing authority applying for an initial or renewal license shall submit the following to the Department on a form provided by the Department:
    - a. ~~The items listed in subsection (A)(1); and~~
    - b. ~~A form provided by the Department that includes:~~
  - ~~i.1.~~ No change
  - ~~ii.2.~~ No change
  - ~~iii.3.~~ No change
- B.C.** No change

Notices of Proposed Rulemaking

1. Notify the Department when there is a change in administrator according to A.R.S. § ~~36-425(E)~~ 36-425(I);
2. No change
3. Submit an application, according to the requirements in 9 A.A.C. Title 9, Chapter 10, Article 1, at least 60 days but not more than 120 days before an accredited facility licensed under a single group license anticipates providing medical services under a license separate from the single group license.

**R9-10-203. Administration**

**A. No change**

1. No change
- ~~2. Determine which organized services are to be provided in the hospital;~~
2. Designate:
  - a. Which organized services are to be provided in the hospital, and
  - b. The organized services that are to be provided in a multi-organized service unit according to R9-10-234(A);
3. No change
  - a. No change
  - b. No change
  - c. 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. For a health care institution under a single group license, comply with the applicable requirements in 9 A.A.C. Title 9, Chapter 10 and Chapter 9 A.A.C. 20 for the class or subclass of the health care institution; and
13. No change

**B. No change**

1. No change
2. No change
3. No change
4. No change

**C. No change**

1. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
  - f. No change
  - g. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
  - h. No change
  - i. No change
  - j. No change
  - k. No change
  - l. No change
  - m. No change
  - n. No change
2. No change
  - a. No change

- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- h. No change
  - i. No change
  - ii. No change
- i. No change
- j. No change
- 3. No change
- 4. No change
- 5. No change
  - a. No change
  - b. No change
- 6. No change
  - a. No change
  - b. No change
  - c. No change
  - d. Sexual abuse according to A.R.S. § 13-1404; and
  - e. Sexual assault according to A.R.S. § 13-1406; ~~and~~
  - f. ~~A pattern of failure to provide hospital services without the informed consent of the patient or the patient's representative that results or may result in risk to the health and safety of the patient as determined by:~~
    - i. ~~The number of incidents;~~
    - ii. ~~How the incidents are related to each other;~~
    - iii. ~~When the incidents occurred; and~~
    - iv. ~~The amount of time between the incidents.~~
- D. No change
  - 1. No change
  - 2. No change

**R9-10-234. Multi-organized Service Unit**

**A.** A governing authority may designate the following as a multi-organized service unit:

- 1. An adult unit that provides both intensive care services and medical and nursing services other than intensive care services.
- 2. A pediatric unit that provides both intensive care services and medical and nursing services other than intensive care services.
- 3. A unit that provides both perinatal services and intensive care services for obstetrical patients, or
- 4. A unit that provides both intensive care services for neonates and a continuing care nursery.

**B.** An administrator shall require that:

- 1. For a patient in a multi-organized service unit, a medical staff member designates in the patient's medical record which organized service is to be provided to the patient;
- 2. A multi-organized service unit is in compliance with the requirements in this Article that would apply if each organized service were offered as a single organized service unit; and
- 3. A multi-organized service unit and each bed in the unit are in compliance with physical plant health and safety codes and standards incorporated by reference in A.A.C. R9-1-412 for all organized services provided in the multi-organized service unit.

NOTICE OF PROPOSED RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

[R08-279]

PREAMBLE

**1. Sections Affected**

Article 4  
R10-4-401  
R10-4-402  
R10-4-402  
R10-4-403  
R10-4-403  
R10-4-404  
R10-4-404  
R10-4-405  
R10-4-406  
R10-4-406

**Rulemaking Action**

Amend  
Amend  
Renumber  
New Section  
Renumber  
Amend  
Renumber  
Amend  
New Section  
Renumber  
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. § 41-2405(A)(8)  
Implementing statute: A.R.S. § 41-2402

**3. List of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 1448, April 25, 2008

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

Name: Kathy Karam, Program Manager  
Address: Arizona Criminal Justice Commission  
1110 W. Washington St., Suite 230  
Phoenix, AZ 85007  
Telephone: (602) 364-1162  
Fax: (602) 364-1175  
E-mail: kkaram@azcjc.gov

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

The Commission is amending its rules to make them more clear, concise, and understandable and consistent with current rule writing standards, state and federal law, and agency practice. The Commission is adding a requirement that grant recipients provide some matching funds. Additionally, the Commission is requiring that program income generated due to the receipt of Account funds be used to further support the approved project.

**6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to 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

**7. 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

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

The rule changes will have some economic impact. The most significant change is to require that a grantee provide matching funds for an award of Account funds. Requiring program income generated by Account funds be expended on the approved project will further support and sustain the approved project. These changes are necessary to enable the Commission to distribute Account funds more widely. An approved agency that does not want to provide matching funds or does not want to expend program income on the approved project does not have to submit a grant application.

**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: Kathy Karam, Program Manager  
Address: Arizona Criminal Justice Commission  
1110 W. Washington St., Suite 230  
Phoenix, AZ 85007  
Telephone: (602) 364-1162  
Fax: (602) 364-1175  
E-mail: [kkaram@azcjc.gov](mailto:kkaram@azcjc.gov)

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

An oral proceeding regarding the proposed rules will be scheduled if a written request is submitted to the individual listed in item 4 within 30 days after this notice is published. The rulemaking record will close on October 15, 2008.

**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 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT ~~ADMINISTRATIVE PROGRAM GRANTS~~

Section

R10-4-401. Definitions

~~R10-4-402.~~ General Information Regarding Grants

~~R10-4-402-R10-4-403.~~ Grant Application

~~R10-4-403-R10-4-404.~~ Application Review Evaluation; Approval by the Commission Standards for Award

~~R10-4-405.~~ Appeals

~~R10-4-404-R10-4-406.~~ Annual Report Required Reports

ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT ~~ADMINISTRATIVE PROGRAM GRANTS~~

**R10-4-401. Definitions**

In this Article:

1. "Account" means the Drug and Gang Enforcement Account established by A.R.S. § 41-2402.
2. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
3. "Approved Program or Project" means a program or project delivering services that meet the requirements of A.R.S. § 41-2402.  
"Applicant" means an approved agency or task force that submits an application for a grant from the Account.
4. "Approved Agency agency" means a unit of state, county, or local, or tribal government providing services that meet the requirements of working to accomplish one or more of the goals established at A.R.S. § 41-2402 41-2402(A).  
"Approved project" means a planned endeavor to accomplish one or more of the goals established at A.R.S. § 41-2402(A) for which a grant is made from the Account.  
"Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.  
"Committee" means the Drug, Gang, and Violent Crime Committee of the Commission.  
"Host agency" means an approved agency that submits a grant application and required reports on behalf of a task force.  
"Matching funds" means non-federal and non-Account money or program income that a grant recipient adds to a grant from the Account and spends to accomplish the goals of an approved project.

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“Program income” means funds generated as a result of the activities funded by a grant from the Account.

“Task force” means multiple approved agencies from different jurisdictions that collaborate to accomplish multiple goals established at A.R.S. § 41-2402(A).

**R10-4-402. General Information Regarding Grants**

- A.** The Commission shall annually request grant applications and make grant awards of Account funds.
- B.** The Commission’s ability to make grant awards is contingent upon the availability of Account funds.
- C.** The Commission shall publish its priorities for grant awards in a report of the state’s strategy for combating drugs, gangs, and violent crime. This report also includes the plan approved by the federal government and referenced under A.R.S. § 41-2402(F).
- D.** The Commission shall make all information regarding grants, including the request for grant applications and application and report forms, available on its web site.
- E.** The Commission shall ensure that training regarding grant application procedures and grant management are made available to interested approved agencies.
- F.** The Commission shall provide oversight of all grants awarded, which may include conducting a financial review or audit of a grant recipient, to ensure that Account funds are expended in compliance with all terms of the grant agreement and all applicable state and federal laws.
- G.** The Commission shall require that a grant recipient provide matching funds in the amount specified in the request for grant applications.
- H.** The Commission shall not require a grant recipient to provide matching funds that exceed 25% of the total project budget.

**~~R10-4-402.~~R10-4-403. Grant Application**

- A.** An approved agency or task force may submit an application for a grant from the Account. If application is made by a task force, members of the task force shall identify a host agency.
- B.** To apply for Account money, an approved agency ~~An applicant shall access, complete, and submit to the Commission a written the application for Account money containing the following form that is available on the Commission’s web site.~~ The applicant shall provide the following information:
  - 1. Title of the application and proposed project;
  - 2. Purpose specified in A.R.S. § 41-2402(A) that the proposed project will address;
  - 3. Statement of whether the application is a request to continue a previously approved project;
  - ~~4. The name Name and address of the applicant agency;~~
  - 5. List of member agencies of the task force if the applicant is a task force;
  - ~~a-6. The name Name of the authorized official submitting individual authorized to submit the application;~~
  - ~~b-7. The name Name of the person with primary responsibility individual responsible for administering and supervising the approved program or proposed project, and;~~
    - e. The name of the person responsible for fiscal matters relating to the approved program or project;
  - 2. The amount of Account money requested;
  - 3. The purpose of the request for Account money, consistent with A.R.S. § 41-2402(A);
  - 4. The program or project title;
  - 5. The program or project description including:
    - a. The goals and objectives to be achieved by the program or project, and the method for evaluating the achievements of the program or project;
    - b. The estimated amount of the applicant agency’s funds and resources allocated to the program or project;
    - e. The estimated total project cost;
    - d. A detailed budget of how the Account money will be used;
    - e. An estimated completion date; and
    - f. The anticipated fiscal and operational impact Account money will have on the applicant agency.
  - 8. Statement of the mission of the proposed project;
  - 9. Statement of the current problem that will be addressed by the proposed project including data reflecting:
    - a. The scope of the problem, and
    - b. The absence or inadequacy of current efforts to address the problem;
  - 10. Summary of the proposed project that explains how the proposed project seeks to address the problem identified;
  - 11. Description of collaborative efforts among law enforcement, prosecution, service providers, community organizations, social service agencies, and others that will be involved with the proposed project;
  - 12. Description of the methodology that will be used to evaluate the effectiveness of the proposed project;
  - 13. Goals of the proposed project stated in a manner that indicates what the proposed project is intended to accomplish;
  - 14. Objectives that are specific, measurable, realistic, and directly correlated to the goals of the proposed project;
  - 15. Detailed budget that includes:
    - a. Total amount to be expended on the proposed project including both Account and matching funds,

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- b. Estimated amount to be expended for various allowable expenses and the manner in which the estimate was determined;
- c. Sources of the required matching funds, and
- d. Statement of whether Account funds received will be used as matching funds for another grant program and if so, the name of the grant program and funding agency;

- 16. Date of the jurisdiction's current A-133 audit report;
- 17. Description of the internal controls the applicant will use to ensure compliance with all terms of the grant agreement;
- 18. Description of plan to sustain the project if Account funds are no longer available; and
- 19. Signature of the individual identified in subsection (B)(6) certifying that the information presented is correct and that if a grant is received, the applicant will comply with the terms of the grant agreement and all applicable state and federal laws.

**C.** In addition to submitting the application form required under subsection (B), an applicant shall submit to the Commission:

- 1. A copy of the jurisdiction's current A-133 audit report or if the jurisdiction does not have a current A-133 audit report, a copy of all correspondence relating to an extension of time to have an audit completed;
- 2. A letter on official letterhead or another official document from each member agency of the task force if the applicant is a task force describing the manner in which the task force member intends to contribute to the proposed project; and
- 3. If the applicant's jurisdiction applied directly for federal criminal justice grant funding, a copy of the application.

**R10-4-403-R10-4-404. Application Review Evaluation; Approval by the Commission Standards for Award**

**A.** The Commission shall review ensure that each application that is submitted timely and proposes a project eligible for funding from the Account is evaluated, and make a decision to After the applications are evaluated, the Committee shall forward a recommended allocation plan to the Commission. The Commission shall grant or deny funding within 90 days of the last day on which applications may be submitted after the application deadline.

**B.** If the Commission determines that it needs additional information is needed to facilitate its review of an application, the Commission shall:

- 1. Request the additional information from the applicant agency, or
- 2. Request application modifications the applicant to modify the application.

**C.** After review, the The Commission shall vote to approve or disapprove the application grant funding, in whole or in part, or deny funding on the basis of using standards prescribed in the plan approved by the federal government for federal money deposited into the Account as provided and referenced under A.R.S. § 41-2402(F).

**D.** The standards referenced in subsection (C) include an assessment of whether the proposed project:

- 1. Is directed toward a problem that is demonstrated by statistical data;
- 2. Is designed to address the identified problem;
- 3. Is a coordinated effort among multiple approved agencies;
- 4. Has specific goals;
- 5. Has measurable and realistic objectives that relate to the goals;
- 6. Has appropriate methods for evaluating achievement of objectives;
- 7. Has a reasonable budget of allowable expenses;
- 8. Has identified the required matching funds;
- 9. Has internal controls to monitor expenditure of Account funds; and
- 10. If the program was previously funded, all grant requirements were met timely and there were no reportable deficiencies during monitoring reviews.

**R10-4-405. Appeals**

**A.** Commission staff shall ensure that the recommended allocation plan is made available to an applicant before the Committee forwards the recommended allocation plan to the Commission for its action.

**B.** If an applicant disagrees with the recommended allocation plan, the applicant may verbally appeal to the Committee. The Committee shall consider the appeal before forwarding the recommended allocation plan to the Commission.

**C.** If an applicant disagrees with the recommendation of the Committee, the applicant may verbally appeal to the Commission. The Commission shall consider the appeal when making a final decision to award or deny a grant of Account funds to the applicant. The Commission's decision is final.

**R10-4-404-R10-4-406. Annual Report Required Reports**

**A.** No later than September 30 each year, a grantee shall submit a written report to the Commission that contains:

- 1. The amount of Account money held by the grantee at the beginning of the fiscal year;
- 2. The amount of Account money received by the grantee from the Commission during the fiscal year;
- 3. The amount of Account money expended to achieve the goals and objectives stated in the application;
- 4. A narrative assessment of the effective and efficient use of Account money to meet stated goals and objectives during the fiscal year, including an assessment of enhanced efforts to deter, investigate, prosecute, adjudicate, and punish

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- drug offenders and members of criminal street gangs;
5. The amount and disposition of assets seized, money generated by fines, and other financial benefits generated by the grantee, as a result of the use of Account money; and
  6. Other information the Commission may request to comply with requests from the federal government for information related to the expenditure of federal grant money from the Account.
- B.** The Commission shall compile this information in the annual report required under A.R.S. § 41-2405(A)(12) and forward it to the Governor, President of the Senate, and Speaker of the House of Representatives.
  - A.** The Commission shall annually prepare and submit the report required under A.R.S. § 41-2405(A)(11) and the report required by the federal government regarding the current criminal justice grant program. The Commission shall use data submitted by grant recipients as specified in the recipient's grant agreement to prepare these reports.
  - B.** A grant recipient shall submit to the Commission financial, activity, and progress reports documenting the activities supported by the Account funds. The grant recipient shall submit the reports monthly or quarterly as specified in the grant agreement. The specific reports required are determined by the nature of the proposed project. A grant recipient shall submit a required report by the 25th day following the end of the month or quarter in which the report is due.
  - C.** The Commission shall not distribute Account funds to a grant recipient that fails to submit a required report within 60 days of its due date.
  - D.** A grant recipient shall cooperate with and participate in all assessment, evaluation, or information or data collection efforts authorized by the Commission.
  - E.** The Commission has the right to obtain, reproduce, publish, or use information provided in required reports or assessment, evaluation, or information or data collection efforts. When in the best interest of the state, the Commission may authorize others to receive and use the information.