

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 19. BOARD OF NURSING

[R08-421]

PREAMBLE

1. Sections Affected

R4-19-101
R4-19-102
Table 1
R4-19-401
R4-19-402
R4-19-402
R4-19-403
R4-19-404
R4-19-405
R4-19-509
R4-19-814

Rulemaking Action

Amend
Amend
Amend
Amend
Repeal
New Section
Amend
Amend
New Section
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 32-1606 (A)(1), (A)(3) and (B)(12)

Implementing statutes: A.R.S. §§ 41-1073, 32-1401 (8), 32-1456, 32-1601(6), (7),(12),(13),(15) and (16)(d), 32-1605.01 (C), 32-1606 (A)(3) and (B)(21), 32-1646 (A)(4), 32-1662, 32-1663, and 32-1664

3. The effective date of the rules:

January 31, 2009

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

Notice of Rulemaking Docket Opening: 13 A.A.R. 2267, June 29, 2007

Notice of Proposed Rulemaking: 14 A.A.R. 2184, June 6, 2008

Notice of Rulemaking Termination R4-19-206: 14 A.A.R. 3293, August 22, 2008

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

Name: Pamela K. Randolph RN, MS
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6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

The Arizona State Board of Nursing is amending rules in both Articles 1 and 4 as a result of two Five-year Rule Reviews, one approved in July 12, 2005 (Articles 1 and 8) and another approved December 5, 2006 (Articles 4, 6 and 7). In the Five-year Rule Review Report submitted in 2005 the Board intended to submit an amended Article 1 by June, 2006. In the Five-year Rule Review Report approved December 5, 2006, the Board planned to submit an

amended Article 4 by December, 2007. Delays in submission occurred because of other rulemaking priorities, frequent stakeholder meetings to discuss the contents of these amendments and demands of the agency. The Board identified the reasons for amending these rules in each Five-year Review Report. Some additional definitions were proposed in the 2005 Five-year Review Report that were not incorporated into this rulemaking package because they were deemed no longer necessary or pertinent. In addition to those changes identified as a result of a Five-year Review Report, a Section in Article 5 is amended to reflect renumbering of rules by the Arizona Medical Board referenced in the Section and definitions contained in R4-19-814 are deleted and moved to Article 1. An explanation of the changes to each rule is provided here.

R4-19-101. Definitions

Several definitions were amended to improve clarity and consistency. Definitions that might be confusing or are currently in statute were deleted. The following definitions were added: applicant, assign, client, clinical instruction, dual relationship, episodic nursing care, failure to maintain professional boundaries, independent nursing activities, LPN, licensure by examination, nursing diagnosis, nursing program administrator, nursing program faculty member, patient, preceptor, proposal approval, provisional approval, resident, RN, standards related to scope of practice, traineeship, and unlicensed assistive personnel.

R4-19-102. Time-frames for Licensure, Certification, or Approval

The Board amended this Section to include the following definitions: administrative completeness or administratively complete, comprehensive request for additional information, deficiency notice, overall time-frame, and substantive review time-frame. The definition of applicant was expanded and moved to R4-19-101. The Board's authority to deny an applicant's request to withdraw the application, if the applicant is the subject of a current complaint, was clarified. The time-frame table was amended to clarify the license types that are subject to licensing time-frame rules.

R4-19-206. Curriculum

Amendments in this Section, contained in the original Notice of Proposed Rulemaking (14 A.A.R. 2184, June 6, 2008), were opposed by University of Wisconsin-Oshkosh. Additionally, unrelated to this rulemaking, one approved program in Arizona requested permission to deliver clinical education using a model that would violate the provisions of the proposed amendments. After consideration of evidence and testimony presented during the official comment period, the Board published a Notice of Termination of Rulemaking on this Section in order to more carefully study the issue and include any amendments to this Section in a future rulemaking package containing all of Article 2. The Board does not anticipate that this action will have a negative effect on any regulated entity.

R4-19-401. Standards Related to Licensed Practical Nurse Scope of Practice

The heading of this rule was changed to better describe the contents as they relate to the statutory definition of practical nursing (A.R.S. § 32-1601(12)). The Section was then re-written using a nursing process framework to provide a logical means of comparing the differing standards for practical and registered nursing. Subsections include standards for conduct, assessing, planning, implementing, evaluating, teaching, and delegating.

R4-19-402. Standards Related to Registered Nurse Scope of Practice

The heading of this rule was changed to better describe the contents as they relate to the statutory definition of professional nursing (A.R.S. § 32-1601(13)). The Section was then re-written using a nursing process framework to provide a logical means of comparing the differing standards for practical and registered nursing. Subsections include standards for conduct, assessing, planning, implementing, evaluating, teaching, and delegating.

R4-19-403. Unprofessional Conduct

The Board recently (2005) amended this Section and made no substantial changes. The definitions of "Failure to maintain professional boundaries" and "Dual relationship" are deleted and moved to R4-19-101.

R4-19-404. Re-issuance or Subsequent Issuance of License

The Board is amending this Section to clarify the requirements for reissuing a license that was revoked, voluntarily surrendered or suspended, and issuing a license that was previously denied. The Board prescribes the conditions for issuing or re-issuing a licensure under these circumstances in subsection (A) and details the process in subsection (C). The Board is amending subsection (B) to allow it to enter into a voluntary agreement with a nurse to allow for re-issuance in less than the five years if, in the opinion of the Board, the nurse has the potential to safely return to nursing practice in less than five years.

R4-19-405. Board-ordered Evaluations

After receiving a request from the public and consultation with the Governor's Regulatory Review Council's (G.R.R.C.) former executive director, the Board is adding this rule for Board ordered evaluations to provide the public with the criteria and process for Board ordered evaluations. In this Section, the Board specifies the types of evaluations it may order, the criteria for ordering an evaluation, and the criteria used to determine if an evaluator is qualified.

R4-19-509. Delegation to Medical Assistants

This rule is being amended for the sole purpose of renumbering the referenced rules of the Arizona Medical Board so that they refer to the current medical board rules regarding medical assistants.

R4-19-814. Standards of Conduct for Certified Nursing Assistants

This Section of the rules for certified nursing assistants and R4-19-403, regarding nurses, were opened for the sole purpose of deleting the definitions of “failure to maintain professional boundaries” and “dual relationship” because the definitions were consolidated and moved to R4-19-101. The Board last amended this Section in 2005.

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 used *A National Survey on Elements of Nursing Education* by S. Li and K. Kenward, published by the National Council of State Boards of Nursing, July 2006 which is available from the Board upon request.

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

Not applicable

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

The proposed rulemaking on Articles 1 and 4, R4-19-509 and R4-19-814 identified in item 6 is not expected to have a major economic impact on any regulated entity, the Board, or small businesses.

The Arizona State Board of Nursing licenses approximately 63,000 registered nurses and 11,000 practical nurses and certifies approximately 21,000 nursing assistants. Additionally the Board oversees 29 in-state nursing programs and approximately 130 nursing assistant programs. The Board has granted approval for four out-of-state nursing programs to conduct clinical classes in Arizona. The Board also certifies Clinical Nurse Specialists and Registered Nurse Practitioners. Currently the Board certifies approximately 3000 nurse practitioners and 150 clinical nurse specialists.

The amendments to the definitions in R4-19-101 are not expected to have any direct economic impact on the Board, the regulated community, or the general public.

The amendments to R4-19-102 regarding time-frames are not expected to have a substantial economic impact on the regulated community or the general public.

Amendments to Article 4 are not expected to have any direct economic impact on the regulated community, the Board, or the general public. The detailed standards for the practice of nursing will benefit the regulated community and the general public by providing clear differentiation of RN and LPN roles and delineating standards expected of all licensed nurses. Nurses seeking re-issuance of a license will benefit from the increased specificity in R4-19-404. The regulated public will benefit from the Board establishing the conditions for ordering an evaluation and the qualifications of an evaluator in R4-19-405.

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

The Board originally sought to limit preceptorships in pre-licensure nursing programs to the last semester of the program. In crafting the amendment, the Board relied on information from an Arizona nursing program with poor outcomes using this model and a national study (NCSBN. *A National Survey on Elements of Nursing Education*, July 2006) suggesting that the availability of a clinical instructor during the nursing program was associated with less difficulty with clinical assignments in newly licensed nurses. Subsequently the Board considered information provided by University of Wisconsin-Oshkosh regarding its successful preceptorship-based nursing program and additional reports of innovative clinical education models using preceptors in other states. Furthermore, during the comment period, another program approached Board staff with a draft proposal for innovative clinical instruction involving preceptors before the last semester of the program. After weighing all the testimony and information received, the Board agreed to terminate rulemaking on R4-19-206 in order to further study this issue and the impact of the proposed amendments contained in the Notice of Proposed Rulemaking in the context of amending all of Article 2.

The “Notice of Proposed Rulemaking” contained a definition of “reinstatement” that was deleted from the final rulemaking. After discussion with G.R.R.C. staff, it was decided that the both the definition and use of the term “reinstatement” was inconsistent with statutory language. The statute uses the word “re-issue” to describe restoring a license to a person after a revocation, suspension or voluntary surrender. All references to reinstatement were changed to “re-issue” in the rulemaking package.

The Board clarified the temporary certification time-frames to include temporary C.N.S. and R.N.P. certificates.

Subsections R4-19-404(A) and R4-19-102(E)(5) were modified to include limited licensure in the options available to the Board when re-issuing or issuing a license. This is consistent with the Board’s statutory authority to issue limited licenses under A.R.S. § 32-1606(A)(3) and is not considered to be a substantial substantive change.

Section R4-19-404 was modified to delete subsections referring to reissuing a RNP or CNS certificate at the suggestion of G.R.R.C. staff. G.R.R.C. staff opined that the Board lacked sufficient statutory authority to take direct action to

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limit or condition a RNP or CNS certificate and suggested that such action limiting a certificate be reflected in action on the nursing license. This is consistent with current and intended Board practices as RNP and CNS certification is conditional on an RN license. The Board does not consider this a substantial substantive change. In addition, subsection (C)(5) was modified at the suggestion of G.R.R.C. staff to ensure consistency with subsection (C)(4) and simplify the subsection.

Section R4-19-509 was added to the rulemaking after the rulemaking docket opening under the provision of the docket opening that "Sections may be added, deleted, or modified as necessary." The Board's addition of this Section is consistent with the subject matter of the rulemaking, "to improve regulatory effectiveness." It came to the Board's attention that R4-19-509 referred Sections of the *Arizona Administrative Code* that had been re-numbered by the Arizona Medical Board. The original rule is now ineffective and outdated because it does not refer to the correct section of the *Arizona Administrative Code*. Without the amendments, the regulated public would have difficulty understanding and complying with this Section. In the same Section, at the suggestion of G.R.R.C. staff, "direct" supervision was substituted for "onsite" supervision to better reflect the statutory language of A.R.S. § 32-1456 and the definition of "direct" supervision in A.R.S. § 32-1401. This is not considered a substantive change.

Other minor formatting, clarifying, and grammatical changes were made at the suggestion of G.R.R.C. staff.

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

Stephanie Stewart from University of Wisconsin-Oshkosh submitted comments on R4-19-206 on June 6, 2008 by e-mail opposing the proposed amendments limiting preceptorships to the last session of a nursing program. Stewart cited a 93% national licensure exam first-time pass rate and positive outcomes from student and employer evaluations of the program. Stewart provided a PowerPoint presentation at the open public hearing on July 9, 2008 regarding the positive outcomes her program has achieved using a preceptorship model that would be prohibited with the proposed amendments.

Jane Werth Clinical Coordinator for Maricopa Community Colleges provided written comments on July 1, 2008. Werth was the original person who suggested limiting preceptorships to the last session of a nursing program. Werth has experience with clinical placements with the majority of programs in metropolitan Phoenix. Werth believes, based on the experiences in Arizona, that the preceptorship model is not workable on a large scale; however, agrees that the proposed amendments to R4-19-206 need to be re-considered.

"Given my own reservations about use of this type of model on a widespread basis I am not sure I fully understand all the ramifications if precepted practice is only allowed in senior capstone experiences. I think there needs to be more community dialogue regarding where this practice has and is currently occurring, what are the successes and shortcomings of such practice in those areas. I think more information is needed to be sure we craft appropriate wording for this type of rule to support best practices outcomes in our clinical education."

The Arizona Nurses Association provided a letter in support of the proposed rulemaking in its entirety.

Board Response to Comments:

The Board carefully considered comments submitted by University of Wisconsin-Oshkosh and the request of a current Arizona approved program, whose representatives attended the open public hearing but did not offer comment, to utilize a preceptor model throughout the nursing program, and decided to terminate rulemaking on R4-19-206 at the present time. This rule will be re-considered by the Education Advisory Committee as it is preparing recommendations for amending all of Article 2. Recommendations regarding this rulemaking will be presented to the Board at a future Board meeting. As termination was considered, stakeholders included the Arizona Nurses Association and members of the Education Advisory Committee, the group that originally advised that the Board adopt the proposed rulemaking, and all affected Arizona programs were contacted for input and all agreed that the amendments contained in the Notice of Proposed Rulemaking for R4-19-206 need to be reconsidered and re-crafted in a manner that does not prevent the implementation of innovative and effective nursing programs.

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

None

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

None

14. Were these rules previously made as an emergency rule?

No

15. The full text of the rules follows:

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ARTICLE 1. DEFINITIONS AND TIME-FRAMES

- Section
R4-19-101. Definitions
R4-19-102. Time-frames for Licensure, Certification, or Approval
Table 1. Time-frames

ARTICLE 4. REGULATION

- Section
R4-19-401. ~~Scope of Practice for a Practical Nurse~~ Standards Related to Licensed Practical Nurse Scope of Practice
R4-19-402. ~~Scope of Practice for a Professional Nurse~~ Standards Related to Registered Nurse Scope of Practice
R4-19-403. Unprofessional Conduct
R4-19-404. ~~Reinstatement~~ Re-issuance or Subsequent Issuance of License
R4-19-405. ~~Repealed~~ Board-ordered Evaluations

ARTICLE 5. ADVANCED AND EXTENDED NURSING PRACTICE

- Section
R4-19-509. Delegation to Medical Assistants

ARTICLE 8. CERTIFIED NURSING ASSISTANTS

- Section
R4-19-814. Standards of Conduct for Certified Nursing Assistants

ARTICLE 1. DEFINITIONS AND TIME-FRAMES

R4-19-101. Definitions

In addition to the definitions in A.R.S. § 32-1601, in this Chapter:

“Abuse” means a misuse of power or betrayal of trust, respect, or intimacy by a nurse, ~~or~~ nursing assistant, or applicant that causes or is likely to cause physical, mental, emotional, or financial harm to a client.

“Administer” means the direct application of a medication to the body of a patient by a nurse, whether by injection, inhalation, ingestion, or any other means.

~~“Administrator” means a nurse educator with the administrative responsibility and authority for the direction of a nursing program.~~

“Applicant” means a person seeking licensure, certification, ~~prescribing, or prescribing and dispensing privileges, or an entity seeking approval or re-approval, if applicable, of a:~~

CNS or RNP nursing program,

Credential evaluation service,

Nursing assistant training program,

Nursing program,

Nursing program change, or

Refresher program.

“Approved national nursing accrediting agency” means an organization recognized by the United States Department of Education as an accrediting agency for a nursing program.

“Assign” means a nurse designates nursing activities to be performed by another nurse that are consistent with the other nurse’s scope of practice.

“Certificate or diploma in practical nursing” means the document awarded to a graduate of an educational program in practical nursing.

“Client” means a recipient of care and may be an individual, family, group, or community.

“Clinical instruction” means the guidance and supervision provided by a nursing program faculty member or NAT-CEP instructor while a student is providing client care.

~~“Clinical nurse specialist” means a nurse who, through study, and supervised practice at the graduate level, and is expert in a selected clinical area of nursing.~~

“CNA” means a certified nursing assistant, as defined in A.R.S. § 32-1601(10).

“CNS” means clinical nurse specialist, as defined in A.R.S. § 32-1601(5).

“Collaborate” means to establish a relationship for consultation or referral with one or more licensed physicians on an as-needed basis. ~~Direct or onsite supervision~~ Supervision of the activities of a registered nurse practitioner by the col-

laborating physician is not required.

“Contact hour” means a unit of organized learning, which may be either clinical or didactic and is 50 minutes of participation in a continuing education activity relating to nursing practice either 60 minutes in length or is otherwise defined by an accrediting agency recognized by the Board.

“Continuing education activity” means a course of study related to nursing practice that is awarded ~~credit~~ contact hours by an accrediting agency recognized by the Board, or academic credits or units in nursing or medicine by an accredited organization a regionally or nationally accredited college or university.

“CNA” means ~~a certified nursing assistant.~~

“CRNA” means a certified registered nurse anesthetist who provides anesthesia services under A.R.S. § 32-1661.

“DEA” means the federal Drug Enforcement Administration.

“Dispense” means to ~~issue~~ package, label, and deliver one or more doses of a prescription-only medication in a suitable container for subsequent use by a patient.

“Dual relationship” means a nurse or CNA simultaneously engages in both a professional and nonprofessional relationship with a patient or resident that is avoidable, non-incidental, and results in the patient being exploited financially, emotionally, or sexually.

“Endorsement” means the procedure for granting an Arizona nursing license to an applicant who is already licensed as a nurse in another state or territory of the United States ~~or foreign country~~ and has passed an exam as required by A.R.S. §§ 32-1633 or 32-1638 or an Arizona nursing assistant certificate to an applicant who is already listed on a nurse aide register in another state or territory of the United States.

“Episodic nursing care” means nursing care at nonspecific intervals that is focused on the current needs of the individual.

“Failure to maintain professional boundaries” means any conduct or behavior of a nurse or CNA that, regardless of the nurse’s or CNA’s intention, is likely to lessen the benefit of care to a patient or resident or a patient’s or resident’s family or places the patient, resident or the patient’s or resident’s family at risk of being exploited financially, emotionally, or sexually.

“Full approval” means the status granted ~~in writing~~ by the Board when a nursing program, upon after graduation of its first class, demonstrates the ability to provide and maintain a program in accordance with the standards provided by A.R.S. § 32-1601 et seq. and these rules Title 32, Chapter 15 and this Chapter.

“Good standing” means the license of a nurse, ~~either practical or professional,~~ or the certificate of a nursing assistant, is current, and the nurse or nursing assistant is not presently subject to any disciplinary action, consent order, or settlement agreement.

“Independent nursing activities” means nursing care within an RN’s scope of practice that does not require authorization from another health professional.

“Initial approval” means the permission, granted ~~in writing~~ by the Board, to an institution entity to establish a nursing or nursing assistant training program, after the Board determines that the program proposal meets the standards provided by the law and these rules A.R.S. Title 32, Chapter 15 and this Chapter.

“Licensed practical nurse” means ~~a practical nurse licensed under this Chapter.~~

“Licensure by examination” means the granting of permission to practice nursing based on an individual’s passing of a prescribed examination and meeting all other licensure requirements.

“LPN” means licensed practical nurse.

“NATCEP” means Nurse Aide Training and Competency Evaluation Program and includes both the nursing assistant training program and the required certification exam.

“NCLEX” means the National Council Licensure Examination.

“Nurse” means a licensed practical or ~~professional~~ registered nurse.

“Nursing diagnosis” means a clinical judgment, based on analysis of comprehensive assessment data, about a client’s response to actual and potential health problems or life processes. Nursing diagnosis statements include the actual or potential problem, etiology or risk factors, and defining characteristics, if any.

“Nursing practice” means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined health goals, and evaluating responses to care and treatment.

“Nursing process” means applying problem-solving techniques that require technical and scientific knowledge, good judgment, and decision-making skills to assess, plan, implement, and evaluate a plan of care.

“Nursing program” means a formal course of instruction designed to prepare its graduates for licensure as ~~professional~~ registered or practical nurses.

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“Nursing program administrator” means a nurse educator who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter and has the administrative responsibility and authority for the direction of a nursing program.

“Nursing program faculty member” means an individual working full or part time within a nursing program who is responsible for either developing, implementing, teaching, evaluating, or updating nursing knowledge, clinical skills, or curricula.

“Nursing-related activities or duties” means client care tasks for which education is provided by a basic NATCEP nursing assistant training program.

“P & D” means prescribing and dispensing.

“Parent institution” means the educational institution in which a nursing program or nursing assistant training program is conducted.

“Patient” means an individual recipient of care.

“Pharmacology” means the science that deals with the study of drugs.

“Physician” means a person licensed under A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 17, or 29, or by a state medical board in the United States.

“Preceptor” means a registered nurse or other health professional who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter who instructs, supervises and evaluates a licensee, clinical nurse specialist, nurse practitioner or pre-licensure nursing student, for a defined period.

“Preceptorship” means a clinical learning experience by which a learner enrolled in a registered nursing program, nurse refresher program, clinical nurse specialist, or registered nurse practitioner program or as part of a Board order provides nursing care while assigned to a health professional who holds a license or certificate equivalent to or higher than the level of the learner’s program or in the case of a nurse under Board order, meets the qualifications in the Board order.

“Prescribe” means to order a medication, medical device, or appliance for use by a patient.

~~“P & D” means prescribing and dispensing.~~

~~“Preceptorship” means a clinical learning experience by which a learner enrolled in a NATCEP nursing program, or nurse practitioner course of study provides nursing or nurse assistant services while assigned to a health care worker who holds a license or certificate equivalent to or higher than the level of the learner’s program~~

~~“PRN” means as needed.~~

“Proposal approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to proceed with an application for provisional approval to establish a pre-licensure nursing program in Arizona.

“Provisional approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to implement a pre-licensure nursing program in Arizona.

“Refresher program” means a formal course of instruction designed to provide a review and update of nursing theory and practice to professional or practical nurses preparing to re-enter nursing practice.

“Regionally accredited” means an educational institution is accredited by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges.

“Register” means a listing of Arizona certified nursing assistants maintained by the Board that includes the following about each nursing assistant:

Identifying demographic information;

Date placed on the register;

Date of initial and most recent certification, if applicable; and

Status of the nursing assistant certificate, including findings of abuse, neglect, or misappropriation of property made by the Arizona Department of Health Services, sanctions imposed by the United States Department of Health and Human Services, and disciplinary actions by the Board.

“Resident” means a patient who receives care in a long term care facility or other residential setting.

“RN” means registered nurse.

“RNP” means a registered nurse practitioner as defined in A.R.S. § 32-1601(15).

“SBTPE” means the State Board Test Pool Examination.

“Self-study” means a written self-evaluation conducted by a nursing program to assess the compliance of the program

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with the standards listed in R4-19-201 through R4-19-206.

“School nurse” means a ~~professional~~ registered nurse who is certified under ~~R4-19-308~~ R4-19-309.

“Standards related to scope of practice” means the expected actions of any nurse who holds the identified level of licensure.

“Supervision” means the direction and periodic consultation provided to an individual to whom a nursing task or patient care activity is delegated.

“Traineeship” means a clinical learning experience where a student enrolled in an approved nursing assistant training program provides care for residents in a long term care facility while working with a CNA employed by the facility under the supervision of an RN or LPN.

“Unlicensed assistive personnel” or “UAP” means a CNA or any other unlicensed person, regardless of title, to whom nursing tasks are delegated.

R4-19-102. Time-frames for Licensure, Certification, or Approval

A. In this Section:

1. “Administrative completeness” or “administratively complete” means Board receipt of all application components required by statute or rule and necessary to begin the substantive review time-frame.
1. ~~“Applicant” means a person or entity seeking licensure, certification, approval to prescribe and dispense drugs or approval of a nursing assistant program, a nursing program, a refresher program, or a nurse practitioner course of study.~~
2. “Application packet” means a Board-approved an application form provided by the Board and the documentation necessary to establish an applicant’s qualifications for licensure, certification, or approval.
3. “Comprehensive written request for additional information” means written communication after the administrative completeness time-frame by the Board to an applicant in person or at the mailing or electronic address identified on the application notifying the applicant that additional information, including missing documents is needed before the Board can grant the license. The written communication shall:
 - a. Contain a list of information required by statute or rule and necessary to complete the application or grant the license, and
 - b. Inform the applicant that the request suspends the running of days within the time-frame; and
 - c. Be effective on the date of issuance which is:
 - i. The date of its postmark, if mailed;
 - ii. The date of delivery, if delivered in person by a Board employee or agent; or
 - iii. The date of delivery to the electronic address if delivered electronically.
4. “Deficiency notice” means written communication by the Board to an applicant in person or at the mailing or electronic address identified on the application notifying the applicant that additional information, including missing documents, is needed to complete the application. The written communication shall:
 - a. Contain a list of information required by statute or rule and necessary to complete the application or grant the license;
 - b. Inform the applicant that the request suspends the running of days within the time-frame; and
 - c. Be effective on the date of issuance which is:
 - i. The date of its postmark, if mailed;
 - ii. The date of delivery, if delivered in person by a Board employee or agent; or
 - iii. The date of delivery to the electronic address if delivered electronically.
5. “Notice of administrative completeness” means written communication by the Board to an applicant in person or at the mailing or electronic address identified on the application notifying the applicant the application contains all information required by statute or rule to complete the application.
6. “Overall time-frame” has the same meaning as A.R.S. § 41-1072(2).
7. “Substantive review time-frame” has the same meaning as A.R.S. § 41-1072(3).

B. In computing the time-frames in this Section, the day of the act or event from which the designated period begins to run is not included. The last day of the period is included unless it is a Saturday, Sunday, or official state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or official state holiday.

C. For each type of licensure, certification, or approval issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1. ~~The applicant and the Executive Director of the Board may agree in writing to extend the overall time frames in Table 1. An applicant may submit a written request to the Board for an extension of time in which to provide a complete application. The request for an extension of time shall be submitted to the Board office before the deadline for submission of a complete application and shall state the reason that the applicant is unable to comply with the time-frame requirements in Table 1 and the amount of additional time requested. The Board may grant an extension of time based on whether the Executive Director of the Board finds that the applicant is unable to comply within the time-frame due to circumstances beyond the applicant’s control and that the additional information can reasonably be supplied~~

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~~during the extension of time. The overall time frame and the substantive review time frame described in A.R.S. § 41-1072(3) may not be extended by more than 25% of the overall time frame.~~

- D. For each type of licensure, certification, or approval issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins to run when the Board receives an application packet.
1. If the application packet is not administratively complete, the Board shall send a deficiency notice to the applicant. The time for the applicant to respond to a deficiency notice begins to run on the ~~postmark~~ date of the deficiency notice is issued.
 - a. The deficiency notice shall list each deficiency.
 - b. The applicant shall submit to the Board the missing information or the documentation listed in the deficiency notice within the period specified in Table 1 for responding to a deficiency notice. The time-frame for the Board to complete the administrative review is suspended until the Board receives the missing information ~~or documentation~~.
 - c. If ~~the~~ an applicant fails to provide the missing information or the documentation listed in the deficiency notice within the period specified in Table 1, the Board ~~shall consider the application packet withdrawn and shall send the applicant a notice of withdrawal.~~ shall close the applicant's file and send a notice to the applicant by U.S. mail and electronically, if an electronic address is included in the application.
 - d. If the applicant is the subject of an investigation, the Board may continue to process the application. Failure of the applicant to supply the requested information may result in denial of the license or certificate based on information gathered during the investigation.
 2. If the application packet is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If the Board issues a license, certificate, or approval during the administrative completeness review time-frame, the Board shall not send a separate written notice of administrative completeness.
- E. For each type of licensure, certification, or approval issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins to run on the ~~postmark~~ date of the notice of administrative completeness is issued.
1. During the substantive review time-frame, an applicant may make a request to withdraw an application packet. The Board may deny the request to withdraw an application packet if the applicant is the subject of an investigation, based on information gathered during the investigation.
 2. If an applicant discloses or the Board receives allegations of unprofessional conduct as described in A.R.S. § 32-1601 or this Chapter, the Board may shall review the allegations and may investigate an applicant who discloses prior unprofessional conduct defined in A.R.S. § 32-1601 and the applicant. The Board may require the applicant to provide additional information or documentation as prescribed in subsection (E)(3) if the Board believes that based on its assessment of whether the conduct is or might be harmful or dangerous to the health of a patient client or the public.
 3. During the substantive review time-frame, the Board may make one comprehensive written request for additional information ~~or documentation~~. The applicant shall submit the additional information ~~or documentation~~ within the period specified in Table 1. The time-frame for the Board to complete the substantive review of the application packet is suspended from the ~~postmark~~ date of the comprehensive written request for additional information ~~or documentation~~ is issued until the Board receives the additional information or documentation.
 4. If the applicant fails to provide the additional information ~~or documentation~~ identified in the comprehensive written request for additional information within the time specified in Table 1, the Board shall close the applicant's file and send a notice to the applicant by U.S. mail and electronically, if an electronic address is included in the application. ~~consider the application withdrawn and shall send a notice of withdrawal to the applicant~~ The Board may continue to process the application if the applicant is the subject of an investigation. Failure of the applicant to supply the requested information may result in denial of the license or certificate based on information gathered during the investigation.
 5. The Board shall grant licensure, conditional licensure, limited licensure, certification, or approval to an applicant:
 - a. Who meets the substantive criteria for licensure, certification, or approval required by ~~the Board~~ A.R.S. Title 32, Chapter 15 and this Chapter; and
 - b. Whose licensure, certification, or approval is in the best interest of the public.
 6. The Board shall deny licensure, certification, or approval to an applicant:
 - a. Who fails to meet the substantive criteria for licensure, certification, or approval required by ~~the Board~~ A.R.S. Title 32, Chapter 15 and this Chapter; or
 - b. Who has engaged in unprofessional conduct as defined described in A.R.S. § 32-1601 or this Chapter; and
 - c. Whose licensure, certification, or approval is not in the best interest of the public.
 7. The Board's written order of denial shall meet the requirements of A.R.S. § 41-1076. The applicant may request a hearing by filing a written request with the Board within 30 days of receipt of the Board's order of denial. The Board shall conduct hearings in accordance with A.R.S. ~~§ 41-1092 et seq.,~~ Title 41, Chapter 6, Article 10 and 4 A.A.C. 19,

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Table 1. Time-frames

Time-frames (in days)

Type of License, Certificate, or Program Approval	Applicable Statute and Section	Board Overall Time-frame Without Investigation	Board Overall Time-frame With Investigation	Board Administrative Completeness Review Time-frame	Applicant Time to Respond to Deficiency Notice	Board Substantive Review Time-frame Without Investigation	Board Substantive Review Time-frame With Investigation	Applicant Time to Respond to Comprehensive Written Request
Initial Approval of Nursing Programs Nursing Program Proposal Approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Provisional Approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207	150	Not applicable	60	180	90	Not applicable	120
Full Approval of Nursing Programs Nursing Program Full Approval or Re-approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-208, R4-19-210	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Change	A.R.S. § 32-1606(B)(1); R4-19-209	150	Not applicable	60	180	90	Not applicable	120
Approval of Refresher Programs Refresher Program Approval or Re-approval	A.R.S. § 32-1606(B)(21); R4-19-214	150	Not applicable	60	180	90	Not applicable	120
CNS or RNP Nursing Program Approval or Re-approval	A.R.S. §§ 32-1606(B)(18), 32-1644; R4-19-503	150	Not applicable	60	180	90	Not applicable	120
Credential Evaluation Service Approval or Re-approval	A.R.S. §§ 32-1634.01(A)(1), 32-1634.02(A)(1), 32-1639.01(1), 32-1639.02(1); R4-19-303	150	Not applicable	60	180	90	Not applicable	120
Licensure by Exam	A.R.S. §§ 32-1606(B)(5), 32-1633, 32-1638, and R4-19-301	150	270	30	270	120	240	150
Licensure by Endorsement	A.R.S. §§ 32-1606(B)(5), 32-1634, 32-1639, and R4-19-302	150	270	30	270	120	240	150
Temporary License or Renewal	A.R.S. §§ 32-1605.01(B)(3), 32-1635, 32-1640; R4-19-303 R4-19-304	60	90	30	60	30	60	90
License Renewal	A.R.S. §§ 32-1606(B)(5), 32-1642; R4-19-304 R4-19-305	120	270	30	270	90	240	150
School Nurse Certification or Renewal	A.R.S. §§ 32-1606(A)(7) and (B)(13), 32-1643(A)(8); R4-19-308 R4-19-309	150	270	30	270	120	240	150
Reinstatement Re-issuance or Subsequent Issuance of License	A.R.S. § 32-1664(O); R4-19-404	150	270	30	270	120	240	150
Nurse Practitioner Program Approval	R4-19-503	150	Not applicable	60	270	90	Not applicable	120
Registered Nurse Practitioner Certification or Renewal	A.R.S. §§ 32-1601(15), 32-1606(21); R4-19-504 R4-19-505, R4-19-506	150	270	30	180	120	240	150
RNP Prescribing and Dispensing Approval Privilege	A.R.S. § 32-1601(15); R4-19-507 R4-19-511	150	270	30	270	120	240	150
Clinical Nurse Specialist CNS Certification or Renewal	A.R.S. §§ 32-1601(5), 32-1606(21); R4-19-511 R4-19-505, R4-19-506	150	270	30	270	120	240	150
Prescribing Authority of a Certified Registered Nurse-Anesthetist CRNA Prescribing Privilege	A.R.S. § 32-1601(13)(m); R4-19-513 R4-19-515	150	270	30	270	120	240	150
Temporary RNP or CNS Certificate or Renewal	A.R.S. § 32-1635.01; R4-19-507	60	Not applicable	30	60	30	Not applicable	60
Approval of Nursing Assistant Training Programs Approval or Re-approval	A.R.S. § 32-1606(B)(11); R4-19-803, R4-19-804	120	Not applicable	30	180	90	Not applicable	120
Renewal of Approval of Nursing Assistant Training Programs	R4-19-804	120	Not applicable	30	180	90	Not applicable	120
Nursing Assistant Certification by Examination	A.R.S. §§ 32-1606(B)(11), 32-1647; R4-19-806	150	270	30	270	120	240	150
Nursing Assistant Certification by Endorsement	A.R.S. §§ 32-1606(B)(11), 32-1648; R4-19-807	150	270	30	270	120	240	150
Temporary CNA Certificate or Renewal	A.R.S. § 1646(A)(5); R4-19-808	60	Not applicable	30	60	30	Not applicable	60
Nursing Assistant Certificate Renewal	A.R.S. § 32-1606(B)(11); R4-19-809	120	270	30	270	90	240	150

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Reinstatement Re-issuance or Subsequent Issuance of a Nursing Assistant Certificate	A.R.S. § 32-1664(O); R4-19-815	150	270	30	270	120	240	150
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ARTICLE 4. REGULATION

R4-19-401. ~~Scope of Practice for a Practical Nurse~~ Standards Related to Licensed Practical Nurse Scope of Practice

- A.** A licensed practical nurse shall ~~provide nursing care~~ engage in practical nursing as defined in A.R.S. § 32-1601 only under the supervision of a ~~professional~~ registered nurse or licensed physician.
- B.** The scope of practice for a licensed practical nurse shall include planning, implementation, documentation, and evaluation of the following:
1. ~~Providing for the emotional and physical comfort of patients;~~
 2. ~~Observing, recording and reporting the condition of the patients including signs and symptoms which may be indicative of change in the patient's condition to the nurse's immediate supervisor;~~
 3. ~~Performing those nursing activities for which the licensed practical nurse has been prepared through basic education and those additional skills which are obtained through approved continued education programs;~~
 4. ~~Assisting with the rehabilitation of patients in accordance with the patient's care plan.~~
- B.** A LPN's nursing practice is limited to those activities for which the LPN has been prepared through basic practical nursing education in accordance with A.R.S. § 32-1637(1) and those additional skills that are obtained through subsequent nursing education and within the scope of practice of a LPN as determined by the Board.
- C.** A LPN shall:
1. Practice within the legal boundaries of practical nursing within the scope of practice authorized by A.R.S. Title 32, Chapter 15 and 4 A.A.C.19;
 2. Demonstrate honesty and integrity;
 3. Base nursing decisions on nursing knowledge and skills, the needs of clients, and licensed practical nursing standards;
 4. Accept responsibility for individual nursing actions, decisions, and behavior in the course of practical nursing practice.
 5. Maintain competence through ongoing learning and application of knowledge in practical nursing practice.
 6. Protect confidential information unless obligated by law to disclose the information;
 7. Report unprofessional conduct, as defined in A.R.S. § 32-1601(16) and further specified in R4-19-403 and R4-19-814, to the Board;
 8. Respect a client's rights, concerns, decisions, and dignity;
 9. Maintain professional boundaries; and
 10. Respect a client's property and the property of others.
- D.** In participating in the nursing process and implementing client care across the lifespan, a LPN shall:
1. Contribute to the assessment of the health status of clients by:
 - a. Recognizing client characteristics that may affect the client's health status;
 - b. Gathering and recording assessment data;
 - c. Demonstrating attentiveness by observing, monitoring, and reporting signs, symptoms, and changes in client condition in an ongoing manner to the supervising registered nurse or physician;
 2. Contribute to the development and modification of the plan of care by:
 - a. Planning episodic nursing care for a client whose condition is stable or predictable;
 - b. Assisting the registered nurse or supervising physician in identification of client needs and goals; and
 - c. Determining priorities of care together with the supervising registered nurse or physician;
 3. Implement aspects of a client's care consistent with the LPN scope of practice in a timely and accurate manner including:
 - a. Following nurse and physician orders and seeking clarification of orders when needed;
 - b. Administering treatments, medications, and procedures;
 - c. Attending to client and family concerns or requests;
 - d. Providing health information to clients as directed by the supervising RN or physician or according to an established educational plan;
 - e. Promoting a safe client environment;
 - f. Communicating relevant and timely client information with other health team members regarding:
 - i. Client status and progress;
 - ii. Client response or lack of response to therapies;
 - iii. Significant changes in client condition; and
 - iv. Client needs and special requests; and
 - g. Documenting the nursing care the LPN provided;
 4. Contribute to evaluation of the plan of care by:

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- a. Gathering, observing, recording, and communicating client responses to nursing interventions; and
- b. Modifying the plan of care in collaboration with a registered nurse based on an analysis of client responses.
- E.** A LPN assigns and delegates nursing activities. The LPN shall:
 - 1. Assign nursing care within the LPN scope of practice to other LPNs;
 - 2. Delegate nursing tasks to unlicensed assistive personnel (UAPs). In maintaining accountability for the delegation, the LPN shall ensure that the:
 - a. UAP has the education, legal authority, and demonstrated competency to perform the delegated task;
 - b. Tasks delegated are consistent with the UAP's job description and can be safely performed according to clear, exact, and unchanging directions;
 - c. Results of the task are reasonably predictable;
 - d. Task does not require assessment, interpretation, or independent decision making during its performance or at completion;
 - e. Selected client and circumstances of the delegation are such that delegation of the task poses minimal risk to the client and the consequences of performing the task improperly are not life-threatening;
 - f. LPN provides clear directions and guidelines regarding the delegated task or, for routine tasks on stable clients, verifies that the UAP follows each written facility policy or procedure when performing the delegated task;
 - g. LPN provides supervision and feedback to the UAP; and
 - h. LPN observes and communicates the outcomes of the delegated task.

R4-19-402. Scope of Practice for a Professional Nurse Standards Related to Registered Nurse Scope of Practice

- A.** The scope of practice for a professional nurse shall include the following:
 - 1. Performing those nursing activities for which the professional nurse has been prepared through basic education and additional skills which are obtained through approved continuing education programs;
 - 2. Providing the nursing supervision in the planning for and provision of nursing care to patients and the directing and evaluating of nursing care provided by other licensed nurses and other personnel;
 - 3. Providing patient education, both individualized and to the public;
 - 4. Assessing the patients needs, planning for, implementing, evaluating, and documenting the nursing care being provided to each patient.
- B.** A professional nurse shall be responsible both for the nursing care directly provided by the nurse and the care provided by others who are under the professional nurse's supervision.
- A.** A registered nurse (RN) shall perform only those nursing activities for which the RN has been prepared through basic registered nursing education and those additional skills which are obtained through subsequent nursing education and within the scope of practice of an RN as determined by the Board.
- B.** A RN shall:
 - 1. Practice within the legal boundaries of registered nursing within the scope of practice authorized by A.R.S. Title 32, Chapter 15 and 4 A.A.C. 19;
 - 2. Demonstrate honesty and integrity;
 - 3. Base nursing decisions on nursing knowledge and skills, the needs of clients, and registered nursing standards;
 - 4. Accept responsibility for individual nursing actions, decisions, and behavior in the course of registered nursing practice;
 - 5. Maintain competence through ongoing learning and application of knowledge in registered nursing practice;
 - 6. Protect confidential information unless obligated by law to disclose the information;
 - 7. Report unprofessional conduct, as defined in A.R.S. § 32-1601(16) and further specified in R4-19-403 and R4-19-814, to the Board;
 - 8. Respect a client's rights, concerns, decisions, and dignity;
 - 9. Maintain professional boundaries;
 - 10. Respect a client's property and the property of others; and
 - 11. Advocate on behalf of a client to promote the client's best interest.
- C.** In utilizing the nursing process to plan and implement nursing care for clients across the life-span, a RN shall:
 - 1. Conduct a nursing assessment of a client in which the nurse:
 - a. Recognizes client characteristics that may affect the client's health status;
 - b. Gathers or reviews comprehensive subjective and objective data and detects changes or missing information;
 - c. Applies nursing knowledge in the integration of the biological, psychological, and social aspects of the client's condition; and
 - d. Demonstrates attentiveness by providing ongoing client surveillance and monitoring;
 - 2. Use critical thinking and nursing judgment to analyze client assessment data to:
 - a. Make independent nursing decisions and formulate nursing diagnoses; and
 - b. Determine the clinical implications of client signs, symptoms, and changes, as either expected, unexpected, or emergent situations;
 - 3. Based on assessment and analysis of client data, plan strategies of nursing care and nursing interventions in which the

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nurse:

- a. Identifies client needs and goals;
 - b. Formulates strategies to meet identified client needs and goals;
 - c. Modifies defined strategies to be consistent with the client's overall health care plan; and
 - d. Prioritizes strategies based on client needs and goals;
 4. Provide nursing care within the RN scope of practice in which the nurse:
 - a. Administers prescribed aspects of care including treatments, therapies, and medications;
 - b. Clarifies health care provider orders when needed;
 - c. Implements independent nursing activities consistent with the RN scope of practice;
 - d. Institutes preventive measures to protect client, others, and self;
 - e. Intervenes on behalf of a client when problems are identified;
 - f. Promotes a safe client environment;
 - g. Attends to client concerns or requests;
 - h. Communicates client information to health team members including:
 - i. Client concerns and special needs;
 - ii. Client status and progress;
 - iii. Client response or lack of response to interventions; and
 - iv. Significant changes in client condition; and
 - i. Documents the nursing care the RN has provided;
 5. Evaluate the impact of nursing care including the:
 - a. Client's response to interventions;
 - b. Need for alternative interventions;
 - c. Need to communicate and consult with other health team members; and
 - d. Need to revise the plan of care;
 6. Provide comprehensive nursing and health care education in which the RN:
 - a. Assesses and analyzes educational needs of learners;
 - b. Plans educational programs based on learning needs and teaching-learning principles;
 - c. Ensures implementation of an educational plan either directly or by delegating selected aspects of the education to other qualified persons; and
 - d. Evaluates the education to meet the identified goals;
- D.** A RN assigns and delegates nursing activities. The RN shall:
1. Assign nursing care within the RN scope of practice to other RNs;
 2. Assign nursing care to a LPN within the LPN scope of practice based on the RN's assessment of the client and the LPN's ability;
 3. Supervise, monitor, and evaluate the care assigned to a LPN; and
 4. Delegate nursing tasks to UAPs. In maintaining accountability for the delegation, an RN shall ensure that the:
 - a. UAP has the education, legal authority, and demonstrated competency to perform the delegated task;
 - b. Tasks delegated are consistent with the UAP's job description and can be safely performed according to clear, exact, and unchanging directions;
 - c. Results of the task are reasonably predictable;
 - d. Task does not require assessment, interpretation, or independent decision making during its performance or at completion;
 - e. Selected client and circumstances of the delegation are such that delegation of the task poses minimal risk to the client and the consequences of performing the task improperly are not life-threatening;
 - f. RN provides clear directions and guidelines regarding the delegated task or, for routine tasks on stable clients, verifies that the UAP follows each written facility policy or procedure when performing the delegated task;
 - g. RN provides supervision and feedback to the UAP; and
 - h. RN observes and communicates the outcomes of the delegated task.

R4-19-403. Unprofessional Conduct

A. For the purpose of this Section:

1. "Failure to maintain professional boundaries" means any conduct or behavior of a nurse that, regardless of the nurse's intention, is likely to lessen the benefit of care to a patient, resident, or the family of a patient or resident and places the patient, resident, or family of the patient or resident at risk of being exploited financially, emotionally, or sexually; and
2. "Dual relationship" means a nurse simultaneously engages in both a professional and nonprofessional relationship with a patient that is avoidable, non-incident, and results in the patient being exploited financially, emotionally, or sexually.

B. No change

1. No change

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2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
 - a. No change
 - b. No change
9. No change
10. No change
11. No change
12. No change
13. No change
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15. No change
16. No change
17. No change
18. No change
19. No change
20. No change
21. No change
22. No change
23. No change
24. No change
25. No change
 - a. No change
 - b. No change
26. No change
27. No change
28. No change
 - a. No change
 - b. No change
 - c. No change
29. No change
 - a. No change
 - b. No change
 - c. No change
30. No change
31. No change

R4-19-404. Reinstatement Re-issuance or Subsequent Issuance of License

- A.** ~~A nurse whose license to practice nursing~~ The Board may restore a license to a nurse whose license has been suspended for a period of time shall be reinstated at termination of ~~after~~ the period of suspension if only upon submission to and acceptance by the Board of documentation which evidences that the conditions of the order have been met. the licensee provides written evidence that all requirements or conditions prescribed or ordered in the consent agreement or Board order for suspension have been met to the satisfaction of the Board. The Board may place conditions or limitations on the restored license. The license for of a nurse who fails to provide such documentation evidence of fulfilling the requirements or conditions prescribed by the Board shall remain on suspended status until such submission and acceptance by the Board.
- B.** ~~A nurse whose license to practice nursing has been denied or revoked in accordance with A.R.S. § 32-1663 may make application to the Board, after a period of 5 years subsequent to the date the license was revoked or last denied, for the issuance or reissuance of a license under the following terms and conditions:~~

 - ~~1. An application shall be submitted in writing, verified under oath, and shall contain therein or have attached thereto substantial evidence that the basis for denial or revocation has been removed and that the issuance of license will no longer constitute a threat to the public health or safety. The Board may require physical, psychological, or psychiatric evaluations, reports, and affidavits. These conditions shall be met before an application is considered.~~
 - ~~2. The Board shall consider the application and may designate a time for the applicant to appear at a regularly scheduled meeting of the Board so that evidence of qualification and competency to practice can be presented.~~
 - ~~3. After reviewing the evidence and deliberating the matter, the Board may:~~

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- a. ~~Grant the applicant a temporary permit to complete a specified period of supervised practice. On completion of the supervised practice period, the Board shall consider the evaluation of the applicant's performance and shall approve or deny the application or extend the period of supervised practice.~~
- b. ~~Deny the application. An applicant who is denied issuance or reissuance of a license shall have 10 days from the date of receipt of the notice of denial from the Board to file a request for hearing, in writing, with the Board. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.~~
- B.** A person whose nursing license is denied, revoked, or voluntarily surrendered under A.R.S. § 32-1663 may apply to the Board to issue or re-issue the license:
 - 1. Five years from the date of denial or revocation, or
 - 2. In accordance with the terms of a voluntary surrender agreement.
- C.** A person who applies for issuance or re-issuance of a license under the conditions of subsection (B) is subject to the following terms and conditions:
 - 1. The person shall submit a written application for issuance or re-issuance of the license that contains substantial evidence that the basis for surrendering, denying, or revoking the license has been removed and that the issuance or re-issuance of the license will not be a threat to public health or safety.
 - 2. Safe practice.
 - a. Under A.R.S. § 32-1664(F), the Board for reasonable cause may require a combination of mental, physical, nursing competency, psychological, or psychiatric evaluations, or any combination of evaluations, reports, and affidavits that the Board considers necessary to determine the person's competence and conduct to safely practice nursing.
 - b. Under A.R.S. 32-1664(K) the Board may issue subpoenas and compel the attendance of witnesses and the production of records and documentary evidence relevant to the person's ability to safely practice nursing.
 - 3. After receipt of the application, the information required under subsection (C)(2), and the completion of an investigation, the Board shall place the application on the agenda of a regularly scheduled Board meeting.
 - 4. After consideration of the application and any information required under subsection (C)(2), the Board may:
 - a. Grant the license with or without conditions or limitations;
 - b. If other licensure requirements have been met, grant, with or without conditions, a temporary license for the sole purpose of allowing the applicant to successfully complete an approved nurse refresher course; or
 - c. Deny the license if the Board determines that licensure might be harmful or dangerous to the health of a patient or the public.
 - 5. If the Board orders a refresher course described in subsection (C)(4)(b) the Board shall consider the applicant's performance in the approved refresher course and any other evidence, if available, of the applicant's safety to practice, and either deny the license under subsection (C)(4)(c) or grant the license with or without conditions or limitations.
 - 6. An applicant who is denied issuance or re-issuance of a license shall have 30 days from the date of issuance of the notice of denial from the Board to file a written request for hearing with the Board. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-405. Repealed Board-ordered Evaluations

- A.** Under A.R.S. § 32-1664(F), the Board may order a licensee or CNA certificate-holder to undergo an evaluation by an independent qualified evaluator for the purposes of determining the licensee's or certificate holder's safety and competence to practice. Evaluations may be in the areas of:
 - 1. Nursing knowledge or skills or both;
 - 2. Mental functioning, including but not limited to neuropsychological evaluation, and other cognition evaluations;
 - 3. Medical status including but not limited to medical review of drug screen results, chronic pain evaluation, physical examination, and biological testing;
 - 4. Psychiatric or psychological status including but not limited to substance abuse evaluation, boundary or sexual misconduct evaluations, and psychological testing; or
 - 5. Other similar evaluations that the Board determines are necessary to evaluate a licensee or certificate holder's ability to safely practice.
- B.** Before making the decision to order the evaluation, the Board shall review the allegations and investigative findings.
- C.** The Board retains the discretion to use an evaluator based on the evaluator's licensure history, the Board's past experience with the evaluator, and the quality of the evaluation provided. Before conducting a Board-ordered evaluation, a potential evaluator shall submit documentation that the evaluator:
 - 1. Possesses expertise and educational credentials in the area that the Board has ordered an evaluation;
 - 2. Holds a license or certificate in good standing with a licensing or certifying board located in the United States and discloses any past licensure disciplinary actions and criminal history;
 - 3. Will provide equipment and environmental conditions necessary to conduct a valid evaluation;
 - 4. Has no current or past treatment, collegial, or social relationship with the licensee or certificate holder, any family member of the licensee or certificate holder, or the licensee's or certificate holder's legal counsel;
 - 5. Will not enter into a treatment relationship with the licensee or certificate holder unless the relationship is unavoidable.

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able due to geographical location or the specific expertise of the evaluator; and

6. Agrees to keep information provided by the Board under subsection (D) confidential as evidenced by a signed confidentiality agreement provided by the Board.

D. Upon receipt of the evaluator's signed confidentiality agreement, the Board may provide confidential investigative information and documents to the evaluator for the purpose of disclosing the reason for the evaluation, the focus of the evaluation, and the conduct causing the Board to order the evaluation including:

1. The complaint and all information that has been received during the investigation of the complaint. Documents may include but are not limited to employment records, medical records, arrest records, conviction and sentencing records, excluding FBI fingerprint results, drug screen results, pharmacy profiles, witness statements, past licensure history, and a summary of information obtained during investigative interviews; and
2. The specific questions for which the Board is seeking answers; and

E. The evaluator shall provide the following information to the Board:

1. A professional report that is objective, thorough, timely, accurate, and defensible;
2. Evaluation findings including diagnosis if appropriate and assessment of ability to practice safely;
3. Recommendations for further evaluation, treatment, and remediation; and
4. Suggestions for assuring safe practice and compliance with treatment and remediation recommendations, if any.

ARTICLE 5. ADVANCED AND EXTENDED NURSING PRACTICE

R4-19-509. Delegation to Medical Assistants

A. Under A.R.S. §§ ~~32-1601(15)~~ 32-1456 and 32-1601(15)(d)(vii), an RNP may delegate patient care to a medical assistant in an office or outpatient setting. The RNP shall verify that a medical assistant to whom the RNP delegates meets at least one of the following qualifications:

1. Completed an approved medical assistant training program as defined in ~~R4-16-301~~ A.A.C. R4-16-101(3);
2. If a graduate of an unapproved medical assistant training program, passed the medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists;
3. Completed an unapproved medical assistant training program and was employed as a medical assistant on a continuous basis since completion of the program before February 2, 2000;
4. Was directly supervised by the same registered nurse practitioner for at least 2000 hours before February 2, 2000; or
5. Completed a medical services training program of the Armed Forces of the United States.

B. A medical assistant may perform, under the delegation and ~~onsite~~ direct supervision, as defined in A.R.S. § 32-1401, of a registered nurse practitioner, those acts authorized under A.R.S. § 32-1456(A) and ~~R4-16-303~~ A.A.C. R4-16-402.

ARTICLE 8. CERTIFIED NURSING ASSISTANTS

R4-19-814. Standards of Conduct for Certified Nursing Assistants

A. For the purpose of this Section:

1. ~~“Failure to maintain professional boundaries” means any conduct or behavior by a nursing assistant, regardless of the nursing assistant’s intention, that is likely to lessen the benefit of care to a patient, resident, or their family, and places the patient, resident, or their family, at risk of being exploited financially, emotionally, or sexually; and~~
2. ~~“Dual relationship” means a nursing assistant simultaneously engages in a professional and a nonprofessional relationship with a patient, resident, or their family that is avoidable, non-incident, and places the patient or resident at risk for financial, emotional, or sexual exploitation.~~

B. For purposes of A.R.S. § ~~32-1601(16)~~ 32-1601(16)(d), a practice or conduct that is or might be harmful or dangerous to the health of a patient or the public and constitutes a basis for disciplinary action on a certificate includes the following:

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
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change
16. No change

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- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
- 23. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 24. No change
- 25. No change
- 26. No change
- 27. No change
 - a. No change
 - b. No change
 - c. No change
- 28. No change
 - a. No change
 - b. No change
 - c. No change
- 29. No change

NOTICE OF FINAL RULEMAKING

TITLE 8. EMERGENCY AND MILITARY AFFAIRS

CHAPTER 5. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
PROJECT CHALLENGE

[R08-420]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| Article 1 | New Article |
| R8-5-101 | New Section |
| R8-5-102 | New Section |
| R8-5-103 | New Section |
| R8-5-104 | New Section |
| R8-5-105 | New Section |
| R8-5-106 | New Section |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 26-102(C)(5)
Implementing statute: A.R.S. § 26-102(C)(9)
- 3. The effective date for the rules:**
January 31, 2009
- 4. List of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 14 A.A.R. 3440, August 29, 2008
Notice of Proposed Rulemaking: 14 A.A.R. 3400, August 29, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: David Ervine, Information Technology Specialist III
Address: Department of Emergency and Military Affairs
Division of Emergency Management

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5636 E. McDowell Road, Building 103
Phoenix, AZ 85008

Telephone: (602) 231-6334
Fax: (602) 231-6271
E-mail: david.ervine@azdema.gov

or

Name: Clark S. Coldiron
Address: Project ChalleNGe
20395 E. Rittenhouse Road
Queen Creek, AZ 85242-9715

Telephone: (480) 988-4100, ext. 202
Fax: (480) 988-4121
E-mail: coldironc@azpc.org

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

Project ChalleNGe is a national program supported by the U.S. Department of Defense and the National Guard Bureau. Arizona has operated Project ChalleNGe since July 1993. During that time, it has provided a second chance for approximately 2,600 young people who did not complete high school. In this rulemaking, the Department sets forth the criteria for qualifying for and participating in Project ChalleNGe.

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 rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

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

The rules will have minimal economic impact. Those who want to participate in Project ChalleNGe, either as a cadet or mentor, will incur the cost of completing the application materials. They will make application voluntarily because they believe the benefits from participating in Project ChalleNGe exceed the costs of applying.

The economic impact of Project ChalleNGe is substantial. Data gathered at a national level show that 75% of participants complete high school. After completing the program, more than half join the work force, 19% join the military, and 20% continue their education. The data indicate that on a daily per capita basis, Project ChalleNGe is 85% less expensive than high school, 320% less expensive than Job Corps, 433% less expensive than juvenile corrections, and 600% less expensive than adult corrections.

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

The Department made minor changes between the proposed and final rules in response to comments by G.R.R.C. staff. The Department clarified language in R8-5-102(10) to indicate that not being on parole or probation is a prerequisite for being a cadet.

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

The Department received no comments regarding the rules.

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

A.R.S. § 26-102(C)(5) requires that these rules be approved by the Governor. This approval was given in a letter dated August 4, 2008, from the Governor's office to the Director of the Department.

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

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 8. EMERGENCY AND MILITARY AFFAIRS

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CHAPTER 5. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
PROJECT CHALLENGE

ARTICLE 1. PROJECT CHALLENGE

Section

<u>R8-5-101.</u>	<u>Definitions</u>
<u>R8-5-102.</u>	<u>Project ChalleNGe: Cadet Prerequisites</u>
<u>R8-5-103.</u>	<u>Project ChalleNGe Application</u>
<u>R8-5-104.</u>	<u>Procedure for Selecting Cadets</u>
<u>R8-5-105.</u>	<u>Project ChalleNGe: Mentor Requirements</u>
<u>R8-5-106.</u>	<u>Project ChalleNGe Mentor Application</u>

ARTICLE 1. PROJECT CHALLENGE

R8-5-101. Definitions

In this Chapter, unless otherwise specified:

“Applicant” means an individual who applies to the Department to be a cadet or mentor in Project ChalleNGe.

“Cadet” means an individual who participates in Project ChalleNGe.

“Department” means the Department of Emergency and Military Affairs as established at A.R.S. § 26-101.

“Director” means the director of Project ChalleNGe.

“Immediate family member” means parent, guardian, step-parent, foster parent, grandparent, brother, sister, aunt, uncle, niece, nephew, and first cousin.

“Mentor” means an adult volunteer who works with a cadet during the residential and post-residential phases to help the cadet achieve educational and career goals.

“Post-residential phase” means the 12 months following the residential phase during which a cadet works with a mentor to sustain positive lifestyle changes.

“Pre-ChalleNGe phase” means the first two weeks of program participation during which a cadet participates in physical, academic, and skill assessments.

“Project ChalleNGe” means a national program that is supported by the U.S. Department of Defense and the National Guard Bureau and implemented by various states.

“Residential phase” means five months of program participation during which a cadet lives in a quasi-military environment and focuses on basic lifestyle changes through education, training, and community service.

R8-5-102. Project ChalleNGe: Cadet Prerequisites

To participate as a cadet in Project ChalleNGe, an individual shall, at the time of acceptance:

1. Be 16, 17, or 18 years old unless the National Guard Bureau determines that an older age is required to accommodate a change in Arizona’s minimum legal age for leaving school;
2. Be a U.S. citizen or permanent resident alien;
3. Live in Arizona;
4. Be unemployed or underemployed;
5. Be physically and mentally able to participate, with a reasonable accommodation if necessary;
6. Identify two prospective mentors;
7. Be willing to comply with all Project ChalleNGe rules;
8. Not have graduated from high school;
9. Not test positive for the presence of illegal drugs or substances;
10. Not be on probation or parole;
11. Not have a felony adjudication or conviction;
12. Not have a felony action pending; and
13. Voluntarily apply to Project ChalleNGe.

R8-5-103. Project ChalleNGe Application

A. To apply to participate as a cadet in Project ChalleNGe, an applicant who meets the criteria in R8-5-102 shall complete and submit to Project ChalleNGe:

1. An application form, which is available from the Project ChalleNGe;
2. A statement in no more than 100 words of why the applicant wants to participate in Project ChalleNGe;
3. A copy of the applicant’s birth certificate;
4. A copy of the applicant’s Social Security card;

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5. A copy of the applicant's withdrawal form from an Arizona school;
 6. A copy of the applicant's transcript from an Arizona school; and
 7. A copy of all court documents relating to a juvenile record, felony adjudication or conviction, pending trial, or other pending court case.
- B.** In addition to completing the application and submitting the materials required under subsection (A), an applicant shall submit to Project ChalleNGe the following forms, as completed by the applicant's parent or guardian:
1. A health history questionnaire;
 2. A treatment authorization form;
 3. A signed and notarized special power of attorney for health care and general power of attorney;
 4. A transportation permission form;
 5. A waiver of liability form;
 6. An emergency medical information form; and
 7. A verification of medical insurance form.
- C.** If an applicant has coverage from an insurance provider, the applicant shall submit to Project ChalleNGe a photocopy of the front and back of the cards showing the following, as applicable:
1. Health insurance,
 2. Prescription medication coverage, and
 3. Dental insurance.
- D.** An applicant shall submit to Project ChalleNGe:
1. An immunization record showing the date on which the applicant received each immunization,
 2. A dental status form completed by a dentist authorized by law to practice in Arizona, and
 3. An eye examination form completed by an optometrist or ophthalmologist authorized by law to practice in Arizona.
- E.** An applicant shall ensure that a Project ChalleNGe physical evaluation form, completed within the last 12 months by a physician, nurse practitioner, or physician assistant authorized by law to practice in Arizona, is submitted to Project ChalleNGe by the applicant's parent or guardian.
- F.** An applicant shall ensure that the applicant's parent or guardian submits to Project ChalleNGe:
1. A psychological evaluation form completed by a psychiatrist, psychologist, social worker, counselor, or other mental-health professional authorized by law to practice in Arizona, and
 2. If the applicant received care from a psychiatrist, psychologist, social worker, counselor, or other mental-health professional, a copy of the most recent written report regarding the care and stating an opinion of whether the applicant is able to participate in Project ChalleNGe.
- G.** An applicant shall submit to Project ChalleNGe a completed application, as described in R8-5-106, from at least one potential mentor.

R8-5-104. Procedure for Selecting Cadets

- A.** An applicant who meets the criteria under R8-5-102 and complies fully with R8-5-103 is eligible to participate in Project ChalleNGe.
- B.** To assist with the selection process, Project ChalleNGe staff shall interview an eligible applicant and the eligible applicant's parent or guardian and recommend whether the applicant should be admitted to Project ChalleNGe.
- C.** The Director shall make the final decision regarding which eligible applicants are admitted to Project ChalleNGe. The Director shall give consideration to the diverse population of Arizona. Other things being equal, the Director shall give preference to older applicants.
- D.** After being notified of admission to Project ChalleNGe, a female applicant shall submit to Project ChalleNGe a well-woman evaluation form, completed by a physician or nurse practitioner authorized by law to practice in Arizona, which includes the result of a pregnancy test conducted within 30 days before the beginning of the Pre-ChalleNGe phase. The Director shall not allow a female applicant who is pregnant to participate in Project ChalleNGe.
- E.** An eligible applicant who is not admitted to Project ChalleNGe may re-apply by complying with R8-5-103.

R8-5-105. Project ChalleNGe: Mentor Requirements

To participate as a mentor in Project ChalleNGe, an individual shall:

1. Be at least 25 years old;
2. Be the same gender as the cadet to be mentored;
3. Not be an immediate family member of the cadet to be mentored;
4. Not live in the same household as the cadet to be mentored but live in the same geographic area as the cadet;
5. Be interested in and committed to the success of the cadet to be mentored;
6. Participate in training regarding the responsibilities of a mentor;
7. Contact the cadet at least four times each month and ensure that there are at least two face-to-face contacts each month during the post-residential phase;
8. Contact the cadet's Project ChalleNGe case manager every month;
9. Submit to Project ChalleNGe monthly reports, using a form that is available from Project ChalleNGe, regarding the

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cadet's progress;

10. Plan and complete a community service project with the cadet during the post-residential phase; and
11. Submit fingerprints and information necessary for Project ChalleNGe to conduct a criminal background check.

R8-5-106. Project ChalleNGe Mentor Application

- A.** To apply to participate as a mentor in Project ChalleNGe, an applicant who meets the criteria in R8-5-105 shall complete and submit to Project ChalleNGe, either directly or through an applicant as described in R8-5-103(G), an application form, which is available from Project ChalleNGe.
- B.** In addition to submitting the application form required under subsection (A), an applicant shall submit to Project ChalleNGe:
 1. A signed mentor liability release form;
 2. A signed list of mentor responsibilities indicating that the applicant has reviewed, understands, and agrees to fulfill the responsibilities listed;
 3. A signed authorization for release of information regarding the applicant to Project ChalleNGe; and
 4. A completed fingerprint card, which Project ChalleNGe shall use to conduct a criminal background history of the applicant.
- C.** Additionally, an applicant shall provide a copy of the Mentor Reference Response form, which is available from Project ChalleNGe, to four individuals, including at least one employer, and ask each individual to complete the form regarding the individual's opinion of the applicant's suitability to be a volunteer mentor to an at-risk youth and return the form to Project ChalleNGe.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES AND INFESTATIONS**

[R08-423]

PREAMBLE

- | | |
|--|---|
| <u>1. Sections Affected</u>
R9-6-103 | <u>Rulemaking Action</u>
New Section |
| <u>2. The statutory authority for the rulemaking, both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Authorizing statutes: A.R.S. §§ 36-132(A)(1), 36-136(A)(4) and (7), 36-136(F), 36-136(H)(1), and 36-664(E).
Implementing statute: A.R.S. § 36-664(E) | |
| <u>3. The effective date of the rules:</u>
January 31, 2009 | |
| <u>4. A list of all previous notices appearing in the Register addressing the final rule:</u>
Notice of Rulemaking Docket Opening: 13 A.A.R. 2269, June 29, 2007
Notice of Rulemaking Docket Opening: 14 A.A.R. 2863, July 18, 2008
Notice of Proposed Rulemaking: 14 A.A.R. 3166, August 8, 2008 | |
| <u>5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u> | |
| Name: | Ken Komatsu, State Epidemiologist |
| Address: | Department of Health Services
Division of Public Health Services
Office of Public Health Preparedness
150 N. 18th Ave., Suite 150
Phoenix, AZ 85007 |
| Telephone: | (602) 364-3587 |
| Fax: | (602) 542-2722 |
| E-mail: | komatsk@azdhs.gov |

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or

Name: Kathleen Phillips, Administrative Counsel and Rules Administrator
Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

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

A.R.S. § 36-664(E) states that the Arizona Department of Health Services (Department) or a local health agency "shall disclose communicable disease related information" to a Good Samaritan who submits a request to the Department or local health department. A.R.S. § 36-664(E) also states that the Department "shall adopt rules that prescribe standards of significant exposure risk" and "establish procedures for processing requests" from Good Samaritans. A Good Samaritan is defined in A.R.S. § 36-661 as "a person who renders emergency care or assistance in good faith and without compensation at the scene of any accident, fire or other life-threatening emergency and who believes that a significant exposure risk occurred while the person rendered care or assistance."

The current rules for Communicable Diseases and Infestations in Title 9, Chapter 6, do not address the disclosure of communicable disease-related information to a Good Samaritan. The Department is establishing a rule for the disclosure of communicable disease-related information to a Good Samaritan as R9-6-103. The new rule, R9-6-103, prescribes standards of significant exposure risk, establishes procedures for processing disclosure requests from Good Samaritans, and establishes procedures for disclosing requested communicable disease-related information to Good Samaritans.

Under the new rule, a Good Samaritan is an individual who happens to come across an accident, fire, or other life-threatening emergency and decides to render emergency care or assistance. A volunteer of a fire department or emergency medical services organization who is called to the scene of any accident, fire, or other life-threatening emergency to render emergency care or assistance is not considered to be a Good Samaritan.

A distinction is made in the new rule between a disclosure request made 72 hours or less after an alleged significant exposure risk and a disclosure request made more than 72 hours after an alleged significant exposure risk. This distinction is based on the time period during which post-exposure prophylaxis, for a majority of communicable diseases, is considered to be effective. Post-exposure prophylaxis is defined in the new rule as "treatment provided to an individual who may have been exposed to a communicable disease, which is intended to prevent infection of the individual." Post-exposure prophylaxis, to have any effect, typically has to be administered within 72 hours after a significant exposure risk. Thus, within 72 hours after an alleged significant exposure risk there is an emergency need for disclosure, which requires different submission requirements for making a disclosure request. This emergency need for disclosure no longer exists 72 hours after an alleged significant exposure risk has occurred. Accordingly, under the new rule, disclosure requests made more than 72 hours after an alleged significant exposure risk will be subject to more stringent submission requirements.

The new rule conforms to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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

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

Not applicable

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

Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when from \$1,000 to \$10,000, and substantial when greater than \$10,000 in additional costs or revenues. Costs are listed as significant when meaningful or important, but not readily subject to quantification.

The new rule may have an economic impact on: the Department; local health agencies; public safety employers, employees, and volunteers; health care providers; hospitals; community-based organizations; owners or operators of businesses employing a Good Samaritan or a contact of a Good Samaritan; Good Samaritans; contacts of Good Samaritans; assisted persons; and the community-at-large.

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The new rule is likely to cause the Department and local health agencies to incur a minimal cost to: enforce the rule; review and respond to Good Samaritan disclosure requests; disclose communicable disease-related information to Good Samaritans; and assign an individual to be the Designated Officer. Although not required by statute or rule, the Department and local health agencies may incur minimal-to-moderate costs for providing education about the new rule.

Although not required by statute or rule, the following groups may want to have knowledge of a Good Samaritan's right to request disclosure of communicable disease-related information: public safety employers, employees, and volunteers; health care providers; hospitals; and community-based organizations. Accordingly, the new rule may cause these groups to incur a minimal-to-moderate cost for obtaining and providing education about the new rule.

The new rule speaks about a Good Samaritan's ability to receive post-exposure prophylaxis. This information may lead to a Good Samaritan receiving post-exposure prophylaxis from a health care provider or a hospital. If a Good Samaritan receives post-exposure prophylaxis from a health care provider or a hospital, the health care provider or hospital may gain revenue. However, if post-exposure prophylaxis is administered and as a result the Good Samaritan does not become ill, a health care provider or hospital may lose revenue it would have received from treating an ill Good Samaritan. Thus, the new rule may cause a health care provider or hospital to both receive a minimal benefit and experience a minimal-to-moderate decrease in revenue.

Information provided by the new rule may lead to a request by and subsequent disclosure of communicable disease-related information to a Good Samaritan. A request for disclosure of communicable-disease related information may put the Department or a local health agency on notice of an exposure to a communicable disease, which, depending on the occupation of a Good Samaritan or contact of a Good Samaritan, may cause the Good Samaritan or contact of a Good Samaritan to be excluded from work. Thus, by potentially leading to a reduction in workforce, the new rule may cause an owner or operator of a business that employs a Good Samaritan or a contact of a Good Samaritan to incur a minimal-to-substantial cost. Disclosure of communicable disease-related information may lead to a Good Samaritan or a contact of a Good Samaritan not becoming infected, thus resulting in a reduction in both the risk of infection to other employees and patrons and the likelihood of the Good Samaritan or contact of the Good Samaritan being excluded from work. Accordingly, the owner or operator of a business that employs a Good Samaritan or contact of a Good Samaritan may receive a minimal-to-substantial benefit from the new rule.

A Good Samaritan is likely to receive significant benefit from the new rule because the rule clarifies how a Good Samaritan may exercise the right to request disclosure of communicable disease-related information. Good Samaritans also may receive significant benefit from the new rule because the rule may foster early identification of potential communicable disease exposure. If the new rule fosters early identification of potential communicable disease exposure, a Good Samaritan may not incur medical expenses or be excluded from work, causing the Good Samaritan to receive minimal-to-substantial benefit.

A Good Samaritan may incur a minimal cost to make a disclosure request for communicable disease-related information to the Department or a local health agency.

If a Good Samaritan is aware of an exposure to a communicable disease, the Good Samaritan may either stop interaction with a contact that could expose the contact to the communicable disease or warn a contact of possible exposure, thus fostering early detection by the contact. Accordingly, the information provided by the new rule may cause a contact of a Good Samaritan to receive significant benefit. The possibility of a contact of the Good Samaritan incurring medical expenses or being excluded from work also may be reduced as a result of the information provided by the new rule and the timely disclosure it will likely foster. Thus, the new rule may cause a contact of a Good Samaritan to receive minimal-to-substantial benefit.

Because the new rule subjects an assisted person to the release of his or her communicable disease-related information, an assisted person may incur a significant cost. The new rule also may encourage individuals to assist those in life-threatening situations, thus likely causing assisted persons and the community-at-large to receive significant benefit. The community-at-large may receive a significant benefit as a result of the new rule, because the rule may help lessen the incidence of disease or the potential for further communicable disease exposure.

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

In R9-6-103(A)(1) the term "voluntary" and phrase "or affirmation" were added to the definition of "affidavit."

In R9-6-103(A)(18) the phrase "or affirmation" was added to the defined phrase "under oath" and the phrase "or affirmed" was added to the definition of "under oath."

In R9-6-103(D)(3)(b) the phrase "has the ability to" was replaced with the term "may."

In R9-6-103(E)(1)(b) and (c) the phrase "Attempt to contact the Good Samaritan by telephone and" was added.

In R9-6-103(E)(1)(c)(iv) the term "occurred" was added.

In R9-6-103(E)(1)(d)(iv) the statutory citation A.R.S. § 36-664(G) was added and the phrase "and other state law" was removed.

In R9-6-103(E)(2)(b) the phrase "Attempt to contact the Good Samaritan by telephone and" was added.

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In R9-6-103(E)(2)(b)(ii) the phrase “has the ability to” was replaced with the term “may.”

In R9-6-103(E)(3)(b)(iv) the term “request” was replaced with the term “obtain.”

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

None

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 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 1. GENERAL

Section

R9-6-103. ~~Renumbered~~ Disclosure of Communicable Disease-Related Information to a Good Samaritan

ARTICLE 1. GENERAL

R9-6-103. ~~Renumbered~~ Disclosure of Communicable Disease-Related Information to a Good Samaritan

A. In this Section, unless otherwise specified, the following definitions apply:

1. “Affidavit” means a voluntary declaration or statement of facts that is made in writing and under oath or affirmation.
2. “Assisted person” means the individual with whom a Good Samaritan alleges interaction constituting a significant exposure risk.
3. “Available” means in the possession of or accessible by the Designated Officer who is reviewing a disclosure request.
4. “Communicable disease-related information” has the same meaning as in A.R.S. § 36-661.
5. “Designated Officer” means an individual appointed by the Director or a local health officer to:
 - a. Review a disclosure request from a Good Samaritan;
 - b. Determine whether disclosure of communicable disease-related information is required under A.R.S. § 36-664(E) and this Section; and
 - c. Respond to the Good Samaritan.
6. “Director” has the same meaning as in A.R.S. § 36-101.
7. “Disclosure request” means the information submitted by a Good Samaritan according to A.R.S. § 36-664(E) and subsection (C) or (D).
8. “Emergency care or assistance” means actions performed by an individual on or for another individual, which are necessary to prevent death or impairment of the health of the other individual.
9. “Emergency department” has the same meaning as in A.A.C. R9-11-101.
10. “Good Samaritan” has the same meaning as in A.R.S. § 36-661.
11. “In writing” means:
 - a. An original document.
 - b. A photocopy.
 - c. A facsimile, or
 - d. An e-mail.
12. “Medical consultation” means discussion between a Good Samaritan and:
 - a. A physician or a registered nurse practitioner working in an emergency department or urgent care unit;
 - b. An occupational health provider as defined in A.A.C. R9-6-801; or
 - c. Any other health care provider knowledgeable in determining circumstances when post-exposure prophylaxis is necessary.
13. “Mucous membrane” means a thin, pliable layer of tissue that lines passageways and cavities in the human body that lead to the outside, such as the mouth, gastrointestinal tract, nose, vagina, and urethra.
14. “Notarized” means signed and dated by a notary.

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15. “Notary” means any individual authorized to perform the acts specified under A.R.S. § 41-313.
16. “Post-exposure prophylaxis” means treatment provided to an individual who may have been exposed to a communicable disease, which is intended to prevent infection of the individual.
17. “Significant exposure risk” has the same meaning as in A.R.S. § 36-661.
18. “Under oath or affirmation” means a sworn or affirmed statement made by a Good Samaritan to a notary under the penalty of perjury.
19. “Urgent care unit” has the same meaning as in A.A.C. R9-11-201.
- B.** A significant exposure risk may occur when a Good Samaritan’s interaction with an individual results in:
 1. A transfer of blood or body fluids from the individual onto the mucous membranes or into breaks in the skin of the Good Samaritan; or
 2. A sharing of airspace between the Good Samaritan and the individual.
- C.** If a Good Samaritan makes a disclosure request to the Department or a local health agency 72 hours or less after an alleged significant exposure risk, the disclosure request shall include:
 1. The Good Samaritan’s name;
 2. The Good Samaritan’s mailing address or e-mail address;
 3. The telephone number at which the Good Samaritan may be reached during a working day;
 4. A description of the accident, fire, or other life-threatening emergency, in which the Good Samaritan rendered emergency care or assistance;
 5. A description of the:
 - a. Emergency care or assistance rendered by the Good Samaritan at the accident, fire, or other life-threatening emergency; and
 - b. Circumstances that the Good Samaritan believes constitute a significant exposure risk;
 6. If known, the name of the assisted person;
 7. If known, the date of birth of the assisted person; and
 8. Any additional information that may identify the assisted person.
- D.** If a Good Samaritan makes a disclosure request to the Department or a local health agency more than 72 hours after an alleged significant exposure risk, the disclosure request shall include:
 1. A statement in writing that the Good Samaritan is requesting communicable disease-related information for an assisted person as allowed under A.R.S. § 36-664(E);
 2. Documentation concerning the accident, fire, or other life-threatening emergency in which the Good Samaritan rendered emergency care or assistance; and
 3. A notarized affidavit that contains:
 - a. The information specified in subsections (C)(1) through (8);
 - b. A statement that the Good Samaritan understands that the Good Samaritan may seek medical consultation to determine whether post-exposure prophylaxis for a communicable disease is needed;
 - c. A statement that the Good Samaritan certifies that the declarations contained within the affidavit are truthful to the best of the Good Samaritan’s knowledge; and
 - d. The Good Samaritan’s signature.
- E.** Within two working days after the Department or a local health agency receives a disclosure request from a Good Samaritan, the Designated Officer shall:
 1. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan and communicable disease-related information is available for the assisted person:
 - a. Attempt to contact the Good Samaritan by telephone and provide the Good Samaritan with the communicable disease-related information:
 - i. For the assisted person;
 - ii. Pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person; and
 - iii. Without revealing the assisted person’s name;
 - b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that disclosure of communicable disease-related information for one communicable disease does not rule out the possibility that the Good Samaritan was exposed to other communicable diseases about which information is not available to the Designated Officer;
 - c. Attempt to contact the Good Samaritan by telephone and provide to the Good Samaritan information concerning the agent causing the communicable disease for which the Designated Officer is disclosing communicable disease-related information, including:
 - i. A description of the disease or syndrome caused by the agent, including its symptoms;
 - ii. A description of how the agent is transmitted to others;
 - iii. The average window period for the agent;

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- iv. An explanation that exposure to an individual with a communicable disease does not mean that infection has occurred or will occur;
 - v. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
 - vi. That it is necessary to notify others that they may be or may have been exposed to the agent through interaction with the Good Samaritan; and
 - vii. The availability of assistance from the Department, local health agencies, or other resources; and
 - d. Send to the Good Samaritan in writing:
 - i. The information specified in subsection (E)(1)(a);
 - ii. The notification specified in subsection (E)(1)(b);
 - iii. The information specified in subsection (E)(1)(c); and
 - iv. A statement that the confidentiality of the disclosed communicable disease-related information is protected by A.R.S. §§ 36-664(G) and 36-666(A)(2);
2. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan, but the Designated Officer is unable to provide communicable disease-related information for the assisted person:
- a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that either:
 - i. Communicable disease-related information, pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person, is not available to the Designated Officer; or
 - ii. The Designated Officer is unable to identify the assisted person from the information provided in the Good Samaritan's disclosure request, as specified in subsection (C) or (D);
 - b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that:
 - i. The Good Samaritan's interaction with the assisted person may pose a significant exposure risk to the Good Samaritan; and
 - ii. The Good Samaritan may seek medical consultation on the need for post-exposure prophylaxis; and
 - c. Send to the Good Samaritan in writing the notifications specified in subsections (E)(2)(a) and (b); and
3. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) does not indicate a significant exposure risk to the Good Samaritan:
- a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that the Designated Officer will not disclose any available communicable disease-related information for the assisted person; and
 - b. Send to the Good Samaritan in writing:
 - i. The notification specified in subsection (E)(3)(a);
 - ii. A statement that the Designated Officer's decision not to disclose communicable disease-related information to the Good Samaritan is based on A.R.S. § 36-664(E) and this Section;
 - iii. The Designated Officer's reasons for not disclosing communicable disease-related information to the Good Samaritan; and
 - iv. A statement that the Good Samaritan has the right to obtain a hearing as specified in A.R.S. § 41-1092.03(B).

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

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

[R08-417]

PREAMBLE

1. Sections Affected

R9-10-201
R9-10-202
R9-10-203
R9-10-234

Rulemaking Action

Amend
Amend
Amend
New Section

Notices of Final Rulemaking

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. §§ 36-132(A)(1), (17), and 36-136(F)

Implementing statutes: A.R.S. § 36-405(A) and (B)

3. The effective date of the rules:

December 2, 2008

The rules will become effective immediately upon filing with the Office of the Secretary of State after approval by the Governor's Regulatory Review Council (G.R.R.C.). ADHS is requesting an immediate effective date for this rulemaking, as authorized under A.R.S. §§ 41-1032(A)(1) and (5).

The rule revision amends the requirements for an organized service in a hospital. Currently, a hospital may only provide one organized service in a unit of the hospital. The rule revision permits a hospital to provide more than one organized service in a single hospital unit. Hospitals are now being planned that will admit an individual to a unit and provide more than one organized service to the individual in a single multi-organized service unit, eliminating the need for physically transferring the individual to different organized service units during the individual's recovery. The rulemaking amends the rules to allow for this innovative delivery of care model. Additionally, the rulemaking removes an unclear provision in R9-10-203 regarding informed consent. The provision is unclear and it is not enforced. Therefore, the Department is removing this provision.

Permitting a hospital to use an innovative delivery of care model preserves the public health and safety because of improved care available to patients in hospitals. A.R.S. § 41-1032(A)(1). Additionally, the rule revision contains less stringent requirements than the rule previously in effect. The rule revision permits a model of care that was not previously permitted by the rules. The rule revision does not have an impact on the public health, safety, welfare or environment and does not affect the public involvement or public participation process. The rule revision will not have an adverse impact on the health, safety, or welfare of hospital patients or the public. The removal of the informed consent provision in R9-20-203 does not have an impact on the health, safety, or welfare of hospital patients or the public because the rules adequately regulate informed consent in R9-10-209 and R9-10-210. A.R.S. § 41-1032(A)(5).

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 3498, September 5, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 3477, September 5, 2008

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

Name: Kathleen Phillips, Administrative Counsel and Rules Administrator

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

Telephone: (602) 364-3030

Fax: (602) 364-4764

E-mail: mccannk@azdhs.gov

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

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

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

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

The rulemaking updates several outdated statutory references.

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

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

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:

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

Cost bearers

Hospitals

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

Beneficiaries

Hospitals

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

Hospital patients

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

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

In the proposed rules, R9-20-202(A)(1)(b), the requirement that a licensee list the types of multi-organized service units the licensee is requesting licensure for, included a list of the types of multi-organized service units a hospital may establish. The Department determined that this language was unclear and duplicative of language in the proposed R9-10-234. Therefore, the language was removed. Additionally, the Department added the phrase "if applicable" to R9-20-202(A)(1)(b) to clarify that a hospital is not required to establish a multi-organized service unit. No substantive changes were made to the rules between the proposed rules and the final rules.

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

The Department did not receive any comments regarding the rulemaking.

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

Not applicable

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

Not applicable

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: LICENSING

ARTICLE 2. HOSPITALS

Section

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

ARTICLE 2. HOSPITALS

R9-10-201. Definitions

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

1. “Accredited” has the same meaning as in A.R.S. § ~~36-422(I)~~ 36-422(J)(1).
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
14. No change
 - a. No change
 - b. No change
 - c. No change
15. No change
16. No change
17. No change
18. No change
19. No change
20. No change
21. No change
22. “Continuing care nursery” means a nursery where medical services and nursing services are provided to a neonate who does not require intensive care services.
- ~~22-23.~~ No change
- ~~23-24.~~ No change
- ~~24-25.~~ No change
 - a. No change
 - b. No change
 - c. No change
- ~~25-26.~~ No change
- ~~26-27.~~ No change
- ~~27-28.~~ No change
- ~~28-29.~~ No change
- ~~29-30.~~ No change
- ~~30-31.~~ No change
- ~~31-32.~~ No change
- ~~32-33.~~ No change
- ~~33-34.~~ No change

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34-35. No change

35-36. No change

36-37. No change

37-38. No change

38-39. No change

39-40. No change

40-41. No change

41-42. No change

42-43. No change

43-44. No change

44-45. No change

45-46. No change

46-47. No change

47-48. No change

48-49. No change

49-50. No change

50-51. No change

51-52. No change

52-53. No change

53-54. No change

54-55. No change

a. No change

b. No change

55-56. No change

56-57. No change

57-58. No change

58-59. No change

a. No change

b. No change

59-60. No change

60-61. No change

61-62. No change

62-63. No change

64. No change

63-65. No change

65-66. No change

66-67. No change

67-68. No change

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

68-70. No change

a. No change

b. No change

69-71. No change

70-72. No change

71-73. No change

73-74. No change

72-75. No change

74-76. No change

75-77. No change

76-78. No change

77-79. No change

a. No change

b. No change

c. No change

78-80. No change

79-81. No change

80-82. No change

a. No change

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- b. No change
- ~~81-83.~~ No change
- ~~82-84.~~ No change
- ~~83-85.~~ No change
- ~~84-86.~~ No change
- ~~85-87.~~ No change
- ~~86-88.~~ No change
- ~~87-89.~~ No change
- ~~88-90.~~ No change

- a. No change
- b. No change

- ~~89-91.~~ No change
- ~~90-92.~~ No change
- ~~91-93.~~ No change
- ~~92-94.~~ No change
- ~~93-95.~~ No change
- ~~94-96.~~ No change
- ~~95-97.~~ No change
- ~~97-98.~~ No change
- ~~96-99.~~ No change

100. No change

~~98-101.~~ No change

~~99-102.~~ No change

~~101-103.~~ No change

~~102-104.~~ No change

~~103-105.~~ "Satellite facility" has the same meaning as in A.R.S. § ~~36-422(I)~~ 36-422(J)(2).

~~104-106.~~ No change

~~105-107.~~ No change

~~106-108.~~ No change

~~107-109.~~ No change

~~108-110.~~ No change

~~109-111.~~ No change

- a. No change

- b. No change

~~110-112.~~ No change

~~111-113.~~ No change

~~112-114.~~ No change

- a. No change

- b. No change

- c. No change

~~113-115.~~ No change

~~114-116.~~ No change

~~115-117.~~ No change

~~116-118.~~ No change

~~117-119.~~ No change

~~118-120.~~ No change

~~119-121.~~ No change

- a. No change

- b. No change

- c. No change

~~120-122.~~ No change

~~121-123.~~ No change

~~122-124.~~ No change

~~123-125.~~ No change

R9-10-202. Application Requirements

- A. For a hospital license, ~~in~~ in addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. ~~Title 9,~~ Chapter 10, Article 1, a governing authority applying for an initial or renewal license shall submit the following to the Department:

- ~~1. For a hospital license:~~

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- a. ~~A statement on a form provided by the Department of the licensed capacity requested for the hospital, including the number of inpatient beds for each organized service, not including well-baby bassinets.~~
- 1. A statement of the licensed capacity requested for the hospital, on a form provided by the Department, including:
 - a. The number of inpatient beds for each organized service, not including well-baby bassinets; and
 - b. If applicable, the number of inpatient beds for each multi-organized service unit;
- ~~b.2.~~ No change
- e.3. A copy of an accreditation report if the hospital is accredited and chooses to submit a copy of the report instead of receiving a ~~license compliance~~ inspection by the Department ~~in compliance with~~ according to A.R.S. § 36-424(C).
- 2.~~B.~~ For a single group license authorized in A.R.S. § 36-422(F) or (G); in addition to the requirements in subsection (A), a governing authority applying for an initial or renewal license shall submit the following to the Department on a form provided by the Department:
 - a. ~~The items listed in subsection (A)(1); and~~
 - b. ~~A form provided by the Department that includes:~~
 - i.1. No change
 - ii.2. No change
 - iii.3. No change
- ~~B.C.~~ No change
 - 1. Notify the Department when there is a change in administrator according to A.R.S. § ~~36-425(E)~~ 36-425(I);
 - 2. No change
 - 3. Submit an application, according to the requirements in 9 A.A.C. ~~Title 9, Chapter 10~~, Article 1, at least 60 days but not more than 120 days before an accredited facility licensed under a single group license anticipates providing medical services under a license separate from the single group license.

R9-10-203. Administration

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

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

R9-10-234. Multi-organized Service Unit

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

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

B. An administrator shall require that:

- 1. For a patient in a multi-organized service unit, a medical staff member designates in the patient's medical record which organized service is to be provided to the patient;
- 2. A multi-organized service unit is in compliance with the requirements in this Article that would apply if each orga-

Notices of Final Rulemaking

3. nized service were offered as a single organized service unit; and
A multi-organized service unit and each bed in the unit are in compliance with physical plant health and safety codes and standards incorporated by reference in A.A.C. R9-1-412 for all organized services provided in the multi-organized service unit.

NOTICE OF FINAL RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

[R08-424]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| Article 4 | Amend |
| R10-4-401 | Amend |
| R10-4-402 | Renumber |
| R10-4-402 | New Section |
| R10-4-403 | Renumber |
| R10-4-403 | Amend |
| R10-4-404 | Renumber |
| R10-4-404 | Amend |
| R10-4-405 | New Section |
| R10-4-406 | Renumber |
| R10-4-406 | 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. § 41-2405(A)(8)
Implementing statute: A.R.S. § 41-2402
- 3. The effective date for the rules:**
January 31, 2009
- 4. List of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 14 A.A.R. 1448, April 25, 2008
Notice of Proposed Rulemaking: 14 A.A.R. 3485, September 5, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Kathy Karam, Program Manager
Address: Arizona Criminal Justice Commission
1110 W. Washington St., Suite 230
Phoenix, AZ 85007
Telephone: (602) 364-1162
Fax: (602) 364-1175
E-mail: kkaram@azcjc.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**
The Commission is amending its rules regarding the Drug and Gang Enforcement Account to make them more clear, concise, and understandable and consistent with current rule writing standards, state and federal law, and agency practice. The Commission is adding a requirement that grant recipients provide some matching funds.
- 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 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:**

Notices of Final Rulemaking

Not applicable

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

The rule changes will have some economic impact. The most significant change is to require that a grantee provide matching funds for an award of Account funds. This change is necessary to enable the Commission to distribute Account funds more widely. An approved agency that does not want to provide matching funds does not have to submit a grant application.

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

The Commission made minor changes to items 6 and 9 of the Preamble to ensure that the information provided accurately reflects the text of the rules. The Commission also clarified the rules by:

- Adding a definition of “A-133 audit report” to R10-4-401;
- Changing the word “appeal” to “request for modification” in R10-4-405;
- Providing detail in R10-4-405 regarding the time in which to make a request for modification; and
- Making minor word-choice changes in response to comments from Council staff.

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

The Commission received no comments regarding the 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

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

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

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

Section

R10-4-401. Definitions

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

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

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

~~R10-4-405.~~ Request for Modification of Recommended Allocation Plan

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

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

R10-4-401. Definitions

In this Article:

“A-133 audit report” means a report on an audit conducted in accordance with the standards for obtaining consistency and uniformity among federal agencies for the audit of non-federal entities expending federal awards established by the Office of Management and Budget in Circular A-133.

1. “Account” means the Drug and Gang Enforcement Account established by A.R.S. § 41-2402.

2. “Commission” means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.

3. ~~“Approved Program or Project” means a program or project delivering services that meet the requirements of A.R.S. § 41-2402.~~

“Applicant” means an approved agency or task force that submits an application for a grant from the Account.

4. ~~“Approved Agency agency” means a unit of state, county, or local, or tribal government providing services that meet the requirements of working to accomplish one or more of the goals established at A.R.S. § 41-2402 41-2402(A).~~

“Approved project” means a planned endeavor to accomplish one or more of the goals established at A.R.S. § 41-

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2402(A) for which a grant is made from the Account.

“Commission” means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.

“Committee” means the Drug, Gang, and Violent Crime Committee of the Commission.

“Host agency” means an approved agency that submits a grant application and required reports on behalf of a task force.

“Matching funds” means non-federal and non-Account money or program income that a grant recipient adds to a grant from the Account and spends to accomplish the goals of an approved project.

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

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

R10-4-402. General Information Regarding Grants

A. The Commission shall annually request grant applications and make grant awards of Account funds.

B. The Commission’s ability to make grant awards is contingent upon the availability of Account funds.

C. The Commission shall publish its priorities for grant awards in a report of the state’s strategy for combating drugs, gangs, and violent crime. This report also includes the plan approved by the federal government and referenced under A.R.S. § 41-2402(F).

D. The Commission shall make all information regarding grants, including the request for grant applications and application and report forms, available on its web site.

E. The Commission shall ensure that training regarding grant application procedures and grant management are made available to interested approved agencies.

F. The Commission shall provide oversight of all grants awarded, which may include conducting a financial review or audit of a grant recipient, to ensure that Account funds are expended in compliance with all terms of the grant agreement and all applicable state and federal laws.

G. The Commission shall require that a grant recipient provide matching funds in the amount specified in the request for grant applications.

H. The Commission shall not require a grant recipient to provide matching funds that exceed 25% of the total project budget.

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

A. An approved agency or task force may submit an application for a grant from the Account. If application is made by a task force, members of the task force shall identify a host agency.

B. To apply for Account money, an approved agency An applicant shall access, complete, and submit to the Commission a written the application for Account money containing the following form that is available on the Commission’s web site. The applicant shall provide the following information:

1. Title of the application and proposed project;

2. Purpose specified in A.R.S. § 41-2402(A) that the proposed project will address;

3. Statement of whether the application is a request to continue a previously approved project;

4. The name Name and address of the applicant agency;

5. List of member agencies of the task force if the applicant is a task force;

a-6. The name Name of the authorized official submitting individual authorized to submit the application;

b-7. The name Name of the person with primary responsibility individual responsible for administering and supervising the approved program or proposed project, and;

e. The name of the person responsible for fiscal matters relating to the approved program or project;

2. The amount of Account money requested;

3. The purpose of the request for Account money, consistent with A.R.S. § 41-2402(A);

4. The program or project title;

5. The program or project description including:

a. The goals and objectives to be achieved by the program or project, and the method for evaluating the achievements of the program or project;

b. The estimated amount of the applicant agency’s funds and resources allocated to the program or project;

e. The estimated total project cost;

d. A detailed budget of how the Account money will be used;

e. An estimated completion date; and

f. The anticipated fiscal and operational impact Account money will have on the applicant agency.

8. Statement of the mission of the proposed project;

9. Statement of the problem addressed by the proposed project including data reflecting:

a. The scope of the problem, and

b. The absence or inadequacy of current resources to address the problem;

10. Summary of the proposed project that explains how the proposed project seeks to address the problem identified;

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11. Description of collaborative efforts among law enforcement, prosecution, community organizations, social service agencies, and others that will be involved with the proposed project;
 12. Description of the methodology that will be used to evaluate the effectiveness of the proposed project;
 13. Goals of the proposed project stating what the proposed project is intended to accomplish;
 14. Objectives that are specific, measurable, and directly correlated to the goals of the proposed project;
 15. Detailed budget that includes:
 - a. Total amount to be expended on the proposed project including both Account and matching funds;
 - b. Estimated amount to be expended for various allowable expenses and the manner in which the estimate was determined;
 - c. Sources of the required matching funds; and
 - d. Statement of whether Account funds received will be used as matching funds for another grant program and if so, the name of the grant program and funding agency;
 16. Date of the jurisdiction's current A-133 audit report;
 17. Description of the internal controls the applicant will use to ensure compliance with all terms of the grant agreement;
 18. Description of plan to sustain the project if Account funds are no longer available; and
 19. Signature of the individual identified in subsection (B)(6) certifying that the information presented is correct and that if a grant is received, the applicant will comply with the terms of the grant agreement and all applicable state and federal laws.
- C.** In addition to submitting the application form required under subsection (B), an applicant shall submit to the Commission:
1. A copy of the jurisdiction's current A-133 audit report or if the jurisdiction does not have a current A-133 audit report, a copy of all correspondence relating to an extension of time to have an audit completed;
 2. If the applicant is a task force, a letter on agency letterhead or another document from each member agency of the task force describing the manner in which the member intends to contribute to the proposed project; and
 3. If the applicant's jurisdiction applied directly for federal criminal justice grant funding, a copy of the application.

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

- A.** The Commission shall ~~review~~ ensure that each application that is submitted timely and proposes a project eligible for funding from the Account is evaluated, and make a decision to ~~After the applications are evaluated, the Committee shall forward a recommended allocation plan to the Commission. The Commission shall grant or deny funding within 90 days of the last day on which applications may be submitted after the application deadline.~~
- B.** If the Commission determines that it needs additional information is needed to facilitate its review of an application, the Commission shall:
1. Request the additional information from the applicant agency, or
 2. Request application modifications the applicant to amend the application.
- C.** After review, the ~~The~~ Commission shall ~~vote to approve or disapprove the application grant funding,~~ in whole or in part, or deny funding on the basis of using standards prescribed in the plan approved by the federal government for federal money deposited into the Account as provided and referenced under A.R.S. § 41-2402(F).
- D.** The standards referenced in subsection (C) include an assessment of whether the proposed project:
1. Is directed toward a problem that is demonstrated by statistical data;
 2. Is designed to address the identified problem;
 3. Is a coordinated effort among multiple approved agencies;
 4. Has specific goals;
 5. Has measurable objectives that relate to the goals;
 6. Has appropriate methods for evaluating achievement of objectives;
 7. Has a reasonable budget of allowable expenses;
 8. Has identified the required matching funds;
 9. Has internal controls to monitor expenditure of Account funds; and
 10. If the program was previously funded, all grant requirements were met timely and there were no reportable deficiencies during monitoring reviews.

R10-4-405. Request for Modification of Recommended Allocation Plan

- A.** Commission staff shall provide an applicant with at least five days' notice of the Committee's recommended allocation plan and the date, time, and location of the meeting at which the Committee will make a decision about forwarding the recommended allocation plan to the Commission for its action.
- B.** If an applicant disagrees with the recommended allocation plan, the applicant may verbally request that the Committee modify the recommended allocation plan. The Committee shall consider the request for modification before forwarding the recommended allocation plan to the Commission.
- C.** Commission staff shall provide an applicant with at least five days' notice of the date, time, and location of the meeting at which the Commission will consider the recommended allocation plan.
- D.** If an applicant disagrees with the recommendation of the Committee, the applicant may verbally request that the Commis-

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sion modify the recommended allocation plan. The Commission shall consider the request for modification when making a final decision to award or deny a grant of Account funds to the applicant. The Commission's decision is final.

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

- ~~A.~~ No later than September 30 each year, a grantee shall submit a written report to the Commission that contains:
 1. The amount of Account money held by the grantee at the beginning of the fiscal year;
 2. The amount of Account money received by the grantee from the Commission during the fiscal year;
 3. The amount of Account money expended to achieve the goals and objectives stated in the application;
 4. A narrative assessment of the effective and efficient use of Account money to meet stated goals and objectives during the fiscal year, including an assessment of enhanced efforts to deter, investigate, prosecute, adjudicate, and punish drug offenders and members of criminal street gangs;
 5. The amount and disposition of assets seized, money generated by fines, and other financial benefits generated by the grantee, as a result of the use of Account money; and
 6. Other information the Commission may request to comply with requests from the federal government for information related to the expenditure of federal grant money from the Account.
- ~~B.~~ The Commission shall compile this information in the annual report required under A.R.S. § 41-2405(A)(12) and forward it to the Governor, President of the Senate, and Speaker of the House of Representatives.
- ~~A.~~ The Commission shall annually prepare and submit the report required under A.R.S. § 41-2405(A)(11) and the report required by the federal government regarding the current criminal justice grant program. The Commission shall use data submitted by grant recipients as specified in the recipient's grant agreement to prepare these reports.
- ~~B.~~ A grant recipient shall submit to the Commission financial, activity, and progress reports documenting the activities supported by the Account funds. The grant recipient shall submit the reports as specified in the grant agreement. The specific reports required are determined by the nature of the proposed project. A grant recipient shall submit a required report by the 25th day following the end of the month or quarter in which the report is due.
- ~~C.~~ The Commission shall not distribute Account funds to a grant recipient that fails to submit a required report within 60 days of its due date.
- ~~D.~~ A grant recipient shall cooperate with and participate in all assessment, evaluation, or data collection efforts authorized by the Commission.
- ~~E.~~ The Commission has the right to obtain, reproduce, publish, or use information provided in the required reports or assessment, evaluation, or data collection efforts. When in the best interest of the state, the Commission may authorize others to receive and use the information.

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY

~~CONCEALED WEAPONS~~ CONCEALED WEAPONS PERMITS

[R08-425]

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R13-9-101	Amend
R13-9-102	Amend
R13-9-103	Amend
R13-9-104	Amend
Table 1	Amend
Article 2	Amend
R13-9-201	Amend
R13-9-202	Amend
R13-9-203	Amend
R13-9-204	Amend
R13-9-206	Amend
R13-9-208	Amend
R13-9-302	Amend
R13-9-305	Amend
R13-9-307	Amend
R13-9-308	Amend

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R13-9-309	Amend
R13-9-310	Amend
R13-9-402	Amend
R13-9-403	Amend
R13-9-404	Amend
R13-9-501	Amend
R13-9-502	Amend
R13-9-601	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. § 13-3112(T)

Implementing statute: A.R.S. § 13-3112

3. The effective date for the rules:

January 31, 2009

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 3443, August 29, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 3546, September 12, 2008

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

Name: Lieutenant Laurence Burns, Licensing and Regulatory Bureau Commander

Address: P. O. Box 6638
Mail drop 1170
Phoenix, AZ 85005-6638

Telephone: (602) 223-2404

Fax: (602) 223-2928

E-mail: lburns@azdps.gov

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

The Department is amending the rules to incorporate statutory changes made during the 2008 legislative session. The legislature made the following changes to A.R.S. § 13-3112:

- Having a felony conviction no longer automatically disqualifies an individual from obtaining a Concealed Weapons Permit. An individual with a felony conviction is able to obtain a permit if the conviction was expunged, set aside, or vacated or the individual's civil rights were restored unless the individual is a prohibited possessor under state or federal law.
- Obtaining a Concealed Weapons Permit requires adequate documentation, dated no more than five years, rather than 12 months, before the date of application, that an applicant completed an authorized firearms-safety training program.
- Allowing an individual to become a firearms-safety instructor if the individual has only NRA certifications in pistol and personal protection.

The Department is making other minor, clarifying changes.

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 rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

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

The rulemaking will have minimal economic impact because it simply makes the rules consistent with recent statutory changes. The statutory changes have economic impact, which the legislature considered when amending A.R.S. § 13-3112. The primary economic impact of the statutory change is on the Department, which will have to deal with applications from convicted felons who believe they are now eligible to have a Concealed Weapons Permit.

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

The Department made only minor, non-substantive, word choice changes between the proposed and final rules.

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

The Department received no comments regarding the 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

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

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 13.PUBLIC SAFETY

**CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY
~~CONCEALED WEAPONS~~ CONCEALED WEAPONS PERMITS**

ARTICLE 1. GENERAL PROVISIONS

Section

- R13-9-101. Definitions
- R13-9-102. Application and Processing Fees
- R13-9-103. Application Forms
- R13-9-104. Time-frames for Department Action on Applications
- Table 1. Time-frames for Department Action on Applications (in days)

**ARTICLE 2. ~~CONCEALED WEAPONS~~ CONCEALED WEAPONS PERMIT: APPLICATION; RENEWAL;
RESPONSIBILITIES**

Section

- R13-9-201. ~~Concealed weapons~~ Concealed Weapons Permit Eligibility
- R13-9-202. Application for a ~~Concealed weapons~~ Concealed Weapons Permit
- R13-9-203. Issuance of a ~~Concealed weapons~~ Concealed Weapons Permit
- R13-9-204. Renewal of ~~Concealed weapons~~ Concealed Weapons Permit
- R13-9-206. Lost, Stolen, or Damaged ~~Concealed weapons~~ Concealed Weapons Permit
- R13-9-208. Change in Name of Permit Holder

ARTICLE 3. FIREARMS-SAFETY TRAINING: ORGANIZATIONS AND INSTRUCTORS

Section

- R13-9-302. Application for ~~Approval~~ Authorization of a Firearms-safety Training Organization
- R13-9-305. Responsibilities of the Responsible Party of an ~~Approved~~ Authorized Firearms-safety Training Organization
- R13-9-307. Eligibility for ~~Approval~~ Authorization as a Firearms-safety Instructor
- R13-9-308. Application for ~~Approval~~ Authorization as a Firearms-safety Instructor
- R13-9-309. Renewal of ~~Approval~~ Authorization as a Firearms-safety Instructor
- R13-9-310. Firearms-safety Instructor Responsibilities

ARTICLE 4. CERTIFICATE OF FIREARMS PROFICIENCY

Section

- R13-9-402. Application for a Certificate of Firearms Proficiency
- R13-9-403. Issuance of a Certificate of Firearms Proficiency
- R13-9-404. Renewal of a Certificate of Firearms Proficiency

ARTICLE 5. LEOSA-RECOGNIZED INSTRUCTORS

Section

- R13-9-501. Application for Recognition as a LEOSA Instructor

ARTICLE 6. HEARINGS AND DISCIPLINARY PROCEEDINGS

Section

- R13-9-601. Suspension and Revocation

ARTICLE 1. GENERAL PROVISIONS

R13-9-101. Definitions

In this Chapter, unless otherwise specified:

1. "Adequate documentation" has the same meaning as prescribed in A.R.S. § 13-3112(E)(6).
- ~~1-2.~~ No change
- ~~2-3.~~ "Applicant" means an individual or organization that submits an application form and the required fee to the Department for:
 - a. ~~A concealed weapons permit~~ Concealed Weapons Permit,
 - b. ~~Renewal of a concealed weapons permit~~ Concealed Weapons Permit,
 - c. ~~Firearms-safety instructor approval~~ authorization,
 - d. ~~Renewal of firearms-safety instructor approval~~ authorization,
 - e. ~~Firearms-safety training organization approval~~ authorization,
 - f. No change
 - g. No change
- ~~3.~~ ~~"Certificate of completion" means a document showing that the holder completed an eight-hour, Department-approved, firearms safety training program.~~
4. No change
5. No change
6. "Completion certificate" means adequate documentation that an individual completed an eight-hour, Department-authorized, firearms-safety training program.
- ~~6-7.~~ No change
- ~~7-8.~~ No change
- ~~8-9.~~ No change
- ~~9-10.~~ "Firearms-safety instructor" means an individual who is ~~approved~~ authorized under this Chapter to conduct firearms-safety training.
- ~~10-11.~~ "Firearms-safety training program" means a course of instruction in the safe and lawful use of a firearm that is ~~approved~~ authorized by the Department and meets the requirements of A.R.S. § 13-3112(O).
- ~~11-12.~~ No change
- ~~12-13.~~ No change
- ~~13-14.~~ No change
- ~~14-15.~~ No change
- ~~15-16.~~ No change
- ~~16-17.~~ "Organization" means a person or entity legally established under all applicable federal, state, city, ~~or~~ and county ~~requirements law~~ and authorized to conduct business in Arizona that is ~~approved~~ authorized by the Department to teach a ~~Department-approved~~ Department-authorized firearms-safety training program to applicants.
- ~~17-18.~~ No change
- ~~18-19.~~ No change
- ~~19-20.~~ No change
- ~~20-21.~~ No change
- ~~21-22.~~ No change
- ~~22-23.~~ No change
- ~~23-24.~~ No change
- ~~24-25.~~ No change
- ~~25-26.~~ No change
- ~~26-27.~~ "Responsible party" means an individual who is responsible for administration of an ~~approved~~ authorized firearms-safety training organization and who serves as the contact between the organization and the Department.
- ~~27-28.~~ No change
- ~~28-29.~~ No change

R13-9-102. Application and Processing Fees

- A. Under the authority provided by A.R.S. § 13-3112, the Department establishes and shall collect the following fees:
 1. ~~New concealed weapons permit~~ Concealed Weapons Permit – \$43;
 2. ~~Renewal of a concealed weapons permit~~ Concealed Weapons Permit – \$43;
 3. No change
 4. No change
 5. No change
- B. No change
- C. No change

R13-9-103. Application Forms

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- A. The Department shall provide and an applicant shall use an application form for:
 - 1. An initial ~~concealed weapons permit~~ Concealed Weapons Permit or renewal of the permit,
 - 2. A firearms-safety instructor ~~approval authorization~~ or renewal of the approval authorization,
 - 3. Approval Authorization of a firearms-safety training organization,
 - 4. No change
 - 5. No change
- B. Application forms may be obtained from the ~~Concealed weapons~~ Concealed Weapons Permit Unit of the Department or online at www.azdps.gov/ccw. Upon request, the ~~Concealed weapons~~ Concealed Weapons Permit Unit shall advise an individual or organization of other locations where application forms may be obtained.

R13-9-104. Time-frames for Department Action on Applications

- A. No change
 - 1. Approval Authorization of a firearms-safety training organization under R13-9-302,
 - 2. No change
 - 3. No change
- B. No change
 - 1. R13-9-202 for a ~~concealed weapons permit~~ Concealed Weapons Permit,
 - 2. R13-9-204 for renewal of a ~~concealed weapons permit~~ Concealed Weapons Permit,
 - 3. R13-9-308 for a firearms-safety instructor ~~approval authorization~~, or
 - 4. R13-9-309 for renewal of a firearms-safety instructor ~~approval authorization~~.
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- E. When the substantive review is complete, the Department shall inform the applicant in writing of its decision whether to grant or deny a permit or approval authorization to the applicant.
- F. The Department shall deny a permit, certificate, approval authorization, or recognition if it determines that the applicant does not meet all criteria required by statute and rule.
 - 1. No change
 - 2. Under A.R.S. § 13-3112(H), an individual who is denied a ~~concealed weapons permit~~ Concealed Weapons Permit may submit additional documentation to the Department within 20 days of receipt of the notice of denial and the Department shall reconsider its denial.
 - 3. An applicant who is denied a permit, certificate, approval authorization, or recognition may appeal the Department’s decision under A.R.S. Title 41, Chapter 6, Article 10.
- G. The Department shall grant a permit, certificate, approval authorization, or recognition if it determines that the applicant meets all criteria required by statute and rule.

Table 1. Time-frames for Department Action on Applications (in days)

Application Type	Administrative Review Time-frame	Time for Response to Deficiency Notice	Substantive Review Time-frame	Time for Response to Comprehensive Request	Over-all Time-frame
Concealed weapons <u>Concealed Weapons</u> Permit R13-9-202	14	40	46	20	60
Renewal of Concealed weapons <u>Concealed Weapons</u> Permit R13-9-204	14	40	46	20	60

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Approval Authorization of Firearms-safety Instructor R13-9-308	14	40	46	20	60
Renewal of Approval <u>Authorization</u> of Firearms-safety Instructor R13-9-309	14	40	46	20	60

ARTICLE 2. ~~CONCEALED WEAPONS~~ CONCEALED WEAPONS PERMIT: APPLICATION; RENEWAL; RESPONSIBILITIES

R13-9-201. ~~Concealed weapons~~ Concealed Weapons Permit Eligibility

- A. Except as provided in subsection (B), an applicant for a ~~concealed weapons permit~~ Concealed Weapons Permit shall meet all requirements under A.R.S. § 13-3112(E), and not currently be a prohibited possessor under state or federal law.
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- ~~C. The Department shall not issue a concealed weapons permit to an individual who has been convicted of a felony even if the individual's civil rights have been restored or the conviction has been expunged, set aside, or vacated.~~

R13-9-202. Application for a ~~Concealed weapons~~ Concealed Weapons Permit

To obtain a ~~concealed weapons permit~~ Concealed Weapons Permit, an applicant who is eligible under R13-9-201 shall:

- 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. Social Security number (optional);
 - e. No change
 - f. No change
 - g. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. Is currently under indictment for a felony offense; ~~or has~~
 - v. Has ever been convicted of a felony offense, and if so, whether the conviction was expunged, set aside, or vacated, or whether the applicant's civil rights were restored;
 - ~~vi.~~ No change
 - ~~vii.~~ No change
 - ~~viii.~~ No change
 - ~~ix.~~ No change
 - ~~x.~~ No change
 - h. No change
- 2. No change
 - a. Submit a ~~certificate of completion~~ adequate documentation obtained within the last ~~12~~ 60 months; or
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - d. No change
 - e. No change

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R13-9-203. Issuance of a ~~Concealed weapons~~ Concealed Weapons Permit

- A. If an applicant meets the requirements of A.R.S. § 13-3112 and this Chapter and is not currently a prohibited possessor under state or federal law, the Department shall issue to the applicant a ~~concealed weapons permit~~ Concealed Weapons Permit containing:
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. The title of the permit, "State of Arizona ~~Concealed weapons~~ Concealed Weapons Permit."
- B. No change

R13-9-204. Renewal of ~~Concealed weapons~~ Concealed Weapons Permit

- A. A ~~concealed weapons permit~~ Concealed Weapons Permit expires five years after it is issued. If a ~~concealed weapons permit~~ Concealed Weapons Permit expires, the former permit holder shall not unlawfully carry a concealed weapon until the former permit holder applies for and is issued a new ~~concealed weapons permit~~ Concealed Weapons Permit.
- B. To renew a ~~concealed weapons permit~~ Concealed Weapons Permit, the permit holder shall, no more than 90 days before or 60 days after the date of expiration:
1. No change
 2. No change
 3. No change
 4. For the permit holder's first renewal only, submit two full sets of classifiable fingerprints and the fee required under ~~R13-9-102(B)~~.
- C. If a former permit holder fails to comply with subsection (B), the former permit holder may obtain a new ~~concealed weapons permit~~ Concealed Weapons Permit only by complying with all provisions of R13-9-202.
- D. If a permit holder is a member of the United States armed forces, Arizona national guard, or reserves of any military establishment of the United States and is on federal active duty and deployed overseas at the time the permit holder's ~~concealed weapons permit~~ Concealed Weapons Permit expires, the permit holder may renew the permit by complying with subsection (B) within 90 days after the end of the overseas deployment. To renew a permit under this subsection, the permit holder shall include evidence of the deployment with the renewal application.

R13-9-206. Lost, Stolen, or Damaged ~~Concealed weapons~~ Concealed Weapons Permit

- A. A permit holder whose ~~concealed weapons permit~~ Concealed Weapons Permit is lost, stolen, or damaged shall notify the Department in writing within 10 days of determining that the permit is lost, stolen, or damaged. When advised of a lost, stolen, or damaged permit, the Department shall invalidate the permit. The permit holder shall not carry a concealed weapon until the Department issues a replacement permit.
- B. No change
1. No change
 2. No change
 3. No change
- C. No change

R13-9-208. Change in Name of Permit Holder

- A. A permit holder whose name is legally changed shall provide written notice to the Department and request a revised ~~concealed weapons permit~~ Concealed Weapons Permit within 10 days of the name change. The permit holder shall ensure that the written request for a revised ~~concealed weapons permit~~ Concealed Weapons Permit:
1. No change
 2. No change
 3. No change
- B. No change
- C. No change
- D. Upon receipt of a revised permit, the permit holder shall ~~destroy the previous permit~~ or return the previous permit to the Department.

ARTICLE 3. FIREARMS-SAFETY TRAINING: ORGANIZATIONS AND INSTRUCTORS

R13-9-302. Application for ~~Approval~~ Authorization of a Firearms-safety Training Organization

- A. To obtain ~~approval~~ authorization as a firearms-safety training organization, the responsible party of the firearms-safety organization shall submit to the Department an original application, using a form available from the Department, that provides the following information:
1. No change
 2. No change

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3. No change

B. ~~In addition to the original application required under subsection (A), the responsible party shall provide documentation that the firearms-safety training organization is legally established under all applicable federal, state, city, and county law and authorized to do business in Arizona.~~

~~B.C.~~ No change

~~C.D.~~ The ~~approval authorization~~ of a firearms-safety training organization expires if the organization's Department-assigned number is not on a ~~certificate of completion~~ adequate documentation submitted under R13-9-202(2)(a) for three consecutive years. If the ~~approval authorization~~ of a firearms-safety training organization expires under this subsection, the organization may apply under this Section to be ~~approved~~ authorized again.

R13-9-305. Responsibilities of the Responsible Party of an ~~Approved~~ Authorized Firearms-safety Training Organization

A. ~~As soon as possible but no~~ No later than 90 days after a firearms-safety training organization is ~~approved~~ authorized, the responsible party shall submit to the Department a roster of the ~~approved~~ authorized firearms-safety instructors who will be teaching for the organization.

B. After being ~~approved~~ authorized and before any firearms-safety training is conducted by a firearms-safety organization, the responsible party shall submit to the Department a copy of the stamp or seal that the organization intends to affix to the ~~certificate of completion~~ adequate documentation provided to a successful participant under subsection (G).

C. The responsible party shall notify the Department in writing within 10 days of any change to the roster of the firearms-safety training organization's ~~approved~~ authorized instructors, or the business name, address, telephone number, or responsible party.

D. The responsible party shall ensure that all ~~approved~~ authorized firearms-safety instructors teaching for the firearms-safety training organization use an eight-hour, ~~Department-approved~~ Department-authorized, firearms-safety training program and standardized examination when conducting firearms-safety training for applicants for a ~~concealed weapons permit~~ Concealed Weapons Permit.

E. No change

F. No change

1. No change

2. No change

3. No change

4. No change

5. Department-assigned number of the ~~approved~~ authorized firearms-safety training organization;

6. Name and Department-assigned number of each ~~approved~~ authorized firearms-safety training instructor and name of any assistant or co-instructor conducting the training; and

7. No change

G. The responsible party of a firearms-safety training organization shall ensure that at the end of each firearms-safety training program, the ~~approved~~ authorized firearms-safety instructor who taught the firearms-safety training program provides each eligible applicant with a ~~certificate of completion~~ adequate documentation; ~~by completing the form that is available from the Department~~ signing the completion certificate that is on the back of the application for a Concealed Weapons Permit and affixing to the form the stamp or seal described in subsection (B) to the completion certificate.

H. The responsible party of an ~~approved~~ authorized firearms-safety training organization shall make the records required under this Section available to the Department upon request.

I. No change

R13-9-307. Eligibility for ~~Approval~~ Authorization as a Firearms-safety Instructor

A. To be eligible for ~~approval~~ authorization as a firearms-safety instructor, an individual shall:

1. Meet the requirements of A.R.S. §§ ~~13-3112(E)~~ 13-3112(E)(1) through (5) ~~including, without exception, the requirement at A.R.S. § 13-3112(E)(6);~~

2. No change

a. No change

b. No change

c. No change

d. Training provided by the NRA that results in ~~rating one of the following certifications as one of the following:~~

i. Pistol Instructor and Personal Protection inside the Home Instructor,

ii. No change

iii. No change

iv. No change

e. No change

3. ~~Complete~~ Unless the individual holds NRA instructor certifications in pistol and personal protection, complete an eight-hour, ~~Department-approved~~ Department-authorized, firearms-safety training program provided by an ~~approved~~

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~~authorized~~ firearms-safety training organization or hold a valid ~~concealed weapons permit~~ Concealed Weapons Permit.

- B. The Department shall not ~~approve~~ authorize an individual as a firearms-safety instructor if the individual:
1. Has been convicted of a felony ~~even if the individual's civil rights have been restored or unless the:~~
 - a. The conviction has been expunged, set aside, or vacated or the individual's civil rights have been restored; and
 - b. The individual is not currently a prohibited possessor under state or federal law; or
 2. Has a history of behavior that the Department determines is contrary to the safe and lawful use of a firearm.

R13-9-308. Application for ~~Approval~~ Authorization as a Firearms-safety Instructor

- A. A firearms-safety instructor applicant shall submit to the Department:
1. An original application for ~~approval~~ authorization as a firearms-safety instructor, using a form available from the Department, that includes the following information:
 - a. No change
 - b. No change
 - c. No change
 - d. Social Security number (optional);
 - e. No change
 - f. No change
 - g. No change
 - i. No change
 - ii. No change
 - iii. Is currently under indictment for a felony arrest; ~~or has~~
 - iv. Has ever been convicted of a felony offense and if so, whether the conviction was expunged, set aside, or vacated or whether the applicant's civil rights have been restored;
 - ~~iv-v.~~ No change
 - ~~v-vi.~~ No change
 - ~~vi-vii.~~ No change
 - ~~vii-viii.~~ No change
 - h. No change
 2. ~~A certificate of completion obtained within the last five years from an approved firearms-safety training organization or a valid concealed weapons permit; and~~
 - 3-2. Documentation of completing one of the firearms-safety training instructor programs listed in R13-9-307(A)(2); and
 3. Unless the documentation submitted under subsection (A)(2) shows that the applicant holds NRA instructor certifications in both pistol and personal protection, adequate documentation obtained within the last five years from an authorized firearms-safety training organization or a valid Concealed Weapons Permit.
- B. No change
1. No change
 2. No change
- C. The Department shall determine whether an instructor applicant meets all the requirements of R13-9-307 and notify the instructor applicant that the instructor applicant is ~~approved~~ authorized or not ~~approved~~ authorized as a firearms-safety training instructor.

R13-9-309. Renewal of ~~Approval~~ Authorization as a Firearms-safety Instructor

- A. The ~~approval~~ authorization of a firearms-safety instructor expires as follows:
1. If the firearms-safety instructor holds a valid ~~concealed weapons permit~~ Concealed Weapons Permit, the ~~approval~~ authorization as a firearms-safety instructor expires when the ~~concealed weapons permit~~ Concealed Weapons Permit expires; or
 2. If the firearms-safety instructor does not hold a valid ~~concealed weapons permit~~ Concealed Weapons Permit, the ~~approval~~ authorization as a firearms-safety instructor expires five years from the date of ~~approval~~ authorization.
- B. An ~~approved~~ authorized firearms-safety instructor shall submit an original renewal application no more than 90 days before the firearms-safety instructor's ~~approval~~ authorization expires.
- C. If the ~~approval~~ authorization of a firearms-safety instructor expires, the former firearms-safety instructor shall immediately stop providing firearms-safety training. The former firearms-safety instructor may apply again for ~~approval~~ authorization under R13-9-308.
- D. No change
1. No change
 2. No change
 3. Documentation that the firearms-safety instructor instructed or co-instructed at least two firearms-safety training classes within the five years before the firearms-safety instructor's ~~approval~~ authorization expires; and
 4. If the firearms-safety instructor does not have a valid ~~concealed weapons permit~~ Concealed Weapons Permit, two sets

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of classifiable fingerprints and the fee required under R13-9-102(B).

R13-9-310. Firearms-safety Instructor Responsibilities

- A. To ensure timely communication from the Department, an ~~approved~~ authorized firearms-safety instructor shall provide notice to the Department within 10 days after a change of address or contact telephone number.
- B. If mail from the Department to an ~~approved~~ authorized firearms-safety instructor is returned to the Department because it is undeliverable, the Department shall administratively suspend the firearms-safety instructor's ~~approval~~ authorization until the firearms-safety instructor submits updated information.

ARTICLE 4. CERTIFICATE OF FIREARMS PROFICIENCY

R13-9-402. Application for a Certificate of Firearms Proficiency

To obtain a certificate of firearms proficiency, an applicant who is eligible under R13-9-401 shall submit:

- 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. Social Security number (optional);
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
- 2. No change
- 3. No change
- 4. No change
 - a. No change
 - b. No change
 - c. No change
- 5. No change

R13-9-403. Issuance of a Certificate of Firearms Proficiency

The Department shall issue a certificate of firearms proficiency to an individual who is eligible under R13-9-401 and submits the information and documents required under R13-9-402. The Department shall ensure that the certificate of firearms proficiency contains:

- 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 2. No change
- 3. No change
- 4. The date of ~~issuance~~ qualification;
- 5. No change
- 6. No change

R13-9-404. Renewal of a Certificate of Firearms Proficiency

- A. A certificate of firearms proficiency expires one year after the date of ~~issuance~~ qualification.
- B. No change
- C. No change

ARTICLE 5. LEOSA-RECOGNIZED INSTRUCTORS

R13-9-501. Application for Recognition as a LEOSA Instructor

- A. To be recognized as a LEOSA instructor, an individual shall:
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. Social Security number (optional), and
 - f. No change

B. No change

ARTICLE 6. HEARINGS AND DISCIPLINARY PROCEEDINGS

R13-9-601. Suspension and Revocation

A. No change

B. If an authorized firearms-safety instructor becomes a prohibited possessor under state or federal law, the Department shall immediately suspend the authorization of the firearms-safety instructor.

~~B.C.~~ No change

~~C.D.~~ After providing notice and an opportunity for hearing, the Department shall suspend or revoke a permit or Department ~~approval~~ authorization if the Department determines that the permit holder or ~~approved~~ authorized firearms-safety training organization or firearms-safety instructor:

1. No change

2. No change

~~D.E.~~ If the Department revokes a permit or ~~approval~~ authorization, the affected individual or firearms-safety training organization shall not apply for another permit or ~~approval~~ authorization for at least two years from the date of revocation.

~~E.F.~~ If the Department determines that emergency action is required to suspend a permit or Department ~~approval~~ authorization, the Department shall send a notice of summary suspension by certified mail to the last known address of the individual or firearms-safety training organization. The Department shall ensure that the notice includes all requirements under A.R.S. § 41-1092 et seq.

~~F.G.~~ Upon receipt of a notice of a summary suspension or final administrative decision suspending or revoking a permit or ~~approval~~ authorization:

1. No change

2. The firearms-safety instructor shall immediately stop conducting firearms-safety training, and a firearms-safety training organization shall ensure that a suspended or revoked firearms-safety instructor teaching for the organization immediately stops conducting firearms-safety training for applicants for ~~concealed weapons permits~~ Concealed Weapons Permits; and

3. The firearms-safety training organization shall immediately stop sponsoring firearms-safety training for applicants for ~~concealed weapons permits~~ Concealed Weapons Permits.

~~G.H.~~ No change