

# 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 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

[R08-19]

#### PREAMBLE

- 1. Sections Affected**

R4-30-304	<b><u>Rulemaking Action</u></b>
Appendix A	Amend
Appendix B	Amend
	New Appendix
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 32-106(A)(1)  
Implementing statute: A.R.S. § 32-125
- 3. The effective date of the rules:**

March 8, 2008
- 4. A list of all previous notices appearing in the *Register* addressing the final rule:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 1532, April 27, 2007  
Notice of Rulemaking Docket Opening: 13 A.A.R. 2170, June 22, 2007  
Notice of Proposed Rulemaking: 13 A.A.R. 2139, June 22, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Cassie Goodwin
Address:	Board of Technical Registration 1110 W. Washington St., Suite 240 Phoenix, AZ 85007
Telephone:	(602) 364-4947
Fax:	(602) 364-4931
E-mail:	cassie.goodwin@azbtr.gov
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**

The Board has determined that requiring professional registrants to write or type or electronically generate the date that their current registration expires beneath their seal will assist registrants with renewing their registration in a timely fashion.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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, 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:**

Not applicable

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

There may be moderate economic impacts for those registrants who choose to purchase a new seal that complies with this rule change.

There are no significant economic impacts on other government agencies.

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

Minor formatting and grammatical changes were made at the request of G.R.R.C. staff.

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

There were no comments made at the oral proceeding. During the course of the proposed amendment to this rule, the Board received several written comments expressing concern with the change. Most comments indicate the change is not necessary based on the Board's current methods of notifying registrants of pending expiration of their professional registration seal and concerns with confusion occurring with reviewing agencies and clients on the validity of the professional work after the expiration date has occurred. The Board currently notifies registrants of pending expiration of their professional seal by mailing a renewal form via US First Class Mail 60 to 45 days before expiration of their registration. Under the current system of renewal notification approximately five percent of registrants renew late and continue to practice during their delinquency period. The Board believes the current method of notification is sufficient, but that having the registrant indicate the expiration date when sealing documents will help to remind the registrant to maintain current registration. Concerns regarding confusion with reviewing agencies and clients on the validity of the professional work after the expiration date has occurred appear to be based on a lack of understanding of the requirements. The current practice does not require the expiration date to be included on the sealed documents. In the past there has never been a concern raised regarding the validity of the professional document after the expiration of the registrant's seal. California requires the expiration date of the current registration be included in the seal and the California Board staff says there have been no significant problems caused by a belief that the plans expire with the seal.

There is no need for a registrant to purchase a new seal as the expiration date may simply be handwritten below the registrant's current seal. The time needed to hand write the expiration date is minimal. If the registrant is using a computer generated seal the date need only be changed once every three years.

Finally, it is unlikely that a registrant would falsify the expiration date. It is one thing to forget to renew and another to falsify the information. The registrant would be placing the registrant's entire career on the line.

**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?**

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 30. BOARD OF TECHNICAL REGISTRATION**

**ARTICLE 3. REGULATORY PROVISIONS**

Section

R4-30-304. Use of Seals

Appendix A. Sample Seals

Appendix B. ~~Repeated~~ Sample Expiration Date Notification

**ARTICLE 3. REGULATORY PROVISIONS**

**R4-30-304. Use of Seals**

- A.** A registrant shall place a permanently legible imprint of the registrant's seal and signature on the following:
1. Each sheet of drawings or maps;
  2. Each of the master sheets when reproduced into a single set of finished drawings or maps;
  3. Either the cover, title, index, or table of contents page, or first sheet of each set of project specifications;
  4. Either the cover, index page, or first sheet of each addenda or change order to specifications;
  5. Either the cover, index page, or first sheet of bound details when prepared to supplement project drawings or maps;

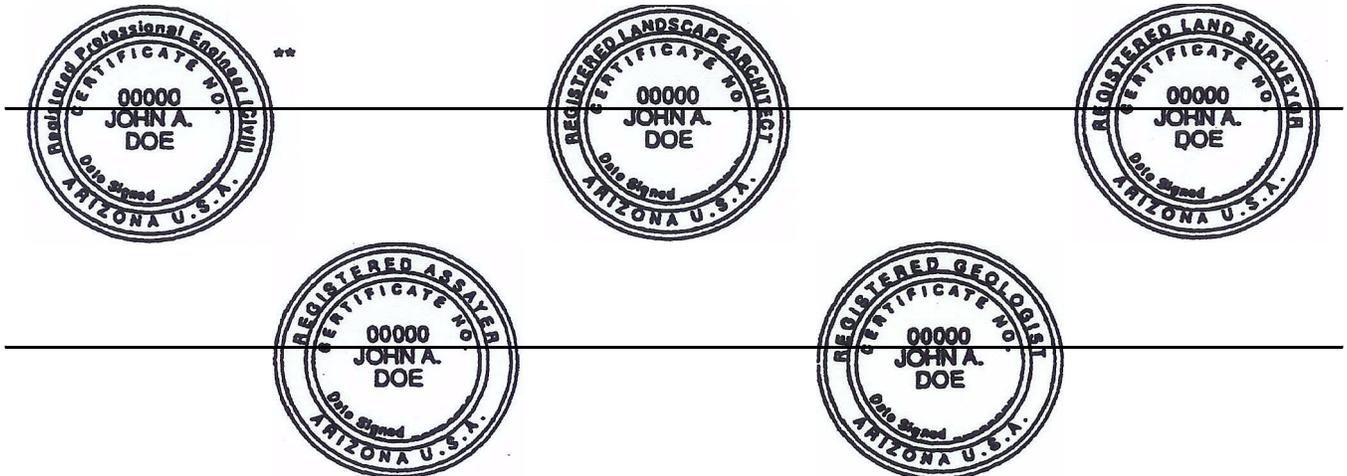
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- 6. Either the cover, title, index, or table of contents page, or first sheet of any report, specification, or other professional document prepared by a registrant or the registrant's bona fide employee;
- 7. The signature line of any letter or other professional document prepared by a registrant, or the registrant's bona fide employee; and
- 8. Shop drawings that require professional services or work as described in the Act. Examples of shop drawings that do not require a seal include drawings that show only:
  - a. Sizing and dimensioning information for fabrication purposes;
  - b. Construction techniques or sequences;
  - c. Components with previous approvals or designed by the registrant of record; or
  - d. Modifications to existing installations that do not affect the original design parameters and do not require additional computations.
- B. A registrant shall apply a label that describes the name of the project and an original imprint of the registrant's seal and signature on all video cassettes that contain copies of professional documents.
- C. In the event that a copy of a professional document is provided to a client, regulatory body, or any other person for any reason by computer disk, tape, CD, or any other electronic form, and the document does not meet the requirements of subsection (D), the registrant shall mark the copy of the professional document: "Electronic copy of final document; sealed original document is with (identify the registrant's name and registration number)."
- D. A registrant shall sign, date, and seal a professional document:
  - 1. Before the document is submitted to a client, contractor, any regulatory or review body, or any other person, unless the document is marked "preliminary," "draft," or "not for construction" except when the document is work product intended for use by other members of a design team; and
  - 2. In all cases, if the document is prepared for the purpose of dispute resolution, litigation, arbitration, or mediation.
- E. For purposes of subsection (A), all original documents shall include:
  - 1. An original seal imprint or a computer-generated seal that matches the seal on file at the Board's office;
  - 2. An original signature that does not obscure either the registrant's printed name or registration number; ~~and~~
  - 3. The date the document was sealed; and
  - 4. A notation beneath the seal either written, typed, or electronically generated that provides the day, month, and year of expiration of current registration, as shown in Appendix B.
- F. Methods of transferring a seal other than an original seal imprint or a computer-generated seal are not acceptable.
- G. An electronic signature, as an option to a permanently legible signature, in accordance with A.R.S. Title 41 and Title 44, is acceptable for all professional documents. The registrant shall provide adequate security regarding the use of the seal and signature.

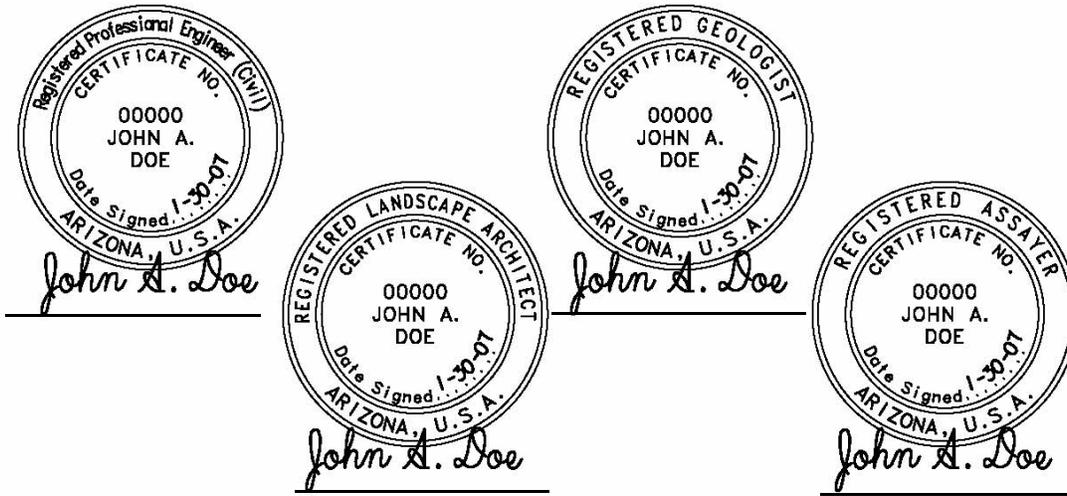
Appendix A. Sample Seals

SAMPLES:

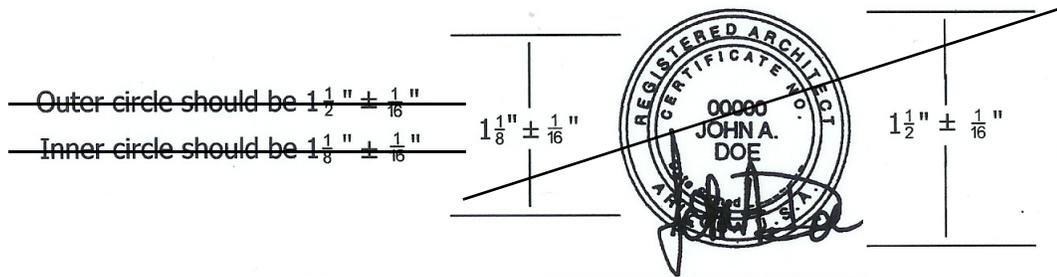
Sign your name across lower portion of the seal. Do not cover your name or registration number with your signature.



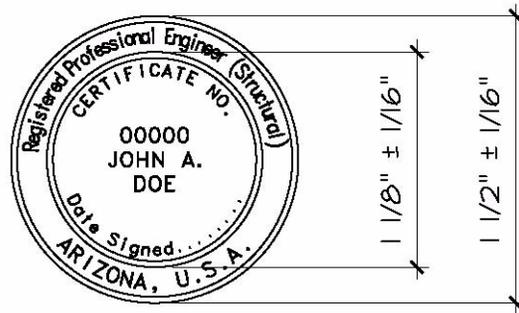
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\*\* ENGINEERS MUST LIST BRANCH – Agriculture, Architectural, Chemical, Civil, Control Systems, Electrical, Environmental, Fire Protection, Geological, Industrial, Mechanical, Mining, Metallurgical, Nuclear, Petroleum, Sanitary, or Structural.



Outer circle should be 1 1/2 inches ± 1/16 inches  
Inner circle should be 1 1/8 inches ± 1/16 inches



**Appendix B. Repeated Sample Expiration Date Notification**

Samples:

Type or handwrite the day, month, and year of registration expiration directly below the seal, as shown:



**NOTICE OF FINAL RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 34. BOARD OF MANUFACTURED HOUSING**

[R08-12]

**PREAMBLE**

**1. Sections Affected**

- R4-34-201
- R4-34-203
- R4-34-204
- R4-34-401
- R4-34-402

**Rulemaking Action**

- Amend
- Amend
- Amend
- Amend
- Amend

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R4-34-501	Amend
R4-34-601	Amend
R4-34-603	Amend
R4-34-607	Amend
R4-34-701	Amend
R4-34-702	Amend
R4-34-703	Amend
R4-34-704	Amend
R4-34-705	Amend
R4-34-706	Amend
R4-34-803	Amend
R4-34-804	Amend
R4-34-805	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. § 41-2144(A)(13)  
Implementing statutes: A.R.S. § 41-2144
- 3. The effective date of the rules:**  
March 8, 2008
- 4. A list of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 123, January 12, 2007  
Notice of Proposed Rulemaking: 13 A.A.R. 1948, June 8, 2007  
Notice of Termination of Rulemaking: 13 A.A.R. 2388, July 6, 2007  
Notice of Rulemaking Docket Opening: 13 A.A.R. 2530, July 13, 2007  
Notice of Proposed Rulemaking: 13 A.A.R. 2990, August 31, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Gary Grounds, Deputy Director  
Address: Department of Fire, Building and Life Safety  
1110 W. Washington St., Suite 100  
Phoenix, AZ 85007  
Telephone: (602) 364-1003  
Fax: (602) 364-1063
- 6. An explanation of the rules, including the agency's reason for initiating the rulemaking:**  
The rules are being amended for general rule housekeeping, clarification, and consistency with legislation passed in 2006.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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, and any analysis of each study and other supporting material:**  
The Board did not review any study related to this rulemaking.
- 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:**  
There is no economic impact to the Department, licensees, consumers, or local jurisdictions.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Minor grammatical or formatting changes were made at the request of the Governor's Regulatory Review Council staff.
- 11. A summary of the comments made regarding the rules and the agency response to them:**  
There were no written or oral comments received concerning these rules.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None

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**13. Any material incorporated by reference and its location in the text:**

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 34. BOARD OF MANUFACTURED HOUSING**

**ARTICLE 2. LICENSING**

Section

R4-34-201. General  
R4-34-203. Retailers  
R4-34-204. Installers

**ARTICLE 4. SURETY BONDS**

Section

R4-34-401. Surety Bond Forms  
R4-34-402. Cash Deposits

**ARTICLE 5. FEES**

Section

R4-34-501. General

**ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION**

Section

R4-34-601. Manufactured Homes  
R4-34-603. Factory-Built Buildings and FBB Subassemblies  
R4-34-607. Manufacturing Inspection and Certification

**ARTICLE 7. PLAN APPROVALS**

Section

R4-34-701. General  
R4-34-702. Quality Assurance Manuals  
R4-34-703. Drawings and Specifications  
R4-34-704. Alterations or Reconstruction  
R4-34-705. Accessory Structures and Ground Anchoring  
R4-34-706. Factory-Built Building Installation

**ARTICLE 8. PERMITS AND INSTALLATION**

Section

R4-34-803. Soil and Materials  
R4-34-804. Utilities  
R4-34-805. Accessory Structures

**ARTICLE 2. LICENSING**

**R4-34-201. General**

- A.** An administrative review of the application shall be performed within 5 ~~five~~ business days of receipt of an application. The ~~Assistant~~ Deputy Director shall issue a conditional license within 14 business days of the Department's receipt of the completed license application and written evidence that the applicant has passed any required license examination. The 5 ~~five~~ day administrative completeness and 14 day substantive review time-frames provide an overall time-frame of 19 days excluding time requirements that are the responsibility of the applicant.
- B.** No change
- C.** No change
- D.** Upon receipt and review of the applicant's criminal background analysis by the ~~Assistant~~ Deputy Director of the Office of Administration, and upon mailing notification to the applicant, the previously issued conditional license is automatically

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effective as a permanent license to transact business within the scope of the license.

**R4-34-203. Retailers**

The Department shall place a retailer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:

1. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
2. No change
  - a. No change
  - b. No change
3. No change
  - a. No change
  - b. No change
  - c. No change
  - d. Contracts with properly licensed installers or contractors for the installation of factory-built buildings, FBB sub-assemblies, and residential, single-family, factory-built buildings, or accessory structures.
4. No change

**R4-34-204. Installers**

A. The Department shall place an installer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:

1. I-10C General installer of Manufactured Homes, Mobile Homes, or Residential, Single-Family, Factory-Built Buildings:
  - a. Installs manufactured homes, mobile homes, or residential, single-family, factory-built buildings on foundation systems;
  - b. No change
  - c. No change
  - d. Installs evaporative coolers and cooler systems on manufactured homes, mobile homes, or residential, single-family, factory-built buildings;
  - e. No change
  - f. No change
  - g. No change
  - h. No change
  - i. No change
2. I-10D Installer of Accessory Structures attached to Manufactured Homes, Mobile Homes, or Residential, Single-Family, Factory-Built Buildings:
  - a. No change
  - b. No change
  - c. No change
  - d. No change
3. I-10G Master Installer of Manufactured Homes, Mobile Homes, or Residential, Single-Family, Factory Built Buildings:
  - a. No change
  - b. No change
  - c. No change

B. No change

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

**ARTICLE 4. SURETY BONDS**

**R4-34-401. Surety Bond Forms**

Manufacturers, installers, and retailers except brokers of manufactured homes, mobile homes, or residential single-family, factory-built buildings, shall submit the applicable surety bond amount from the list in R4-34-502, with a form provided by the Office of Administration.

**R4-34-402. Cash Deposits**

A. Except for applicants exempt under R4-34-401, any applicant for a license or renewal of a license who desires to post cash

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in place of a commercial surety bond shall deposit the applicable amount with the ~~Assistant~~ Deputy Director of the Office of Administration using any one of the following payment methods:

1. No change
  2. No change
  3. No change
  4. No change
  5. No change
- B.** Upon the receipt of the ~~Assistant~~ Deputy Director of the Office of Administration of an order from any court for the payment of funds on deposit, the ~~Assistant~~ Deputy Director shall make payment according to the court order, at which time the license is suspended under A.R.S. § 41-2179, if applicable. In order to reinstate the license, the licensee shall return the cash deposit to the required balance or, as an alternative, file a commercial surety bond for the full amount and pay all applicable reinstatement fees.
- C.** No change
- D.** No change
- E.** No change
1. No change
  2. No change
  3. No change
- F.** Upon written request and subsequent approval by the ~~Assistant~~ Deputy Director of the Office of Administration, a cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, any person with written evidence of authority to withdraw the cash deposit for a corporation, and any other person who can establish legal right to the cash deposit.

**ARTICLE 5. FEES**

**R4-34-501. General**

- A.** No change
- B.** The ~~Assistant~~ Deputy Director of the Office of Administration shall notify all licensees of the established fee schedule before June 1 of each year.
- C.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change

**ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION**

**R4-34-601. Manufactured Homes**

A manufacturer shall build manufactured homes according to the standards and regulations in ~~R4-34-102(C) and (D)~~ R4-34-102(1) and (2).

**R4-34-603. Factory-Built Buildings and FBB Subassemblies**

- A.** A manufacturer shall construct factory-built buildings and FBB subassemblies according to the applicable codes in ~~R4-34-102(E)~~ R4-34-102(3), (4) and (5); and
1. No change
  2. No change
  3. No change
- B.** A manufacturer of non-residential factory-built buildings and FBB subassemblies shall comply with ~~A.R.S. A.A.C.~~ Title 10, Chapter 3 relating to the Americans with Disabilities Act Accessibility Guidelines (ADAAG).
- C.** No change
1. No change
  2. No change
  3. No change

**R4-34-607. Manufacturing Inspection and Certification**

- A.** The Department shall conduct manufactured home plant certification under ~~R4-34-102(C) and (D)~~ (1) and (2).
- B.** No change
- C.** No change

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1. The Department shall conduct manufactured home certification under ~~R4-34-102(C) and (D)~~ R4-34-102(1) and (2); and
  2. No change
- D.** No change
1. Each manufactured home manufacturer shall report affixing HUD labels, complete any other required reports, and establish and maintain records under ~~R4-34-102(C) and (D)~~ R4-34-102(1) and (2); and
  2. No change
- E.** No change
1. No change
  2. An inspector identifies ~~3~~ three or more repetitive failures manufacturing to specifications in the approved plans, codes, or quality assurance manual;
  3. No change
  4. No change
- F.** No change
1. No change
  2. No change
- G.** No change
1. No change
  2. No change
    - a. No change
    - b. No change
    - c. No change

**ARTICLE 7. PLAN APPROVALS**

**R4-34-701. General**

- A.** No change
1. No change
  2. No change
- B.** No change
- C.** Before installing an accessory structure or ground anchors for a manufactured home, mobile home, or residential single-family, factory-built building, an installer shall obtain plan approval under R4-34-705.
- D.** No change
- E.** No change
- F.** No change
- G.** No change
- H.** No change
- I.** No change

**R4-34-702. Quality Assurance Manuals**

- A.** A manufacturer of manufactured homes shall prepare the quality assurance manual required by ~~R4-34-102(C) and (D)~~ R4-34-102(1) and (2).
- B.** No change
1. No change
    - a. No change
    - b. No change
    - c. 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

**R4-34-703. Drawings and Specifications**

- A.** A manufacturer of manufactured homes shall submit drawings and specifications that comply with applicable requirements of ~~R4-34-102(C) and (D)~~ R4-34-102(1) and (2).
- B.** A manufacturer of factory-built buildings or FBB subassemblies shall submit plans that comply with the applicable codes in ~~R4-34-102(E)~~ R4-34-102(3), (4), and (5). The plans shall provide or have the following information or format

attributes:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change

**R4-34-704. Alterations or Reconstruction**

- A.** No change
1. No change
  2. No change
  3. The retailer or broker shall not prepare manufactured home plans that are not consistent with the manufactured home construction and safety standards prescribed in ~~R4-34-102(C) and (D)~~ R4-34-102(1) and (2).
  4. No change
- B.** No change
1. No change
  2. No change

**R4-34-705. Accessory Structures and Ground Anchoring**

- A.** No change
1. For commercial factory-built buildings, an installer shall comply with the International Building Code when preparing accessory structure plans. For residential single-family ~~residential~~ factory-built buildings, an installer shall comply with the International Residential Code when preparing accessory structure plans.
  2. No change
  3. No change
- B.** No change
1. No change
  2. No change

**R4-34-706. Factory-Built Building Installation**

- A.** No change
- B.** No change
1. No change
  2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  3. Electrical drawings, including the isometric one-line diagram required by ~~R4-34-102(F)~~ R4-34-102(5), that contain the following information:
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  4. Plumbing drawings, including any one-line diagrams required by ~~R4-34-102(E)(3)~~ R4-34-102(4), that contain the following information:
    - a. No change
    - b. No change
    - c. No change

**ARTICLE 8. PERMITS AND INSTALLATION**

**R4-34-803. Soil and Materials**

- A.** A licensee who contracts with the consumer for an installation shall perform or contract for any site preparation necessary to make the site compatible with the manufactured home, mobile home, or residential, single-family factory-built building. The licensee may contract with a licensed installer or other qualified professional to assess site and soil compatibility or perform any necessary preparation work. The party actually performing the site compatibility assessment or work is primarily responsible for work related to site compatibility or preparation. The licensee who contracts with the consumer, if a different entity, is secondarily responsible.

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- B.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
- C.** No change
  - 1. No change
  - 2. No change
- D.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
    - a. Minimum 3/4-inch thick plywood or ~~2~~ two layers of 5/8-inch thick plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact, conforming to International Building Code Section 2303.1.8 or International Residential Code Section R402.1.2, as applicable under R4-34-102(3);
    - b. No change
    - c. No change
    - d. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
  - 10. No change
  - 11. No change
  - 12. Stack no more than ~~2~~ two equal sized concrete pads per support.
- E.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
- F.** No change
  - 1. Use ~~2~~ two wedges in alignment per support;
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
- G.** No change
- H.** No change
  - 1. No change
  - 2. No change
- I.** No change
  - 1. An installer or contractor shall install factory-built buildings in compliance with applicable standards incorporated by reference in ~~R4-34-102~~ R4-34-102(3), (4), and (5); the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing Code as incorporated by reference in 4 A.A.C. 48, and National Electrical Code.

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- 2. No change

**R4-34-804. Utilities**

- A. No change
- B. Electric – An installer or contractor shall make all electric connections or installations according to the National Electric Code; ~~in R4-34-102(F)~~ R4-34-102(5).
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
- C. Sewer – An installer or contractor shall make sewer connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated in ~~R4-34-102(E)(3)~~ R4-34-102(4).
- D. Water – An installer or contractor shall make water connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated in ~~R4-34-102(E)(3)~~ R4-34-102(4).
- E. Gas – An installer or contractor shall make gas connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated ~~by~~ in R4-34-102(E)(3) R4-34-102(4).
  - 1. No change
  - 2. No change
- F. No change

**R4-34-805. Accessory Structures**

- A. For the purpose of A.R.S. § 41-2142(1), the word “attached” means fastened to the manufactured or mobile home; residential single-family; ~~residential~~; factory-built building; or accessory structure at the time of its installation and removable without degradation of the structural integrity of the unit.
- B. An installer or contractor shall install, assemble, or construct each accessory structure in compliance with applicable standards incorporated by reference in ~~R4-34-102~~ R4-34-102(3), (4), and (5); the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing as incorporated by reference in 4 A.A.C. 48, and the National Electrical Code or according to the manufacturer’s installation instructions if the instructions are consistent with this Chapter.
- C. No change
- D. No change
- E. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
    - a. No change
    - b. No change
  - 3. No change

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

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

[R08-11]

**PREAMBLE**

**1. Sections Affected**

Article 10  
R9-10-1001  
R9-10-1002  
R9-10-1003  
R9-10-1004  
R9-10-1005

**Rulemaking Action**

New Article  
New Section  
New Section  
New Section  
New Section  
New Section

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R9-10-1006	New Section
R9-10-1007	New Section
R9-10-1008	New Section
R9-10-1009	New Section
R9-10-1010	New Section
R9-10-1011	New Section
R9-10-1012	New Section
R9-10-1013	New Section
R9-10-1014	New Section
R9-10-1015	New Section
R9-10-1016	New Section
R9-10-1017	New Section

**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. §§ 36-104(3), 36-132(A)(3), and 36-136

Implementing statutes: A.R.S. §§ 36-405 and 36-406

**3. The effective date of the rules:**

March 8, 2008

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 690, March 2, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 2898, August 24, 2007

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

Name: Kathleen Phillips, Rules Administrator and Administrative Counsel

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

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: phillik@azdhs.gov

or

Name: Kathy McCanna, Program Manager

Address: Department of Health Services  
Division of Licensing Services  
Office of Medical Facilities  
150 N. 18th Ave.  
Phoenix, AZ 85007

Telephone: (602) 364-2841

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

A.R.S. § 36-132(A) requires the Arizona Department of Health Services (Department) to license and regulate health care institutions in Arizona. A.R.S. § 36-405(A) requires the Director of the Department to adopt rules establishing minimum standards and requirements for the construction, modification and licensure of health care institutions necessary to assure the public health, safety and welfare. It further requires that the standards and requirements relate to the construction, equipment, sanitation, staffing for medical, nursing, and personal care services, and recordkeeping pertaining to the administration of medical, nursing, and personal care services according to generally accepted practices of health care.

A.R.S. § 36-405(B)(1) establishes outpatient treatment centers as a class of health care institution. In R9-10-101(39), an outpatient treatment center is defined as "a health care institution class without inpatient beds that provides medical services for the diagnosis and treatment of patients." An individual whose kidneys do not adequately filter the individual's blood needs dialysis to remove wastes and excess fluid from the patient's blood. The individual receives dialysis services on an outpatient basis from an outpatient treatment center providing dialysis services, medical services, and nursing services. Currently, there are no licensing rules establishing specific requirements and standards for outpatient treatment centers providing dialysis services, medical services, and nursing services. Facilities falling within this classification are regulated under R9-10-115, which provides general requirements and standards for

“unclassified health care institutions.” The Department is proposing rules that contain the specific requirements and standards necessary to protect individuals receiving dialysis services at or from an outpatient treatment center providing dialysis services, medical services, and nursing services.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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, and any analysis of each study and other supporting material:**

No studies were reviewed.

**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:**

Not applicable

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

Annual costs/revenue changes are designated as minimal when less than \$10,000, moderate when between \$10,000 and \$50,000, substantial when greater than \$50,000, and significant when meaningful or important but not readily subject to quantification.

**COST BEARERS**

**Department**

ADHS will incur minimal-to-moderate costs resulting from the rulemaking process, revising inspection forms and processes to comply with the rules, and providing training and technical assistance to the regulated community.

**Outpatient treatment centers providing dialysis services, medical services, and nursing services**

All outpatient treatment centers providing dialysis services, medical services, and nursing services are certified by and comply with requirements established by the U.S. Centers for Medicare and Medicaid (CMS) to receive reimbursement for providing dialysis services. Most of these requirements are also included in the rules and outpatient treatment centers providing dialysis services, medical services, and nursing services should not experience increased costs as a result.

Staff member qualifications

Requirements for staff members in the rules are similar to CMS requirements and the Department does not anticipate increased costs. There may be a minimal to moderate increase in cost if an outpatient treatment center providing dialysis services, medical services, and nursing services has received a waiver from CMS' requirement for a physician director.

Staff availability

The rules require a registered nurse or a medical staff member (physician, registered nurse practitioner, physician assistant) to be onsite when dialysis services are being provided and a medical staff member to be available whenever dialysis services are provided. CMS requires a physician, registered nurse, or a licensed practical nurse to be on duty and a physician to be available 24 hours seven days a week for emergencies. If an outpatient treatment center providing dialysis services, medical services, and nursing services currently has a licensed practical nurse onsite when dialysis services are being provided, the outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal or moderate costs under the rules.

Staff member orientation and training

CMS and current rules require staff member orientation and training. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal costs to ensure that staff member orientation and training complies with the specific requirements in the rules including requirements for cardiopulmonary resuscitation training, verification of skills, specific orientation topics, and recordkeeping for orientation and training.

Infectious tuberculosis screening

The rules require infectious tuberculosis screening for staff members and there are no requirements in current rules or CMS. If an outpatient treatment center providing dialysis services, medical services, and nursing services does not currently screen staff members for infectious tuberculosis, the outpatient treatment center may incur minimal to moderate costs to comply with the requirements in the rule for infectious tuberculosis screening.

Policies and procedures

CMS and current rules require policies and procedures for specific topics. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal to moderate costs to ensure that policies and procedures are developed, documented, and implemented for all the topics in the rules.

Contracted services

Both CMS and the rules require contracted services to be provided in compliance with licensing requirements. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal

costs to maintain and make available to the Department within four hours of the Department's request, a copy of any contract for contracted services.

Quality management program

Both CMS and the rules require an outpatient treatment center providing dialysis services, medical services, and nursing services to have a quality management program. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal costs ensuring that the quality management program complies with the specific requirements in the rules.

Medical records

Both CMS and the current rules require an outpatient treatment center providing dialysis services, medical services, and nursing services to maintain medical records. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal to moderate costs ensuring that the facility's medical records comply with the specific requirements for content, maintenance, and availability in the rules.

Drug reference source

An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal costs to have a drug reference source, current within one year of the publication date, available in hard copy or electronically on the premises for use by clinical staff members.

Dialysis services, medical services, and nursing services

Both CMS and the rules have specific requirements for the provision of dialysis services to patients. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal to moderate costs ensuring that the provision of dialysis services comply with the specific requirements in the rule for staff, patient participation, equipment and supplies, care plan development, and recordkeeping when providing dialysis services, medical services, and nursing services.

Infection control

Both CMS and the rules have specific requirements for infection control. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal to moderate costs establishing, documenting, and implementing an infection control program in compliance with the requirements in the rules.

Environmental services and equipment standards

Although there are requirements in the current rules for sanitation and equipment maintenance and documentation both CMS and the rules have specific sanitation requirements for the environment where dialysis services, medical services, and nursing services are provided and the equipment used when providing dialysis services, medical services, or nursing services. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal costs establishing, documenting, and implementing an infection control program in compliance with the requirements in the rules.

Medical emergency, safety, and disaster standards

Both CMS and the rules have specific requirements for a cart or a container for medical emergency treatment, a disaster plan, disaster plan drills, a fire evacuation plan, and fire extinguishers. In addition, the rules have specific requirements for corridors and exits, smoke detectors, sprinkler systems, electrical cords, and oxygen and medical gas containers to ensure the health and safety of patients and staff. An outpatient treatment center providing dialysis services, medical services, and nursing services may incur minimal to moderate costs complying with the requirements specific to medical emergency, safety, and disaster standards.

Physical plant standards

The rules require an outpatient treatment center providing dialysis services, medical services, and nursing services licensed after the effective date of the rules to comply with the physical plant health and safety codes and standards incorporated by reference in A.A.C. R9-1-412 at the time the outpatient treatment center submits an application for architectural approval. This does not impose costs on currently licensed facilities but may impose a minimal to substantial cost on facilities requesting licensing after the rules are effective depending on the physical plant of the facility.

**BENEFICIARIES**

**Department**

The Department will benefit significantly from having more specific requirements for outpatient treatment centers providing dialysis services, medical services, and nursing services when surveying for compliance with the rules and taking enforcement action. There will not be the ambiguity and difficulties with interpretation that are inherent with general non-specific rules.

**Outpatient treatment centers providing dialysis services, medical services, and nursing services**

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Outpatient treatment centers providing dialysis services, medical services, and nursing services will benefit significantly from the specific requirements that provide adequate notice of the required staff, policies and procedures, equipment and supplies, recordkeeping, and facilities so that outpatient treatment centers providing dialysis services, medical services, and nursing services can read the rules and be able to comply with the requirements with less ambiguity and difficulties with interpretation.

**Consumers of dialysis services**

Consumers of dialysis services will derive a significant benefit from having established specific minimum standards for the provision of dialysis services. Consumers are vulnerable individuals receiving a service that has the potential to be fatal if adequate safeguards are not implemented. The specific requirements in the rules provide more protection for the health and safety of consumers receiving dialysis services.

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

Changes made between the proposed and final rules are technical and grammatical.

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

There were no comments regarding the rule.

**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:**

*Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-care Settings*, 2005 published by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Atlanta, GA 30333 available at <http://www.cdc.gov/mmwr/PDF/rr/rr5417.pdf>, incorporated by reference, on file with the Department, and including no future editions or amendments, located in R9-10-1003(D)(5)(b).

*Reuse of hemodialyzers*, ANSI/AAMI RD47:2002 & RD47:2002/A1:2003, incorporated by reference, on file with the Department, and including no future editions or amendments located in R9-10-1012(G). Copies may be purchased from the Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Road, Suite 220, Arlington, VA 22201-4795, located in R9-10-1012(G).

*Hemodialysis systems*, ANSI/AAMI RD5:2003, incorporated by reference, on file with the Department, and including no future editions or amendments located in R9-10-1012(H). Copies may be purchased from the Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Road, Suite 220, Arlington, VA 22201-4795, located in R9-10-1012(H).

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

No

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

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES  
HEALTH CARE INSTITUTIONS: LICENSURE

ARTICLE 10. ~~REPEALED~~ OUTPATIENT TREATMENT CENTERS PROVIDING DIALYSIS SERVICES, MEDICAL SERVICES, AND NURSING SERVICES

Section

- R9-10-1001. ~~Reserved~~ Definitions
- R9-10-1002. ~~Reserved~~ Supplemental Application Requirements; Change of Information
- R9-10-1003. ~~Reserved~~ Administration
- R9-10-1004. ~~Reserved~~ Contracted Services
- R9-10-1005. ~~Reserved~~ Quality Management Program
- R9-10-1006. ~~Reserved~~ Clinical Staff Members
- R9-10-1007. ~~Reserved~~ Non-Clinical Staff Members
- R9-10-1008. ~~Reserved~~ Patient Rights
- R9-10-1009. ~~Reserved~~ Medical Records
- R9-10-1010. ~~Reserved~~ Medication
- R9-10-1011. ~~Repealed~~ Discharge
- R9-10-1012. ~~Repealed~~ Dialysis Services

- R9-10-1013. ~~Repealed~~ Ancillary Services  
R9-10-1014. ~~Repealed~~ Infection Control  
R9-10-1015. ~~Repealed~~ Environmental Services and Equipment Standards  
R9-10-1016. ~~Repealed~~ Medical Emergency, Safety, and Disaster Standards  
R9-10-1017. ~~Repealed~~ Physical Plant Standards

**ARTICLE 10. ~~REPEALED~~ OUTPATIENT TREATMENT CENTERS PROVIDING DIALYSIS SERVICES, MEDICAL SERVICES, AND NURSING SERVICES**

**R9-10-1001. ~~Reserved~~ Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article:

1. “Administrator” has the same meaning as “chief administrative officer” defined in R9-10-101.
2. “Admission” means after the completion of an individual’s registration, the individual begins receiving dialysis services, medical services, or nursing services at an outpatient treatment center providing dialysis services, medical services, and nursing services and is accepted as a patient of the outpatient treatment center providing dialysis services, medical services, and nursing services.
3. “Adverse event” means an unexpected outcome that threatens the health and safety of a patient as a result of medical services provided to the patient.
4. “Ancillary services” means those medical services performed to assist in assessing or determining the cause of a medical condition.
5. “Assessment” means an analysis of a patient’s need for dialysis services, medical services, or nursing services.
6. “Authenticate” means to establish authorship of a document or an entry in a medical record by:
  - a. A written signature;
  - b. An individual’s initials, if the individual’s written signature appears on the document or in the medical record;
  - c. A rubber-stamp signature; or
  - d. An electronic signature code.
7. “Available” means:
  - a. For an individual, the ability to be contacted by any means possible such as by telephone or pager;
  - b. For equipment and supplies, retrievable at an outpatient treatment center providing dialysis services, medical services, and nursing services; and
  - c. For a document, retrievable in writing or electronically at an outpatient treatment center providing dialysis services, medical services, and nursing services or accessible according to the time-frames in this Article.
8. “Biohazardous medical waste” has the same meaning as in A.A.C. R18-13-1401.
9. “Biological” means a medicinal compound prepared from living organisms and their products such as a serum, vaccine, antigen, or antitoxin.
10. “Caregiver” means an individual designated by a patient or a patient’s representative to perform self-dialysis in the patient’s stead.
11. “Chief clinical officer” means a physician who is responsible for the direction of medical services provided to a patient in or by an outpatient treatment center providing dialysis services, medical services, and nursing services.
12. “Clean” means to remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping.
13. “Clinical laboratory services” means the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the prevention, diagnosis, or treatment of a disease or impairment of a human being, including procedures to determine, measure, or describe the presence or absence of substances or organisms in the human body.
14. “Clinical privilege” means authorization to provide medical services granted by a governing authority to a medical staff member.
15. “Clinical staff member” means an individual granted clinical privileges or a compensated individual or volunteer who works for or at an outpatient treatment center providing dialysis services, medical services, and nursing services who is:
  - a. One of the individuals defined as a health professional in A.R.S. § 32-3201, excluding a veterinarian licensed under A.R.S. Title 32, Chapter 21;
  - b. A hemodialysis technician defined in A.R.S. § 36-423; or
  - c. A medical assistant defined in A.R.S. §§ 32-1401, 32-1501, 32-1800, or 32-2901.
16. “Compensated” means receives payment in exchange for services provided to an outpatient treatment center providing dialysis services, medical services, and nursing services.
17. “Conspicuously posted” means displayed in the area where the public enters the premises of an outpatient treatment center providing dialysis services, medical services, and nursing services.
18. “Consultation” means evaluation and advice about a patient’s treatment by an individual upon request of a clinical

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- staff member or a non-clinical staff member.
19. “Contracted services” means dialysis services, medical services, nursing services, or environmental services provided at an outpatient treatment center providing dialysis services, medical services, and nursing services according to a written agreement between the outpatient treatment center providing dialysis services, medical services, and nursing services and a person who provides the dialysis services, medical services, nursing services, or environmental services.
  20. “Controlled substance” has the same meaning as in A.R.S. § 36-2501.
  21. “Credit hour” means one earned academic unit of study based on attending a one hour class session per calendar week.
  22. “Current” means up-to-date and extending to the present time.
  23. “Diagnostic procedure” means a method or process performed to determine whether an individual has a medical condition.
  24. “Dialysis” means the process to remove dissolved substances from a patient’s body by diffusion from one fluid compartment to another across a semipermeable membrane.
  25. “Dialysis services” means medical services, nursing services, and health-related services provided to a patient receiving dialysis.
  26. “Dialyzer” means a filter used in hemodialysis to remove wastes and excess fluid from a patient’s blood.
  27. “Direction” means authoritative policy or procedural guidance for the accomplishment of a function or activity. (A.R.S. § 36-401)
  28. “Disaster” means an unexpected event, such as a fire, flood, extreme weather, or bomb threat, that affects an outpatient treatment center providing dialysis services, medical services, and nursing services’ ability to provide dialysis services, medical services, and nursing services.
  29. “Discharge” means a documented termination of dialysis services, medical services, and nursing services to a patient by an outpatient treatment center providing dialysis services, medical services, and nursing services.
  30. “Disinfect” means to clean to prevent the growth of or destroy disease-carrying microorganisms.
  31. “Documentation” or “documented” means information in written, photographic, electronic, or other permanent form.
  32. “Drill” means a response to a planned, simulated event.
  33. “Drug” has the same meaning as in A.R.S. § 32-1901.
  34. “Electronic” has the same meaning as in A.R.S. § 44-7002.
  35. “Electronic signature” has the same meaning as in A.R.S. § 44-7002.
  36. “Environmental services” means activities such as housekeeping, laundry, and facility and equipment maintenance.
  37. “Equivalent” means credit hours in subjects typically taught at the college or university level, which are equal to or in excess of the number of credit hours typically required to obtain a bachelor’s degree.
  38. “Exploitation” has the same meaning as in A.R.S. § 46-451.
  39. “Health care directive” has the same meaning as in A.R.S. § 36-3201.
  40. “Hemodialysis” means the process for removing wastes and excess fluids from a patient’s blood by passing blood through a dialyzer.
  41. “Hospital” has the same meaning as in R9-10-201.
  42. “Hour” means 60 clock minutes.
  43. “Incident” means an unexpected occurrence that results in patient death, or that harms or has the potential to harm a patient while the patient is on the premises of an outpatient treatment center providing dialysis services, medical services, and nursing services or receiving dialysis services, medical services, and nursing services from the outpatient treatment center providing dialysis services, medical services, and nursing services.
  44. “Informed consent” means advising a patient of a proposed treatment or diagnostic procedure, alternatives to the treatment or diagnostic procedure, associated risks, and possible complications, and obtaining permission from the patient or the patient’s representative for the treatment or diagnostic procedure.
  45. “Inservice education” means organized instruction or information related to dialysis services, medical services, and nursing services provided to a clinical staff member or non-clinical staff member.
  46. “Isolation” means the separation, during the communicable period, of infected individuals or animals from others, to limit the transmission of infectious agents.
  47. “License” means the documented authorization:
    - a. Issued by the Department to operate an outpatient treatment center providing dialysis services, medical services, and nursing services, or
    - b. Issued to an individual to practice a profession in this state.
  48. “Long-term care plan” means a written plan of action for a patient with kidney failure that:
    - a. Is developed to achieve long-term optimum patient outcome, and
    - b. Meets the requirements of R9-10-1012(E).
  49. “Medical condition” means the state of a patient’s physical or mental health, including the patient’s illness, injury, or disease.

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50. “Medical emergency” means a potentially life-threatening occurrence that requires an immediate response or treatment.
51. “Medical history” means an account, based on the information provided by a patient, of the patient’s past and present medical condition related to the reason the patient is receiving dialysis services, medical services, or nursing services.
52. “Medical record” has the same meaning as “medical records” in A.R.S. § 12-2291.
53. “Medical staff member” means a physician, a physician assistant, or a registered nurse practitioner.
54. “Medication” has the same meaning as “drug”.
55. “Medication error” means:
  - a. The failure to administer a medication as ordered, or
  - b. The administration of a medication not ordered.
56. “Modality” means a method of treatment for kidney failure, including transplant, hemodialysis, and peritoneal dialysis.
57. “Monitor” means to check systematically on a specific condition or situation.
58. “Nephrologist” means a physician who is board eligible or board certified in nephrology by a professional credentialing board.
59. “Nephrology” means the subspecialty of medicine that deals with conditions and diseases that affect the kidneys.
60. “Non-clinical staff member” means a volunteer or compensated individual, other than a clinical staff member, who works for or at an outpatient treatment center providing dialysis services, medical services, and nursing services.
61. “Nurse” means a registered nurse or a practical nurse.
62. “Nutritional assessment” means an analysis of a patient’s weight, height, lifestyle, medication, mobility, food and fluid intake, and diagnostic procedures to identify conditions and behaviors that indicate whether the patient’s nutritional needs are being met.
63. “Order” means an instruction by a medical staff member to provide dialysis services, medical services, or nursing services to a patient.
64. “Orientation” means the initial instruction and information provided to an individual starting work or volunteer services in or for an outpatient treatment center providing dialysis services, medical services, and nursing services.
65. “Patient” means an individual admitted to receive dialysis services, medical services, or nursing services.
66. “Patient care plan” means a written document for a patient receiving dialysis that:
  - a. Is developed to meet the patient’s needs for medical services, nursing services, and health-related services; and
  - b. Meets the requirements of R9-10-1012(F).
67. “Patient follow-up instructions” means information relevant to a patient’s medical condition that is provided to the patient, the patient’s representative, or a health care institution.
68. “Patient’s representative” means a patient’s legal guardian, an individual acting on behalf of a patient with the written consent of the patient, or a surrogate as defined in A.R.S. § 36-3201.
69. “Peritoneal dialysis” means the process of using the peritoneal cavity for removing waste products by fluid exchange.
70. “Person” has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
71. “Pharmaceutical services” means those activities pertaining to the compounding, distribution, and dispensing of drugs, devices, and chemicals.
72. “Physical examination” means to observe, test, or inspect an individual’s body to evaluate health or determine cause of illness, injury, or disease.
73. “Physician” has the same meaning as in A.R.S. § 36-401.
74. “Physician assistant” means an individual licensed under A.R.S. Title 32, Chapter 25.
75. “Practical nurse” has the same meaning as in A.R.S. § 32-1601.
76. “Professional credentialing board” means a non-governmental organization that designates individuals who have met or exceed established standards for experience and competency in a specific field.
77. “Psychosocial evaluation” means an analysis of an individual’s mental and social conditions to determine the individual’s need for social work services.
78. “Quality management program” means activities designed and implemented by an outpatient treatment center providing dialysis services, medical services, and nursing services to improve the delivery of dialysis services, medical services, and nursing services.
79. “Registered dietitian” means an individual approved to work as a dietitian by the American Dietetic Association’s Commission on Dietetic Registration.
80. “Registered nurse” has the same meaning as in A.R.S. § 32-1601.
81. “Registered nurse practitioner” has the same meaning as in A.R.S. § 32-1601.
82. “Registration” means a documented determination by an outpatient treatment center providing dialysis services, medical services, and nursing services that an individual is eligible to receive dialysis services, medical services, or nursing services from the outpatient treatment center providing dialysis services, medical services, and nursing services.
83. “Reprocessing” means cleaning and sterilizing a dialyzer previously used by a patient so that it can be reused by the same patient.

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84. “Restraint” means any chemical or physical method of restricting a patient’s freedom of movement, physical activity, or access to the patient’s own body.
85. “Risk” means potential for an adverse outcome.
86. “Scope of dialysis services, medical services, and nursing services” means a list of specific medical services, nursing services, and health-related services the governing authority of an outpatient treatment center providing dialysis services, medical services, and nursing services has designated as being available to a patient.
87. “Self-dialysis” means dialysis performed by a patient or a caregiver on the patient’s body.
88. “Shift” means the beginning and ending time of a staff work period.
89. “Signature” means:
  - a. The first and last name of an individual written with his or her own hand as a form of identification or authorization, or
  - b. An electronic signature.
90. “Social worker” means an individual licensed under A.R.S. Title 32, Chapter 33, Article 5.
91. “Social work services” has the same meaning as “practice of social work” in A.R.S. § 32-3251.
92. “Stable” means a patient’s blood pressure, temperature, pulse, respirations, and diagnostic procedure results are within medically recognized acceptable ranges or consistent with the patient’s usual medical condition so that medical intervention is not indicated.
93. “Student” means an individual attending an educational institution and providing services at an outpatient treatment center providing dialysis services, medical services, and nursing services through an arrangement between the outpatient treatment center providing dialysis services, medical services, and nursing services and the educational institution.
94. “Transplant surgeon” means a physician who:
  - a. Is board eligible or board certified in general surgery or urology by a professional credentialing board, and
  - b. Has at least 12 months of training or experience performing renal transplants and providing care for patients with renal transplants.
95. “Treatment” means a procedure or method to cure, improve, or palliate a medical condition.
96. “Vascular access” means the point on a patient’s body where bloodlines are connected for hemodialysis.
97. “Verification” means:
  - a. A documented telephone call including the date and the name of the documenting individual.
  - b. A documented observation including the date and the name of the documenting individual, or
  - c. A documented confirmation of a fact including the date and the name of the documenting individual.
98. “Volunteer” means an individual authorized by an outpatient treatment center providing dialysis services, medical services, and nursing services to work without compensation for the outpatient treatment center providing dialysis services, medical services, and nursing services.

**R9-10-1002. Reserved Supplemental Application Requirements: Change of Information**

- A.** In addition to the license application requirements in A.R.S. §§ 36-422 and 36-424 and 9 A.A.C. 10, Article 1, a governing authority applying for an initial or renewal license shall submit a supplemental application form provided by the Department that contains the:
  1. Days and hours of clinical operation and, if different from the days and hours of clinical operation, the days and hours of administrative operation;
  2. Name of the chief clinical officer; and
  3. Types and number of clinical staff members and non-clinical staff members who will be providing dialysis services, medical services, or nursing services for or at the outpatient treatment center providing dialysis services, medical services, and nursing services.
- B.** A governing authority shall ensure the Department is notified:
  1. According to A.R.S. § 36-422(D) for termination of operations or a change of ownership;
  2. According to A.R.S. § 36-425(E) for a change in an administrator;
  3. In writing, no later than 10 business days after the date of a change in the information required in subsection (A)(1) or (A)(2); and
  4. If the outpatient treatment center providing dialysis services, medical services, and nursing services ceases operations, in writing, not less than 30 days before operations cease, of the location where the medical records are stored.

**R9-10-1003. Reserved Administration**

- A.** If an outpatient treatment center providing dialysis services, medical services, and nursing services is operating under a single group license issued to a hospital according to A.R.S. § 36-422 (F) and (G), the hospital’s governing authority is the governing authority for the outpatient treatment center providing dialysis services, medical services, and nursing services.
- B.** A governing authority shall:
  1. Consist of one or more individuals with overall authority and responsibility for an outpatient treatment center providing dialysis services, medical services, and nursing services;

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2. Establish, in writing, the scope of dialysis services, medical services, and nursing services to be provided by or at the outpatient treatment center providing dialysis services, medical services, and nursing services;
  3. Document approval of all policies and procedures for the outpatient treatment center providing dialysis services, medical services, and nursing services;
  4. Require all policies and procedures be reviewed at least once every three years and updated as needed;
  5. Approve or designate an individual to approve contracted services;
  6. Adopt a quality management program that complies with R9-10-1005;
  7. Review and evaluate the effectiveness of the quality management program in R9-10-1005 at least once every 12 months; and
  8. Ensure compliance with federal and state laws, rules, and local ordinances applicable to outpatient treatment center providing dialysis services, medical services, and nursing services.
- C.** A governing authority shall appoint in writing:
1. An administrator who meets one of the following:
    - a. Is a registered nurse who has at least 12 months experience in an outpatient treatment center providing dialysis services, medical services, and nursing services;
    - b. Has a baccalaureate degree and at least 12 months experience in an outpatient treatment center providing dialysis services, medical services, and nursing services; or
    - c. Has at least 24 months of experience as an administrator in an outpatient treatment center providing dialysis services, medical services, and nursing services before the effective date of these rules;
  2. An acting administrator, if an administrator is expected to be unavailable for more than 30 consecutive days; and
  3. A chief clinical officer to direct the medical services provided by or at the outpatient treatment center providing dialysis services, medical services, and nursing services who:
    - a. Is board eligible or board certified in internal medicine or pediatrics by a professional credentialing board, and
    - b. Has at least 12 months of experience or training in providing dialysis services.
- D.** Under the direction of the governing authority of the outpatient treatment center providing dialysis services, medical services, and nursing services, an administrator shall:
1. Implement the governing authority's direction for the operations of the outpatient treatment center providing dialysis services, medical services, and nursing services;
  2. Act as a liaison between the governing authority, clinical staff members, and non-clinical staff members;
  3. Designate, in writing, an individual by name or title who is available to implement the operations of the outpatient treatment center providing dialysis services, medical services, and nursing services when the administrator is not available for a period of less than 30 consecutive days;
  4. Comply with:
    - a. Tuberculosis reporting requirements in A.A.C. R9-6-202, and
    - b. Tuberculosis control requirements in A.A.C. R9-6-373;
  5. For infectious tuberculosis screening:
    - a. Ensure that each clinical staff member, non-clinical staff member, volunteer, or student submits:
      - i. On or before the starting date of employment or volunteer service, one of the following as evidence of freedom from infectious pulmonary tuberculosis:
        - (1) Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention administered within six months before the starting date of employment or volunteer service that includes the date and the type of tuberculosis screening test; or
        - (2) If the staff member or volunteer has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the staff member or volunteer is free from infectious pulmonary tuberculosis signed by a physician, physician assistant, or registered nurse practitioner dated within six months before the starting date of employment or volunteer service; and
      - ii. Every 12 months after the anniversary date of employment or volunteer service, one of the following as evidence of freedom from infectious pulmonary tuberculosis:
        - (1) Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention administered before or within 30 days after the anniversary date of the most recent tuberculosis screening test or written statement that includes the date and the type of tuberculosis screening test; or
        - (2) If the staff member or volunteer has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the staff member or volunteer is free from infectious pulmonary tuberculosis signed by a physician, physician assistant, or registered nurse practitioner dated before or within 30 days after the anniversary date of the most recent tuberculosis screening test or written statement; or
    - b. Establish, document, and implement a tuberculosis infection control program that complies with the *Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-care Settings*, 2005 published by the

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Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, Atlanta, GA 30333 available at <http://www.cdc.gov/mmwr/PDF/rr/rr5417.pdf>, incorporated by reference, on file with the Department, and including no future editions or amendments and includes:

- i. Conducting tuberculosis risk assessments, conducting tuberculosis screening testing, screening for signs or symptoms of tuberculosis, and providing training and education related to recognizing the signs and symptoms of tuberculosis; and
  - ii. Maintaining documentation of any:
    - (1) Tuberculosis risk assessment;
    - (2) Tuberculosis screening test of a clinical staff member, non-clinical staff member, volunteer, or student;  
or
    - (3) Screening for signs or symptoms of tuberculosis of a clinical staff member, non-clinical staff member, volunteer, or student; and
6. Ensure that:
- a. A minimum of one registered nurse or medical staff member is on the premises at all times while a patient receiving dialysis services is on the premises;
  - b. A clinical staff member is on the premises at all times during the hours of clinical operation to provide medical services or nursing services;
  - c. A medical staff member is available at all times during hours of operation;
  - d. A work schedule containing each clinical staff member's and non-clinical staff member's schedule is:
    - i. Planned, reviewed, adjusted, dated, and documented;
    - ii. Maintained for at least 12 months from the date of the work schedule; and
    - iii. Provided to the Department within four hours after the Department's request;
  - e. Job descriptions, job qualifications, and job responsibilities for each type of clinical staff member and non-clinical staff member are written;
  - f. A record is maintained for each student providing services at the outpatient treatment center providing dialysis services, medical services, and nursing services for 12 months after the last date the student provides services that contains:
    - i. The student's name, address, and starting date;
    - ii. Documentation of the student's compliance with the tuberculosis control requirements in subsection (D)(5);  
and
    - iii. A description of the services the student is able to provide at the outpatient treatment center providing dialysis services, medical services, and nursing services;
  - g. Policies and procedures are established, documented, and implemented that cover:
    - i. Scope of dialysis services and how dialysis services are provided;
    - ii. Scope of medical services and nursing services and how medical services and nursing services are provided;
    - iii. Inservice education that ensures that a clinical staff member or a non-clinical staff member continues to be qualified to provide the dialysis services, medical services, and nursing services in the clinical staff member's or non-clinical staff member's job description;
    - iv. Patient rights;
    - v. Health care directives;
    - vi. A method of patient identification to ensure the patient receives the dialysis services, medical services, and nursing services ordered;
    - vii. Long-term care plans and patient care plans;
    - viii. Inspection and testing of equipment used to provide dialysis services to a patient before the equipment is used and documentation of the inspection and testing of the equipment;
    - ix. Clinical staff members' response to a patient's adverse event during dialysis;
    - x. Clinical staff members' response to an equipment malfunction during dialysis;
    - xi. Patient admission and discharge;
    - xii. Patient follow-up instructions;
    - xiii. Assessment and reassessment of patients;
    - xiv. Medical records including oral, telephone, and electronic records;
    - xv. The use of electronic signatures;
    - xvi. Basic adult and pediatric cardiopulmonary resuscitation training requirements and renewal of training, including method and content of training, qualifications of an individual providing the training, the time-frame for renewal of training, and the documentation that verifies a clinical staff member has received the training;
    - xvii. Obtaining informed consent;
    - xviii. Dispensation, administration, and disposal of medications and biologicals;
    - xix. If applicable, students providing services at the outpatient treatment center providing dialysis services, med-

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- ical services, and nursing services:
- xx. Waste management:
- xxi. Disaster plans:
- xxii. Use of restraint; and
- xxiii. Complaints including the process by which a clinical staff member or a non-clinical staff member may submit a complaint related to patient care to the outpatient treatment center providing dialysis services, medical services, and nursing services:
- h. The policies and procedures are available to each clinical staff member and non-clinical staff member:
- i. The following are conspicuously posted:
  - i. The current license for the outpatient treatment center providing dialysis services, medical services, and nursing services issued by the Department;
  - ii. The name, address, and telephone number of the Department;
  - iii. A notice that a patient may file a complaint with the Department about the outpatient treatment center providing dialysis services, medical services, and nursing services;
  - iv. A schedule of rates according to A.R.S. § 36-436.01(C);
  - v. A list of patient rights;
  - vi. A map for evacuating the facility; and
  - vii. A notice identifying the location on the premises where current license inspection reports required in A.R.S. § 36-425(D), with patient information redacted, are available; and
- j. Patient follow-up instructions are:
  - i. Provided, orally or in written form, to a patient or the patient's representative before the patient leaves the outpatient treatment center providing dialysis services, medical services, and nursing services unless the patient leaves against a clinical staff member's advice;
  - ii. If a patient returns to a health care institution, provided orally or in written form, when the patient returns to the health care institution, to the registered nurse responsible for the nursing services provided to the patient at the health care institution or to the individual responsible for the medical services, nursing services, or health-related services provided to the patient at the health care institution; and
  - iii. Documented in the patient's record.

**R9-10-1004. Reserved Contracted Services**

An administrator shall ensure that:

1. A contractor provides contracted services according to the requirements in this Article;
2. A contract specifies the responsibilities of the contractor and the outpatient treatment center providing dialysis services, medical services, and nursing services; and
3. An outpatient treatment center providing dialysis services, medical services, and nursing services:
  - a. Maintains a copy of each contract;
  - b. Maintains a list of current contracted services on the premises; and
  - c. Provides to the Department, within four hours after the Department's request, a contract copy required in subsection (3)(a) or a list required in subsection (3)(b).

**R9-10-1005. Reserved Quality Management Program**

**A.** A governing authority shall ensure that an outpatient treatment center providing dialysis services, medical services, and nursing services has an ongoing quality management program.

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

1. A written plan for a quality management program for an outpatient treatment center providing dialysis services, medical services, and nursing services is established, documented, and implemented that includes:
  - a. A method to identify, document, and evaluate incidents;
  - b. A method to collect data to evaluate the delivery of dialysis services, medical services, and nursing services;
  - c. A method to evaluate the data collected to identify a concern about the delivery of dialysis services, medical services, and nursing services;
  - d. A method to make changes or take action as a result of the identification of a concern about the delivery of dialysis services, medical services, and nursing services;
  - e. A method to determine whether actions taken improved the delivery of dialysis services, medical services, and nursing services; and
  - f. The frequency of submitting the documented report required in subsection (B)(2);
2. A documented report is submitted to the governing authority that includes:
  - a. Each identified concern in subsection (B)(1)(c), and
  - b. Any change made or action taken in subsection (B)(1)(d); and
3. The report in subsection (B)(2) and the supporting documentation is:
  - a. Maintained for 12 months from the date the report is submitted to the governing authority, and

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- b. Provided to the Department within four hours after the Department's request.

**R9-10-1006. ~~Reserved~~ Clinical Staff Members**

**A.** An administrator shall ensure that:

1. Clinical staff members are available to provide all the dialysis services, medical services, and nursing services included in the scope of dialysis services, medical services, and nursing services required in R9-10-1003(B)(2);
2. A clinical staff member's skills to provide dialysis services, medical services, and nursing services are verified and documented upon employment or volunteer service and every 12 months from the date of employment or volunteer service;
3. A clinical staff member:
  - a. Only provides dialysis services, medical services, or nursing services the clinical staff member is qualified to provide;
  - b. Completes basic cardiopulmonary resuscitation training specific to the age of the patients receiving dialysis services, medical services, or nursing services from the outpatient treatment center:
    - i. Before providing dialysis services, medical services, or nursing services, and
    - ii. At least once every 24 months after the initial date of employment or volunteer services;
  - c. Complies with the requirements in A.R.S. § 36-423 and R9-10-112 for hemodialysis technicians and hemodialysis technician trainees, if applicable; and
  - d. Wears a name badge that displays the individual's first name, job title, and professional license or certification;
4. Orientation is provided to each clinical staff member, beginning the first week of employment or volunteer service, that covers:
  - a. Specific job responsibilities of the clinical staff member;
  - b. Policies and procedures;
  - c. Patient rights;
  - d. Disaster plans;
  - e. Infection control requirements including:
    - i. Handwashing;
    - ii. Prevention of communicable diseases; and
    - iii. If applicable, linen handling;
  - f. Department rules for licensing and regulating outpatient treatment centers providing dialysis services, medical services, and nursing services and how the rules may be obtained; and
  - g. The process by which a clinical staff member may submit a complaint about patient care to an outpatient treatment center providing dialysis services, medical services, and nursing services;
5. For each clinical staff member a record is maintained that includes:
  - a. The clinical staff member's resumé or application;
  - b. Documentation of the clinical staff member's starting date of employment or volunteer service;
  - c. Verification or documentation of the clinical staff member's certification, licensure, or education, as applicable;
  - d. Documentation of granting of clinical privileges, if applicable;
  - e. Documentation of skills verification required in subsection (A)(2);
  - f. Documentation of completion of cardiopulmonary resuscitation training required in subsection (A)(3)(b);
  - g. Documentation of the clinical staff member's compliance with the infectious tuberculosis screening requirements in R9-10-1003(D)(5); and
  - h. Documentation of completion of orientation required in subsection (A)(4);
6. The record in subsection (A)(5) is maintained for at least 12 months after the last date the clinical staff member provides dialysis services, medical services, or nursing services at or for the outpatient treatment center providing dialysis services, medical services, and nursing services;
7. Each clinical staff member completes at least eight hours of inservice education every 12 months from the starting date of employment or volunteer service;
8. Inservice education required in subsection (A)(7) is documented and the documentation includes:
  - a. The date of completion of the inservice education;
  - b. The subject matter and description of the inservice education;
  - c. The number of inservice education hours provided by the inservice education, and
  - d. The signature of the clinical staff member certifying completion of the inservice education; and
9. A clinical staff member's record required in subsection (A)(5) or inservice education documentation required in subsection (A)(8) is provided to the Department within four hours after the Department's request.

**B.** If an outpatient treatment center providing dialysis services, medical services, and nursing services uses a clinical staff member contracted through an employment agency, an administrator shall ensure that the contract requires the employment agency to:

1. Maintain the documentation required in subsection (A)(5) for each clinical staff member employed by the employment agency for at least 12 months from the date the clinical staff member last provides services for or at the outpa-

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- tient treatment center providing dialysis services, medical services, and nursing services; and
2. Provide the documentation required in subsection (B)(1) within four hours after a request by the outpatient treatment center providing dialysis services, medical services, and nursing services to the Department.

**R9-10-1007. ~~Reserved~~ Non-Clinical Staff Members**

**A.** An administrator shall ensure that:

1. Non-clinical staff members are available to provide all the dialysis services, medical services, or nursing services included in the scope of dialysis services, medical services, and nursing services required in R9-10-1003(B)(2);
  2. A non-clinical staff member only provides dialysis services, medical services, or nursing services that the non-clinical staff member is qualified to provide;
  3. Orientation is provided to each non-clinical staff member, beginning the first week of employment or volunteer service that covers:
    - a. Specific job responsibilities of the non-clinical staff member;
    - b. Policies and procedures;
    - c. Patient rights;
    - d. Disaster plans;
    - e. Infection control requirements including:
      - i. Handwashing;
      - ii. Prevention of communicable diseases; and
      - iii. If applicable, linen handling;
    - f. Department rules for licensing and regulating outpatient treatment centers providing dialysis services, medical services, and nursing services and how the rules may be obtained; and
    - g. The process by which a non-clinical staff member may submit a complaint about patient care to an outpatient treatment center providing dialysis services, medical services, and nursing services;
  4. For each non-clinical staff member a record is maintained that includes:
    - a. The non-clinical staff member's resumé or application;
    - b. The non-clinical staff member's starting date of employment or volunteer service;
    - c. If applicable to the non-clinical staff member's job position, verification or documentation of certification, licensure, or education;
    - d. Evidence of the non-clinical staff member's compliance with the infectious tuberculosis screening requirements in R9-10-1003(D)(5); and
    - e. Documentation of the non-clinical staff member's orientation required in (A)(3);
  5. The record in subsection (A)(4) is maintained for at least 12 months after the last date of the non-clinical staff member's employment or volunteer service at the outpatient treatment center providing dialysis services, medical services, and nursing services;
  6. Each non-clinical staff member who provides dialysis services, medical services, and nursing services to patients completes eight hours of inservice education every 12 months from the starting date of employment or volunteer service;
  7. Inservice education required in subsection (A)(6) is documented including:
    - a. The date of completion of the inservice education;
    - b. The subject matter and description of the inservice education;
    - c. The number of inservice education hours provided by the inservice education, and
    - d. The signature of the non-clinical staff member certifying completion of the inservice education, and
  8. A non-clinical staff member's record required in subsection (A)(5) or inservice education documentation required in subsection (A)(7) is provided to the Department within four hours after the Department's request.
- B.** If an outpatient treatment center providing dialysis services, medical services, and nursing services uses a non-clinical staff member contracted through an employment agency, an administrator shall ensure that the contract requires the employment agency to:
1. Maintain the documentation required in subsection (A)(5) for each non-clinical staff member employed by the employment agency for at least 12 months from the date the non-clinical staff member last provided services at the outpatient treatment center providing dialysis services, medical services, and nursing services; and
  2. Provide the documentation obtained in subsection (B)(1) within four hours after a request by the outpatient treatment center providing dialysis services, medical services, and nursing services or the Department.

**R9-10-1008. Patient Rights**

An administrator shall ensure that:

1. A patient is:
  - a. Provided privacy in treatment and personal care needs; and
  - b. Free from:
    - i. The intentional infliction of physical, mental, or emotional harm when not medically indicated;

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- ii. Exploitation;
  - iii. Restraint when not medically indicated unless necessary to prevent harm to self or others and the reason for restraint is documented in the patient's medical record;
  - iv. Sexual abuse according to A.R.S. § 13-1404; and
  - v. Sexual assault according to A.R.S. § 13-1406;
2. A patient or the patient's representative:
- a. Consents to treatment or a diagnostic procedure before the treatment or diagnostic procedure is initiated, except in a medical emergency;
  - b. Is allowed to refuse an examination or withdraw consent for treatment or a diagnostic procedure before an examination, treatment, or diagnostic procedure is initiated; and
  - c. Except in a medical emergency, receives the following:
    - i. Information about the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures for health care directives;
    - ii. Information about the outpatient treatment center providing dialysis services, medical services, and nursing services' complaint policies and procedures, including the telephone number of an individual at the outpatient treatment center providing dialysis services, medical services, and nursing services to contact about a complaint and the Department's telephone number; and
    - iii. Information about proposed treatments or diagnostic procedures, alternatives to treatments or diagnostic procedures, associated risks, and possible complications; and
3. A consent obtained from a patient or the patient's representative and information provided to the patient or the patient's representative are documented in the patient's medical record.

**R9-10-1009. ~~Reserved~~ Medical Records**

**A. An administrator shall ensure that:**

- 1. A medical record for each patient is established and maintained according to A.R.S. § 12-2297;
- 2. A medical record is available to a clinical staff member or non-clinical staff member authorized by the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures to access the medical record;
- 3. Information in a medical record is only disclosed to a third party with the written authorization of the patient or the patient's representative or as permitted or required by law;
- 4. A medical record is provided to the Department within four hours after a request by the Department;
- 5. A medical record is protected from loss, damage, or unauthorized use or disclosure;
- 6. An entry in a medical record:
  - a. Is recorded only by an individual authorized by the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures to make the entry;
  - b. Is legible, dated, and authenticated; and
  - c. Remains legible when a correction to the original entry is made;
- 7. In addition to the entry requirements in subsection (A)(6), each order is:
  - a. Dated when the order is entered in the medical record including the time of the order; and
  - b. Authenticated by a medical staff member according to the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures, if the order is entered by an individual who is not a medical staff member;
- 8. If a rubber-stamp signature, electronic signature, or electronic code is used to authenticate an order, the medical staff member to whom the rubber-stamp signature, electronic signature, or electronic code belongs is responsible for the use of the rubber stamp, electronic signature, or electronic code; and
- 9. A verbal order is entered and authenticated according to the requirements in subsection (A)(7).

**B. If an outpatient treatment center providing dialysis services, medical services, and nursing services maintains medical records electronically, an administrator shall ensure that:**

- 1. There are safeguards to prevent unauthorized access, and
- 2. An internal clock records the date and time of a medical record entry.

**C. An administrator shall ensure that a medical record for each patient contains:**

- 1. Documented informed consent for treatment or a diagnostic procedure by the patient or the patient's representative except in a medical emergency;
- 2. A diagnosis or reason for dialysis services, medical services, or nursing services;
- 3. A medical history and physical examination:
  - a. For a patient receiving dialysis services, performed as required in R9-10-1012(A)(2), R9-10-1012(A)(3), and R9-10-1012(A)(4);
  - b. For a patient only receiving medical services and nursing services, related to the medical and nursing services the patient receives;
- 4. Patient information that includes:

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- a. The patient's name and address;
- b. The patient's date of birth;
- c. If applicable, the name of a designated patient representative; and
- d. Any known allergy or sensitivity;
5. Medication information that includes:
  - a. A medication or biological ordered for the patient;
  - b. A medication or biological administered to the patient including:
    - i. The date and time of administration;
    - ii. The name, strength, dosage, amount, vaccine lot number if applicable, and route of administration;
    - iii. The identification and authentication of the individual administering the medication or biological; and
    - iv. Any adverse event a patient has related to or as a result of the medication or biological; and
  - c. A prepackaged or sample medication provided to the patient for self-administration including the name, strength, dosage, amount, and route of administration;
6. The name of each individual providing treatment or a diagnostic procedure to the patient;
7. Documentation of each order;
8. Documentation of each clinical laboratory test result and radiological and diagnostic imaging report required in R9-10-1013, if applicable;
9. Documentation of each dialysis service, medical service, or nursing service provided to the patient;
10. Documentation of the equipment inspection and testing required in R9-10-1012(A)(9);
11. If applicable, documentation of self-dialysis required in R9-10-1012(B)(6);
12. Notes by a clinical staff member or non-clinical staff member, including the patient's response to a treatment or diagnostic procedure;
13. For a patient receiving dialysis services, monthly notes related to the patient's progress by a medical staff member, registered dietitian, social worker, and registered nurse;
14. If a health care directive is provided by the patient or the patient's representative, a copy of the health care directive signed by the patient or the patient's representative;
15. Documentation of the patient instructions to the patient;
16. Documentation of the patient's discharge including the disposition of the patient upon discharge; and
17. If applicable, a consultation report.

**R9-10-1010. ~~Reserved Medication~~**

An administrator shall ensure that:

1. If pharmaceutical services that require a pharmacy license are provided on the premises:
  - a. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
  - b. A copy of the pharmacy license is provided to the Department upon request;
2. A medication or a biological:
  - a. Is maintained at the temperature recommended by the manufacturer of the medication or biological;
  - b. When administered to a patient:
    - i. Is administered in compliance with an order, and
    - ii. Is documented as required in R9-10-1009(C)(5);
3. A drug reference source, current within one year of the publication date, is available and maintained on the premises or available electronically for use by clinical staff members;
4. Policies and procedures are established, documented, and implemented for:
  - a. Receiving, inventorying, tracking, dispensing, and discarding prepackaged and sample medication including expired medication;
  - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
  - c. A medication recall and notification of patients who received recalled medication;
  - d. Storing, inventorying, and dispensing controlled substances; and
  - e. Documenting the maintenance of a medication or biological requiring refrigeration; and
5. A medication error or an adverse event is reported to the ordering medical staff member and documented in the patient's medical record.

**R9-10-1011. ~~Repeated Discharge~~**

For a patient who received dialysis services, an administrator shall ensure that after the patient's discharge from an outpatient treatment center providing dialysis services, medical services, and nursing services, the nephrologist responsible for the dialysis services provided to the patient documents the patient's discharge in the patient's medical record within 30 days after the patient's discharge and includes:

1. A description of the patient's medical condition and the dialysis services provided to the patient, and

2. The signature of the nephrologist.

**R9-10-1012. ~~Repeated~~ Dialysis Services**

- A.** An administrator of an outpatient treatment center providing dialysis services, medical services, and nursing services shall ensure that for a patient receiving dialysis services:
1. The dialysis services provided to the patient meet the needs of the patient;
  2. A physician performs a medical history and physical examination on the patient within 30 days before admission or with 48 hours after admission and documents the medical history and physical examination in the patient's medical record within 48 hours after admission;
  3. If the patient's medical history and physical examination required in subsection (A)(2) is not performed by the patient's nephrologist, the patient's nephrologist, within 30 days of the date of the medical history and physical examination:
    - a. Reviews and authenticates the patient's medical history and physical examination, documents concurrence with the medical history and physical examination, and includes information specific to nephrology; or
    - b. Performs a medical history and physical examination that includes information specific to nephrology;
  4. The patient's nephrologist or the Nephrologist's designee:
    - a. Performs a medical history and physical examination on the patient at least once every 12 months from the date of the patient's admission to the outpatient treatment center providing dialysis services, medical services, and nursing services, and
    - b. Documents monthly notes related to the patient's progress in the patient's medical record;
  5. A registered nurse responsible for the nursing services provided to the patient receiving dialysis services:
    - a. Reviews with the patient, the results of any diagnostic tests performed on the patient;
    - b. Assesses the patient's medical condition before the patient begins receiving hemodialysis and after the patient has received hemodialysis;
    - c. If the patient returns to a health care institution after receiving dialysis services, provides an oral or written notice of information related to the patient's medical condition to the registered nurse responsible for the nursing services provided to the patient at the health care institution or if there is not a registered nurse responsible, the person responsible for the medical services, nursing services, or health-related services provided to the patient at the health care institution;
    - d. Inform the patient's nephrologist of any changes in a patient's medical condition or needs; and
    - e. Documents in the patient's medical record:
      - i. Any notice provided as required in subsection (A)(5)(c); and
      - ii. Monthly notes related to the patient's progress;
  6. If the patient is unstable, before dialysis is provided to the patient, a nephrologist is notified of the patient's medical condition and dialysis is not provided until the nephrologist provides direction;
  7. The patient:
    - a. Is under the care of a nephrologist;
    - b. Is assigned a patient identification number according to the policy and procedure in R9-10-1003(D)(6)(g)(vi);
    - c. Is identified by a clinical staff member before beginning dialysis;
    - d. Receives the dialysis services ordered for the patient by a medical staff member;
    - e. Is monitored by a clinical staff member while receiving dialysis at least once every 30 minutes; and
    - f. If the outpatient treatment center providing dialysis services, medical services, and nursing services reprocesses and reuses dialyzers, is informed that the outpatient treatment center providing dialysis services, medical services, and nursing services reprocesses and reuses dialyzers before beginning hemodialysis;
  8. Equipment used for hemodialysis is inspected and tested according to the manufacturer's recommendations or the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures before being used to provide hemodialysis to a patient;
  9. The equipment inspection and testing required in subsection (A)(8) is documented in the patient's medical record;
  10. Supplies and equipment used for dialysis services for the patient are used, stored, and discarded according to manufacturer's recommendations;
  11. If hemodialysis is provided to the patient, a clinical staff member:
    - a. Inspects the dialyzer before use to ensure that the:
      - i. External surface of the dialyzer is clean;
      - ii. Dialyzer label is intact and legible;
      - iii. Dialyzer, blood port, and dialysate port are free from leaks and cracks or other structural damage; and
      - iv. Dialyzer is free of visible blood and other foreign material;
    - b. Verifies the order for the dialyzer to ensure the correct dialyzer is used for the correct patient;
    - c. Verifies the duration of dialyzer storage based on the type of germicide used or method of sterilization or disinfection used;
    - d. If the dialyzer has been reprocessed and is being reused, verifies that the label on the dialyzer includes:



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patient's admission to the outpatient treatment center providing dialysis services, medical services, and nursing services.

- D.** An administrator shall ensure that a registered dietitian is employed by or contracted with an outpatient treatment center providing dialysis services, medical services, and nursing services to meet a patient's nutritional and dietetic needs including:
1. Conducting an initial nutritional assessment of the patient within 30 days of the patient's admission to the outpatient treatment center providing dialysis services, medical services, and nursing services;
  2. Consulting with the patient's nephrologist and recommending a diet to meet the patient's nutritional needs;
  3. Providing advice to the patient and the patient's representative regarding a diet prescribed by the patient's nephrologist;
  4. Monitoring the patient's adherence and response to a prescribed diet;
  5. Reviewing with the patient any diagnostic test performed on the patient that is related to the patient's nutritional or dietetic needs;
  6. Documenting monthly notes related to the patient's progress in the patient's medical record; and
  7. Conducting a follow-up nutritional assessment of the patient at least once every 12 months from the date of the patient's admission to the outpatient treatment center providing dialysis services, medical services, and nursing services.
- E.** An administrator shall ensure that a long-term care plan for each patient:
1. Is developed by a team that includes at least:
    - a. The chief clinical officer of the outpatient treatment center providing dialysis services, medical services, and nursing services;
    - b. If the chief clinical officer is not a nephrologist, the patient's nephrologist;
    - c. A transplant surgeon or the transplant surgeon's designee;
    - d. A registered nurse responsible for nursing services provided to the patient;
    - e. A social worker;
    - f. A registered dietitian; and
    - g. The patient or patient's representative, if the patient or patient's representative chooses to participate in the development of the long-term care plan;
  2. Identifies the modality of treatment and dialysis services to be provided to the patient;
  3. Is reviewed and approved by the chief clinical officer;
  4. Is signed and dated by each clinical staff member and non-clinical staff member participating in the development of the long-term care plan;
  5. Includes documentation signed by the patient or the patient's representative that the patient or the patient's representative was provided an opportunity to participate in the development of the long-term care plan;
  6. Is signed and dated by the patient or the patient's representative; and
  7. Is reviewed at least every 12 months by the team in subsection (E)(1) and updated according to the patient's needs.
- F.** An administrator shall ensure that a patient care plan for each patient:
1. Is developed by a team that includes at least:
    - a. The patient's nephrologist;
    - b. A registered nurse responsible for nursing services provided to the patient;
    - c. A social worker;
    - d. A registered dietitian; and
    - e. The patient or the patient's representative, if the patient or patient's representative chooses to participate in the development of the patient care plan;
  2. Includes an assessment of the patient's need for dialysis services;
  3. Identifies treatment and treatment goals;
  4. Is signed and dated by each clinical staff member and non-clinical staff member participating in the development of the patient care plan;
  5. Includes documentation signed by the patient or the patient's representative that the patient or the patient's representative was provided an opportunity to participate in the development of the patient care plan;
  6. Is signed and dated by the patient or the patient's representative;
  7. Is implemented;
  8. Is evaluated by:
    - a. The registered nurse responsible for the dialysis services provided to the patient;
    - b. The registered dietitian responsible for the dialysis services provided to the patient related to the patient's nutritional or dietetic needs; and
    - c. The social worker responsible for the dialysis services provided to the patient related to the patient's psychosocial needs;
  9. Includes documentation of interventions, resolutions, and outcomes related to treatment goals; and

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10. Is reviewed and updated according to the needs of the patient:
  - a. At least every six months for a patient whose medical condition is stable, and
  - b. At least every 30 days for a patient whose medical condition is not stable;

**G.** If an outpatient treatment center providing dialysis services, medical services, and nursing services reuses dialyzers or other dialysis supplies, an administrator shall ensure that the outpatient treatment center providing dialysis services, medical services, and nursing services complies with the guidelines adopted by the Association for the Advancement of Medical Instrumentation in *Reuse of hemodialyzers*, ANSI/AAMI RD47:2002 & RD47:2002/A1:2003, incorporated by reference, on file with the Department, and including no future editions or amendments. Copies may be purchased from the Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Road, Suite 220, Arlington, VA 22201-4795.

**H.** A chief clinical officer shall ensure that the quality of water used in dialysis conforms to the guidelines adopted by the Association for the Advancement of Medical Instrumentation in *Hemodialysis systems*, ANSI/AAMI RD5:2003, incorporated by reference, on file with the Department, and including no future editions or amendments. Copies may be purchased from the Association for the Advancement of Medical Instrumentation, 1110 N. Glebe Road, Suite 220, Arlington, VA 22201-4795.

**R9-10-1013. ~~Repealed~~ Ancillary Services**

An administrator shall ensure that:

1. If clinical laboratory services are provided on the premises or by contracted services at another location:
  - a. The clinical laboratory services are provided by a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, 42 U.S.C. 263a, as amended by Public Law 100-578, October 31, 1988; and
  - b. A copy of the certificate of accreditation or certificate of compliance is provided to the Department within four hours after the Department's request;
2. A clinical laboratory test result is documented in a patient's medical record including:
  - a. The name of the clinical laboratory test;
  - b. The patient's name;
  - c. The date of the clinical laboratory test;
  - d. The results of the test; and
  - e. If applicable, any adverse event related to or as a result of the test;
3. If radiology services or diagnostic imaging services are provided on the premises or by contracted services at another location:
  - a. The radiology services or diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4, and 12 A.A.C. 1; and
  - b. A copy of the certificate of compliance is provided to the Department within four hours after the Department's request; and
4. A radiological or diagnostic imaging report is documented in a patient's medical record including:
  - a. The name of the procedure;
  - b. The patient's name;
  - c. The date of the procedure;
  - d. If applicable:
    - i. The type and amount of radiopharmaceutical used, and
    - ii. Any adverse event related to or as a result of the procedure or radiopharmaceutical; and
  - e. An interpretation of the image by a physician, dentist, registered nurse practitioner, or physician's assistant.

**R9-10-1014. ~~Repealed~~ Infection Control**

**A.** An administrator shall ensure that:

1. An infection control program is established, documented, and implemented with specific measures to prevent, detect, control, and investigate infections and communicable diseases;
2. Policies and procedures are established, documented, and implemented that cover:
  - a. Compliance with the requirements in 9 A.A.C. 6 for reporting and control measures for communicable diseases and infestations;
  - b. Handling and disposal of biohazardous medical waste according to 18 A.A.C. 13, Article 14;
  - c. Isolation of a patient;
  - d. Sterilization and disinfection of medical equipment and supplies;
  - e. Use of personal protective equipment such as aprons, gloves, gowns, masks, or face protection;
  - f. Cleaning an individual's hands when the individual's hands are visibly soiled;
  - g. Housekeeping procedures that ensure a clean environment;
  - h. Training of staff in infection control practices;
  - i. Cleaning soiled linens and clothing; and

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- j. Work restrictions for a clinical staff member or non-clinical staff member with a communicable disease or infected skin lesion;
- 3. Soiled linen and clothing are:
  - a. Collected in a manner to minimize or prevent contamination;
  - b. Bagged at the site of use, and
  - c. Maintained separate from clean linen and clothing;
- 4. Clean linen and clothing are stored in a manner to prevent contamination;
- 5. A clinical staff member or a non-clinical staff member washes his or her hands with soap and water or uses a hand disinfection product before and after each patient contact and after handling soiled linen, soiled clothing, or a potentially infectious material;
- 6. An outpatient treatment center providing dialysis services, medical services, and nursing services' infection control program includes:
  - a. A method to identify, document, and analyze infections occurring at the outpatient treatment center providing dialysis services, medical services, and nursing services;
  - b. A method to evaluate the analysis of infections in subsection (A)(6)(a) to identify a concern about infection control at the outpatient treatment center providing dialysis services, medical services, and nursing services;
  - c. A method to make changes or take action as a result of the identification of a concern about infection control program at the outpatient treatment center providing dialysis services, medical services, and nursing services; and
  - d. The frequency of submitting the documented report required in subsection (A)(7);
- 7. A documented report is submitted to the governing authority that includes:
  - a. Each concern identified as required in subsection (A)(6)(b), and
  - b. Any change made or action taken as required in subsection (A)(6)(c); and
- 8. Documentation of the infection control program including reports of communicable diseases is:
  - a. Maintained for 12 months after the date of the documentation or report; and
  - b. Provided to the Department, within four hours after the Department's request.
- B.** An administrator shall comply with contagious disease reporting requirements in A.R.S. § 36-621 and communicable disease reporting requirements in 9 A.A.C. 6, Article 2.

**R9-10-1015. ~~Repealed~~ Environmental Services and Equipment Standards**

An administrator shall ensure that:

- 1. An outpatient treatment center providing dialysis services, medical services, and nursing services' premises are:
  - a. Cleaned and disinfected according to the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures to control illness and infection, and
  - b. Free from a condition or situation that may cause an individual to suffer physical injury;
- 2. There is a pest control program to control insects and rodents;
- 3. A tobacco smoke-free environment is maintained on the premises;
- 4. Biohazardous medical wastes are identified, stored, and disposed of according to 18 A.A.C. 13, Article 14;
- 5. A refrigerator used to store a medication or a biological is:
  - a. Maintained in working order, and
  - b. Only used to store medications and biologicals;
- 6. Equipment used at the outpatient treatment center providing dialysis services, medical services, and nursing services:
  - a. Is maintained in working condition;
  - b. Used according to the manufacturer's recommendations; and
  - c. If applicable, tested and calibrated at least once every 12 months or according to the manufacturer's recommendations; and
- 7. Documentation of an equipment test, calibration, or repair is:
  - a. Maintained for 12 months after the date of testing, calibration, or repair; and
  - b. Provided to the Department, within four hours after the Department's request.

**R9-10-1016. ~~Repealed~~ Medical Emergency, Safety, and Disaster Standards**

- A.** An administrator shall ensure that policies and procedures for providing medical emergency treatment are established, documented, and implemented that protect the health and safety of patients and include:
  - 1. The medications, supplies, and equipment required on the premises for the medical emergency treatment provided by the outpatient treatment center providing dialysis services, medical services, and nursing services;
  - 2. A system to ensure all medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired; and
  - 3. A cart or a container is available for medical emergency treatment that:
    - a. Contains all of the medication, supplies, and equipment specified in the outpatient treatment center providing dialysis services, medical services, and nursing services' policies and procedures; and
    - b. Is verified and documented according to the outpatient treatment center providing dialysis services, medical ser-

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vices, and nursing services' policies and procedures.

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

1. A disaster plan is developed, documented, and implemented that includes:
  - a. Procedures for protecting the health and safety of patients and other individuals on the premises,
  - b. Assigned responsibilities for each clinical staff member or non-clinical staff member,
  - c. Instructions for the evacuation of patients and other individuals on the premises, and
  - d. Arrangements to provide dialysis services, medical services, and nursing services to meet patients' needs;
2. A disaster plan required in subsection (B)(1) is reviewed at least once every 12 months;
3. A fire drill is conducted on each shift at least once every 12 months;
4. A disaster plan review required in subsection (B)(2) or a fire drill required in subsection (B)(3) is documented as follows:
  - a. The date and time of the drill or plan review;
  - b. The name of each clinical staff member and non-clinical staff member participating in the drill or plan review;
  - c. A critique of the drill or plan review; and
  - d. If applicable, recommendations for improvement; and
5. Documentation required in subsection (B)(4) is:
  - a. Maintained for 12 months after the date of the drill or plan review; and
  - b. Provided to the Department, within four hours after the Department's request;
6. A fire evacuation plan is posted and accessible to clinical and non-clinical staff members that includes a floor plan of the outpatient treatment center providing dialysis services, medical services, and nursing services facility on which lines have been drawn through corridors and exits showing the evacuation path;
7. Exit signs are illuminated, if the local fire jurisdiction requires illuminated exit signs;
8. A corridor in the outpatient treatment center providing dialysis services, medical services, and nursing services is at least 44 inches wide;
9. Corridors and exits are kept clear of any obstructions;
10. A patient can exit through any exit during hours of operation;
11. A smoke detector is installed in each hallway of the outpatient treatment center providing dialysis services, medical services, and nursing services facility;
12. Each smoke detector required under subsection (B)(11) is:
  - a. Maintained in an operable condition;
  - b. Either battery operated or, if hard-wired into the electrical system of the outpatient treatment center providing dialysis services, medical services, and nursing services facility, has a back-up battery; and
  - c. Tested monthly;
13. There is a portable, operable fire extinguisher, labeled as rated at least 2A-10B-C according to the rating standards established by the Underwriters Laboratories, available at the outpatient treatment center providing dialysis services, medical services, and nursing services;
14. The fire extinguisher required in subsection (B)(13):
  - a. Is serviced at least once every 12 months;
  - b. Has a tag attached to the fire extinguisher that specifies the date of the last servicing and the name of the servicing person; and
  - c. Is in a fire extinguisher cabinet or placed on wall brackets so that the top handle of the fire extinguisher is not over five feet from the floor and the bottom of the fire extinguisher is at least four inches from the floor;
15. If a local fire jurisdiction requires a sprinkler system, a sprinkler system is:
  - a. Installed,
  - b. Operable,
  - c. Tested quarterly, and
  - d. Serviced at least once every 12 months;
16. An extension cord is not used instead of permanent electrical wiring;
17. Each electrical outlet and electrical switch has a cover plate that is in good repair;
18. If applicable, a sign is placed at the entrance of a room or an area indicating that oxygen is in use; and
19. Oxygen and medical gas containers:
  - a. Are maintained in a secured, upright position;
  - b. Are stored in a room with a door; and
    - i. In a building with sprinklers, at least 5 feet from any combustible materials; or
    - ii. In a building without sprinklers, at least 20 feet from any combustible materials.

**R9-10-1017. ~~Repealed~~ Physical Plant Standards**

- A.** After the effective date of these rules, an administrator requesting an initial health care institution license for an outpatient treatment center providing dialysis services, medical services, and nursing services shall submit an application to the Department for approval of architectural plans and specifications as required in R9-10-104(A) that demonstrates compli-

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ance with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, medical services, and nursing services incorporated by reference in A.A.C. R9-1-412.

B. An administrator shall ensure that:

- 1. An outpatient treatment center providing dialysis services, medical services, and nursing services complies with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, medical services, and nursing services, incorporated by reference in A.A.C. R9-1-412, that were in effect on the date listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications submitted before initial licensing;
2. Before a modification of an outpatient treatment center providing dialysis services, medical services, and nursing services is made, an application for approval of the architectural plans and specifications of the outpatient treatment center providing dialysis services, medical services, and nursing services required in R9-10-104(A):
a. Is submitted to the Department; and
b. Demonstrates compliance with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, medical services, and nursing services incorporated by reference in A.A.C. R9-1-412 in effect on the date:
i. Listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications for the modification, or
ii. The application for approval of the architectural plans and specifications of the outpatient treatment center providing dialysis services, medical services, and nursing services required in R9-10-104(A) is submitted for the modification to the Department;
3. A modification of an outpatient treatment center providing dialysis services, medical services, and nursing services complies with applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, medical services, and nursing services incorporated by reference in A.A.C. R9-1-412 in effect on the date:
a. Listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications for the modification, or
b. The application for approval of the architectural plans and specifications required in R9-10-104(A) is submitted to the Department; and
4. The premises of a licensed outpatient treatment center providing dialysis services, medical services, and nursing services or any part of the licensed premises is not leased to or used by another person during the outpatient treatment center providing dialysis services, medical services, and nursing services clinical hours of operation.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION ADMINISTRATION

[R08-08]

PREAMBLE

- 1. Sections Affected: R17-1-308, R17-1-318, R17-1-319, R17-1-322, R17-1-323, R17-1-333; Rulemaking Action: Repeal
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 and 28-5602; Implementing statute: A.R.S. §§ 28-373, 28-5605, 28-5606, 28-5610, 28-5611, 28-5612, 28-5613, 28-5614, 28-5615, 28-5616, 28-5617, 28-5619, 28-5620, 28-5626, and 28-5924
3. The effective date of the rules: March 8, 2008

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**4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 3075, August 25, 2006

Notice of Proposed Rulemaking: 13 A.A.R. 2519, July 13, 2007

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

Name: Janette M. Quiroz

Address: Administrative Rules Unit  
Department of Transportation  
1801 W. Jefferson St., MD 530M  
Phoenix, AZ 85007

Telephone: (602) 712-8996

Fax: (602) 712-3081

E-mail: [jmquiroz@azdot.gov](mailto:jmquiroz@azdot.gov)

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

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

This rulemaking is being initiated as a result of a five-year-rule review approved by Council July 13, 2004. The current rules under 17 A.A.C. 1, Article 3, Taxes Regulating Motor Fuel Tax Refunds are antiquated and no longer reflect current statute, making it difficult for the Division to enforce. Therefore, the Division proposes to repeal these rules and create new rules under a new Chapter 8.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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, and any analysis of each study and other supporting material:**

The Division did not review nor rely upon any study relevant to this rulemaking.

**8. A showing of good cause why the rules is 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:**

In accordance with A.R.S. § 41-1055, the Division is not required to submit an economic impact statement for these rules.

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

Minor technical and grammatical changes were made by the Division and at the suggestion of staff of the Council to improve clarity.

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

The Division received no public comments.

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

None

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

None

**14. Was this rule previously adopted as an emergency rules?**

No

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

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION  
ADMINISTRATION

ARTICLE 3. TAXES

Section

R17-1-308. ~~Motor vehicle fuel—distributor exports~~ Repealed

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- R17-1-318. ~~Motor vehicle fuel—government employee~~ Repealed
- R17-1-319. ~~Motor vehicle fuel tax—military sales to personnel~~ Repealed
- R17-1-322. ~~Motor vehicle tax refunds~~ Repealed
- R17-1-323. ~~Exported motor vehicle fuel—tax refund~~ Repealed
- R17-1-333. ~~Unmanned self-serve use fuel vending entity; records; tax collection; invoicing~~ Repealed

ARTICLE 3. TAXES

~~R17-1-308. Motor vehicle fuel—distributor exports~~ Repealed

~~Each distributor shall, upon forms furnished by the Motor Vehicle Division and designated as “Motor Vehicle Fuel Export Declaration,” declare the number of gallons of motor vehicle fuel being exported by him. Such forms shall be made in triplicate and shall show the number of gallons of motor vehicle fuel exported by the distributor, the capacity of the container in which such fuel is exported, the actual content of such container, the number of gallons of such fuel found in the container on return of said distributor to the state of Arizona, the net number of gallons exported by such distributor, the invoice number and amount of gallons of motor vehicle fuel sold or disposed of by such distributor in the foreign state or country to which such fuel was exported, and shall be signed by the operator of the equipment in which such motor vehicle fuel is exported and a member of the Arizona State Highway Patrol, and indicate the date and the hour of export and date and hour of the return of said distributor to the state of Arizona. The original and triplicate copy of such forms shall be retained by the operator and the duplicate to be surrendered to a member of the Arizona State Highway Patrol or an agent of the Motor Vehicle Division, and when a distributor makes a claim for refund based on motor vehicle fuel exported, the original of said “Motor Vehicle Fuel Export Declaration,” properly dated, signed and executed, shall accompany such claim.~~

~~R17-1-318. Motor vehicle fuel—government employee~~ Repealed

- ~~A. Motor vehicle fuel sold to employees or agents of the United States, or of any department thereof, for the current use of such employees, is subject to the motor vehicle fuel tax.~~
- ~~B. Such employee or agent may obtain refund of the motor vehicle fuel tax paid upon specific motor vehicle fuel on claim for refund thereof upon affidavit Form No. 70 3316, to which shall be attached satisfactory written proof that the cost of the specific motor vehicle fuel less motor vehicle fuel tax thereon has been refunded to such employee or agent by the United States or department thereof.~~
- ~~C. Motor vehicle fuel delivered to the United States or department thereof, or an employee or agent of the United States or department thereof, upon a credit account chargeable to the United States or department thereof, the payment for which has been assumed by the United States or department thereof, is exempt from motor vehicle fuel tax, and in respect thereto the Motor Vehicle Division will accept in lieu of the motor vehicle fuel tax thereon, the sworn statement of the distributor through whom the transaction was handled, showing as to each such delivery as to which exemption is claimed:
  1. Date and place of delivery.
  2. Name of distributor or retailer and agent thereof, if any, making the delivery.
  3. Identification number of credit card, contract or requisition authorizing purchase.
  4. Name of person to whom delivery was made.
  5. Registry number of motor vehicle in respect to which delivery was made.
  6. Authority of the United States guaranteeing the account.
  7. The number of gallons of motor vehicle fuel delivered.~~

~~R17-1-319. Motor vehicle fuel tax—military sales to personnel~~ Repealed

- ~~A. Section 10 of the amendment to the Federal Aid Highway Act, approved June 16, 1936, provides:
  - “1. That all taxes levied by any state, territory, or the District of Columbia upon sales of gasoline and other motor vehicle fuels may be levied, in the same manner and to the same extent, upon such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the state, territory, or the District of Columbia, within whose borders the reservation affected may be located.
  - “2. The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the state, territory, or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel not sold for the exclusive use of the United States during the preceding month.”~~
- ~~B. The Attorney General of Arizona has interpreted the term “exclusive use” to mean that the fuel must be used wholly by the United States by duly constituted agents or officers engaged, while using such gasoline, wholly in the service of the government. In other words, if the fuel is used on a mission partly for the government and partly for some personal purpose of the user, it is not in the exclusive use of the government and is, therefore, taxable. The mere fact that the gasoline is sold or distributed by an agency located on the reservation does not exempt such gasoline from taxation. An officer of the government buying gasoline for his own personal use—or partly for his own personal use—pays the same tax as does the individual citizen.~~

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- ~~C.~~ All persons who purchase gasoline for use in motor vehicles on the highways of this state from any federal government storage located in the state of Arizona which gasoline is not for the exclusive use of the United States Government shall pay to the Officer in Charge of such storage, the Arizona five cent per gallon license tax on each gallon so purchased.
- ~~D.~~ Under provisions of Section 10 above, the Officer in Charge of such storage will on or before the 15th day of the month next succeeding the month in which such fuel was purchased, submit a written statement through proper channels to the Motor Vehicle Division, Arizona Department of Transportation, Phoenix, Arizona, showing the amount of such motor vehicle fuel so sold and such report shall be accompanied by a remittance of five cent per gallon to cover the Arizona license tax on such fuel.

**R17-1-322. Motor vehicle tax refunds Repealed**

- ~~A.~~ Application for refund of motor vehicle fuel tax paid upon motor vehicle fuel used in the state of Arizona other than in motor vehicles upon highways of the state of Arizona will not be received nor refund made unless the applicant therefor file in the office of the Motor Vehicle Division at Phoenix, Arizona:
  - ~~1.~~ Duly verified list of equipment owned or operated by the applicant in which such motor vehicle fuel was used showing in case of rolling equipment, make, engine number and horse power, and in case of stationary equipment, number and horse power of engines and quantity and kind of lamps, stoves or other equipment used.
  - ~~2.~~ Duly verified affidavit specifying equipment owned or operated by the applicant in which such motor vehicle fuel was used showing, in case of rolling equipment, make, engine number, horse power, hours operated, gallonage consumed of gasoline, distillate, aviation gasoline or other motor vehicle fuel as the case may be, and in case of stationary equipment, make, number, and horse power of engines, quantity and kind of lamps, stoves or other equipment used, number of hours operated, gallonage consumed of gasoline, distillate, aviation gasoline or other motor vehicle fuel consumed:
    - ~~a.~~ The original invoices covering the purchase of such motor vehicle fuel shall be attached to said affidavit.
    - ~~b.~~ Said affidavit shall state further that said original invoices cover the purchase of the gallonage listed and that none of the motor vehicle fuel in respect to which such affidavit is made, has been used to propel motor vehicles upon the highways, and shall show for what general purpose such motor vehicle fuel was used.
- ~~B.~~ The list of equipment above provided to be filed shall remain of record, in the name of the person filing the same, who must report under oath additional equipment when and as acquired or operated.
- ~~C.~~ No refund of tax paid on motor vehicle fuel shall be made other than on equipment listed with the Motor Vehicle Division, as provided in this order.
- ~~D.~~ The lists of equipment and affidavits herein provided for shall be upon forms provided by the Motor Vehicle Division.

**R17-1-323. Exported motor vehicle fuel tax refund Repealed**

- ~~A.~~ Application for refund of motor vehicle fuel tax upon motor vehicle fuel exported from the state of Arizona will not be received nor refund made unless the applicant therefore files in the office of the Motor Vehicle Division at Phoenix, Arizona, Exportation Affidavit Form No. 70-0761, duly verified, stating:
  - ~~1.~~ Gallonage claimed.
  - ~~2.~~ That none of said gallonage was used in Arizona.
  - ~~3.~~ The county from which exported.
  - ~~4.~~ Place of export consignment.
- ~~B.~~ There shall be attached to said Exportation Affidavit, Original Invoices covering purchase of the gallonage claimed, Motor Vehicle Fuel Exportation Certificate, Form No. 70-0763, and, in case of export to the Republic of Mexico, Export Declaration, United States Customs Service Form No. 7525.
- ~~C.~~ The Motor Vehicle Fuel Exportation Certificate shall be signed by the applicant or his agent, and shall state:
  - ~~1.~~ Number of said original invoice. (There must be a Motor Vehicle Fuel Exportation Certificate for each original invoice).
  - ~~2.~~ Place of sale in Arizona.
  - ~~3.~~ Date of sale.
  - ~~4.~~ Name of distributor or vendor.
  - ~~5.~~ Name and address of foreign purchaser and place where the fuel is to be used.
  - ~~6.~~ The gallonage.
  - ~~7.~~ That the gallonage was exported from the state of Arizona and is exempt from Arizona Motor Vehicle Fuel Tax.
- ~~D.~~ If the exportation is to another state of the United States, the Motor Vehicle Fuel Exportation Certificate shall also be signed by the foreign consignee and shall state the name of the town in the foreign state nearest the boundary line.
- ~~E.~~ The Export Declaration shall be issued and signed by the Distributor or Vendor in triplicate, and, in addition to the requirements of the United States Customs Service, shall state:
  - ~~1.~~ Number of said original invoice. (Export Declarations must be so issued for each original invoice).
  - ~~2.~~ The gallonage.
  - ~~3.~~ Type and number of containers of fuel covered by the original invoice.
- ~~F.~~ Said Exportation Affidavit and Motor Vehicle Fuel Exportation Certificates shall be upon forms supplied by the Motor

Vehicle Division.

- G. Exemption by distributors of motor vehicle fuel tax on fuel for foreign export is discontinued, and hereafter Motor Vehicle Fuel Exportation Certificate Form No. 131 will not be accepted from distributors in lieu of tax, and Distributors will be held for tax on all motor vehicle fuel, except upon sales to U.S. Government.

**~~R17-1-333. Unmanned self-serve use fuel vending entity; records; tax collection; invoicing Repealed~~**

**~~A. Definitions:~~**

- ~~1. "Account" means the authorization and the means to access the pumping facilities of an Unmanned Self-Serve Use Fuel Vending Entity (USSUFVE) to acquire use fuel for which the USSUFVE issues a periodic statement containing at least the purchaser's name, mailing address, date of each use fuel acquisition and the number of gallons of use fuel acquired.~~
- ~~2. "Tax-exempt use account" means an account created and maintained solely for the purpose of acquiring use fuel that will be consumed in a manner that is exempt from the tax imposed under the provision of A.R.S. Title 28, Chapter 9, Article 2.~~
- ~~3. "Unmanned self-serve use fuel vending entity" means a licensed Arizona fuel vending entity, commonly referred to as cardlock or keylock operations, where only pre-approved purchasers of use fuel have been issued cards or keys to identify the exclusive withdrawal of that particular purchaser and where no representative of the licensed vendor is on the premises to observe the withdrawal of use fuel from the vendor's storage and where volumes dispensed are measured by pump meters or by some other accurate recording device.~~

- ~~B. A vendor operating an unmanned self-serve use fuel vending entity must determine which self-serve purchasers are the holders of valid Arizona use fuel tax accounts, must record those tax license numbers for invoicing purposes and must maintain for audit purposes complete records on every purchaser having access to the vendor's use fuel storage.~~

- ~~C. A vendor operating an unmanned self-serve use fuel vending entity shall collect the Arizona use fuel tax on all sales of use fuel through that vending entity, unless the purchaser has established a tax-exempt use account in accordance with the provisions of subsection (E) of this rule.~~

- ~~D. A vendor operating an unmanned, self-serve, use fuel vending entity must comply with R17-1-330, R17-1-331, R17-1-332, and R17-1-334 provided, however, that in lieu of the language contained in section "A" of the "Arizona Use Fuel Information Block" referred to in R17-1-330(B)(5), either the word "cardlock," or the word "keylock," depending on the type of operation, will be preprinted therein.~~

- ~~E. A person who qualifies to purchase use fuel without the payment of tax to the vendor in accordance with the provisions of A.R.S. § 28-1555(C) may establish a tax-exempt use account with an unmanned self-serve use fuel vending entity. Use fuel acquired through the tax-exempt use account shall not be delivered into the fuel tank of a motor vehicle. If a person having a tax-exempt use account wants to purchase use fuel from the same unmanned self-serve use fuel vending entity for purposes which are not tax-exempt, the person shall establish a separate account with the unmanned self-serve use fuel vending entity. The tax-exempt use account shall require the use of different cards, keys, or other means to access the pumps than the taxable use account. To establish the tax-exempt use account, the purchaser shall provide the unmanned self-serve use fuel vending entity with an affidavit containing the following information:~~

- ~~1. Legal name of purchaser.~~
- ~~2. Mailing address of purchaser.~~
- ~~3. Address of the place of business of the purchaser.~~
- ~~4. Telephone number of the purchaser.~~
- ~~5. A statement containing the following:~~

- ~~a. Each utilization of this account to acquire use fuel shall constitute certification that none of the use fuel acquired through the utilization of this account will be employed to propel a motor vehicle on the highways in this state.~~

- ~~F. The unmanned, self-serve, use fuel vending entity shall maintain the original affidavit for a period of at least three years after the last transaction on the account.~~