

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 2106.)

[R09-120]

PREAMBLE

- 1. Sections Affected**
R7-2-612
- Rulemaking Action**
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 15-203(A)(1)
Implementing statute: Not applicable
- 3. The effective date of the rules:**
May 19, 2008
- 4. A list of all previous notices appearing in the Register addressing the exempt rules:**
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Vince Yanez, Executive Director
State Board of Education
Address: 1535 W. Jefferson St.
Phoenix, AZ 85007
Telephone: (602) 542-5057
Fax: (602) 542-3046
E-mail: vince.yanez@azed.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
Pursuant to A.R.S. § 15-132, "the state board of education shall issue temporary certificates to exchange teachers and professors of foreign countries and other states whose training and background comply with the rules promulgated by the board for certification and are equivalent to those of the local teacher with whom the exchange is made."
Foreign teachers coming in to Arizona have been given an emergency certificate. This creates a problem since emergency certificates count against the state in the state's plan for moving all teachers to highly qualified status since people holding an emergency certificate are not considered highly qualified.
In addition, to get an emergency certificate reissued, the applicant must take six semester credits of education coursework. For a foreign teacher who has already completed a teacher preparation program, this is not a reasonable requirement. The emergency certificate is simply not a good fit for the foreign teacher.
Finally, the statute requires a special certificate for these individuals, and it has never been created.
Pursuant to A.R.S. § 41-1005(F) the State Board of Education is exempt from standard rulemaking procedures.

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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:**
Not applicable
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:**
The rules are not expected to have any economic impact on small businesses nor have any impact upon school districts and charter schools.
10. **A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):**
Not applicable
11. **A summary of the comments made regarding the rule and the agency response to them:**
The Certification Advisory Committee approved the proposed language at its October 3, 2007 meeting. A public hearing was held regarding these proposed rules on May 13, 2008. No comment was received.
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? If so, please indicate the Register citation:**
Not applicable
15. **The full text of the rule follows:**

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 6. CERTIFICATION

Section
R7-2-612. Other Teaching Certificates

ARTICLE 6. CERTIFICATION

R7-2-612. Other Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607.
- B. Substitute Certificate – grades K-12
 1. The certificate is valid for six years and renewable by reapplication.
 2. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only a substitute certificate shall not be assigned a contract teaching position.
 3. An individual who holds a valid teaching or administrator certificate shall not be required to hold a substitute certificate to be employed as a substitute teacher.
 4. A person holding only a substitute certificate shall be limited to teaching 120 days in the same school each school year.
 5. The requirement for issuance is a Bachelor's degree and a valid Class 1 or Class 2 fingerprint clearance card.
 6. Substitute certificates previously issued as valid for life under this rule shall remain valid for life.
- C. Emergency Substitute Certificate – grades K-12
 1. The certificate is valid for one school year or part thereof. The expiration date shall be the following July 1.
 2. The certificate entitles the holder to substitute only in the district that verifies that an emergency employment situation exists.
 3. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only an emergency substitute certificate shall not be assigned a contract teaching position.
 4. The holder of an emergency substitute certificate shall be limited to 120 days of substitute teaching per school year.
 5. The requirements for initial issuance are:
 - a. High school diploma;

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- b. Verification from the school district superintendent that an emergency employment situation exists; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
6. The requirements for each reissuance are:
- a. Two semester hours of academic courses completed since the last issuance of the Emergency Substitute Certificate. District in-service programs designed for professional development may substitute for academic courses. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director. Individuals who have earned 30 or more semester hours are exempt from this requirement;
 - b. Verification from the school district superintendent that an emergency employment situation exists; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- D. Emergency Teaching Certificate – birth-grade 12**
- 1. The emergency teaching certificate is valid one school year or part thereof. The expiration date shall be the following July 1. An emergency teaching certificate shall not be issued more than three times to an individual. An individual who receives an intern certificate and does not complete the requirements for a provisional certificate shall not be eligible for an emergency certificate.
 - 2. The emergency teaching certificate entitles the holder to enter into a teaching contract.
 - 3. Emergency teaching certificates shall be issued for early childhood, elementary, secondary, and special education certificates required by A.R.S. § 15-502(B), and required endorsements.
 - 4. The emergency teaching certificate entitles the holder to teach only in the district or charter school that verifies that an emergency employment situation exists.
 - 5. The requirements for initial issuance are:
 - a. A Bachelor's degree;
 - b. Verification from the school district superintendent or charter school administrator that an emergency employment situation exists;
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - d. Verification from the school district superintendent or charter school administrator that the following requirements have been met and a highly qualified and employable candidate was not found:
 - i. The position was advertised on a statewide basis and with at least three career placement offices of higher education institutions; and
 - ii. The district or charter school is participating in any available Arizona State Board approved alternative path to certification program(s). This requirement may be waived if a district superintendent or charter school administrator provides evidence that an alternative path to certification program is either not available or not capable of alleviating the emergency employment situation.
 - 6. In addition to the requirements listed in ~~R7-2-612(D)(5)~~ subsection (D)(5) the requirements for reissuance shall include six semester hours of education courses completed since the last issuance of the emergency teaching certificate.
- E. Teaching Intern Certificate – grades K-12**
- 1. Except as noted, the teaching intern certificate is subject to the general certification provisions in R7-2-607.
 - 2. The certificate is valid for one year from the date of initial issuance and may be extended for one year at no cost to the applicant if the provisions in ~~R7-2-612(E)(7)~~ subsection (E)(7) are met.
 - 3. The teaching intern certificate entitles the holder to enter into a teaching contract while completing the requirements for an Arizona provisional teaching certificate. The candidate shall be enrolled in an Arizona State Board authorized alternative path to certification program or an Arizona State Board approved teacher preparation program.
 - 4. The teaching intern certificate is valid only in the Arizona school district or charter school that requests the certificate and is not transferable.
 - 5. An individual is not eligible to hold the teaching intern certificate more than once in a five year period.
 - 6. The requirements for initial issuance of the teaching intern certificate are:
 - a. A bachelor's degree or higher from an accredited institution;
 - b. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment which corresponds to the applicant's teaching assignment(s);
 - c. A letter of intent to hire or a contract indicating full-time contracted employment to include grade-level and content signed by the district superintendent or charter school administrator;
 - d. Verification of enrollment in an Arizona State Board approved alternative path to certification program, or an Arizona State Board approved teacher preparation program; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 7. The requirements for the extension of the teaching intern certificate are:
 - a. Qualification for the initial issuance of the teaching intern certificate outlined in R7-2-612(E)(6);
 - b. A contract indicating full-time employment to include grade-level and content signed by the district superintendent or charter school administrator;

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- c. Official transcripts documenting the completion of required coursework; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of ~~Education~~ Public Safety.
8. The holder of the teaching intern certificate may be eligible to apply for an Arizona Provisional Teaching certificate prior to the teaching intern certificate's expiration upon the following:
- a. Successful completion of an Arizona State Board authorized alternative path to certification program or an Arizona State Board approved teacher preparation program;
 - b. A passing score on the required professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - c. The submission of an application for the provisional teaching certificate to the Arizona Department of Education; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- F. Adult Education Certificates**
- 1. The adult education certificates are issued for individuals teaching in the areas of Adult Basic Education, Adult Secondary Education, English Language Acquisition for Adults, or Citizenship.
 - 2. Provisional Adult Education Certificate.
 - a. The certificate is valid for three years and is not renewable.
 - b. The requirement for issuance is a valid Class 1 or Class 2 fingerprint clearance card and a Bachelor's degree or three years of experience as a teacher, tutor, or aide in an adult education program or in grades K-12. Up to two years of experience may be waived by postsecondary academic credit, with 30 semester hours equivalent to one year of experience.
 - 3. Standard Adult Education Certificate.
 - a. The certificate is valid for six years.
 - b. The requirements are:
 - i. One year of part-time or full-time teaching experience under a provisional adult education certificate, verified by an adult education program administrator;
 - ii. Completion of 10-clock hours in a professional development program described in R7-2-617(B) since the issuance of the provisional adult education certificate; and
 - iii. A valid Class 1 or Class 2 fingerprint clearance card.
 - c. The renewal requirements are completion of 60-clock hours in a professional development program, described in R7-2-617(B).
- G. Junior Reserve Officer Training Corps Teaching Certificate – grades 9-12**
- 1. The certificate is valid for six years and is renewable upon application.
 - 2. The certificate is valid at any local education agency which conducts an approved Junior Reserve Officer Training Corps program of the Air Force, Army, Navy, or Marine Corps.
 - 3. The requirements are:
 - a. Verification by the district of an approved Junior Reserve Officer Training Corps program of instruction in which the applicant will be teaching;
 - b. Verification by the district that the applicant meets the work experience required by the respective military service; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- H. Athletic coaching certificate – grades 7-12**
- 1. The certificate is valid for six years.
 - 2. The certificate entitles the holder to perform coaching duties in interscholastic and extracurricular athletic activities. It is not required for teachers who hold a valid elementary, secondary or special education certificate.
 - 3. The requirements are:
 - a. Valid certification in first aid and Coronary and Pulmonary Resuscitation (CPR);
 - b. Completion of 15 semester hours of courses which shall include at least three semester hours in courses related to each of the following: methods of coaching; anatomy and physiology; sports psychology; adolescent psychology; and the prevention and treatment of athletic injuries;
 - c. 250 hours of verified coaching experience in the sport to be coached. Coaching experience may include experience as a head coach or assistant coach in a school program or in an organized athletic league; and
 - d. A valid Class 1 or Class 2 fingerprint clearance card.
 - 4. Renewal requirements are:
 - a. Completion of 60-clock hours in a professional development program described in R7-2-617(B);
 - b. Valid certification in first aid and CPR.
- I. Provisional Early Childhood Education Certificate – birth through age 8**
- 1. By July 1, 2009, either a provisional or a standard early childhood education certificate shall be required for individuals teaching in public school early childhood education programs, except as provided in R7-2-610 or in R7-2-613(L). For individuals teaching in grades 1 - 3, this certificate is optional, but recommended.
 - 2. For the purposes of this rule, public school early childhood education programs are defined as education programs

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provided by local education agencies, including their sub-grantees and contracted providers, for children birth through age 8 for the purpose of providing academically and developmentally appropriate learning opportunities that are standards-based with defined curriculum and comprehensive in content to include all appropriate developmental and academic areas as defined by the Arizona Early Childhood Education Standards or the Arizona K-12 Academic Standards approved by the Board. The Arizona Early Childhood Education Standards: Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007, were adopted by the State Board of Education in June 2003 and the Arizona K-12 Academic Standards: Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007, were adopted by the State Board of Education as follows: Arts, April 1997; Comprehensive Health/PE, April 1997; Foreign and Native Language, April 1997; Mathematics, March 2003; Reading, March 2003; Science, May 2004; Social Studies, March 2000; Technology, September 2000; Workplace Skills, March 1997; and Writing, June 2004, are incorporated by reference and are on file with the Arizona Department of Education. This incorporation by reference contains no further editions or amendments. Copies of the incorporated material are available for review at Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007 or on the Arizona Department of Education web site at www.ade.az.gov/standards. Public school early childhood education programs include, but are not limited to, half day and full day kindergarten programs, Early Childhood Block Grant programs pursuant to A.R.S. § 15-1251, Family Literacy Programs for preschool children pursuant to A.R.S. § 15-191.01, and public school-administered early childhood education programs funded in whole or part with federal funds, such as the Head Start or Even Start programs, provided nothing in these rules conflicts with the terms of the federal grant. Extended day child care programs provided by local educational agencies are not considered early childhood education programs for purposes of this rule unless the program meets the definition of a public school early childhood education program set forth above.

3. This certificate is valid for two years and is not renewable.
 4. The requirements are:
 - a. A Bachelor's degree; and
 - b. One of the following:
 - i. Completion of a teacher preparation program in early childhood education from an accredited institution or a teacher preparation program approved by the Board; or
 - ii. Early childhood education coursework and practicum experience which teaches the knowledge and skills described in R7-2-602 and includes both of the following:
 - (1) 37 semester hours of early childhood education courses to include all of the following areas of study:
 - (a) Foundations of early childhood education;
 - (b) Child guidance and classroom management;
 - (c) Characteristics and quality practices for typical and atypical behaviors of young children;
 - (d) Child growth and development, including health, safety and nutrition;
 - (e) Child, family, cultural and community relationships;
 - (f) Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
 - (g) Early language and literacy development;
 - (h) Assessing, monitoring and reporting progress of young children; and
 - (2) A minimum of 8 semester hours of practicum, including:
 - (a) A minimum of 4 semester hours in supervised field experience, practicum, internship or student teaching setting serving children birth - preschool. One year of full-time verified teaching experience with children in birth - preschool may substitute for this student teaching experience. This verification may come from a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities; and
 - (b) A minimum of 4 semester hours in a supervised student teaching setting serving children in kindergarten - grade 3. One year of full-time verified teaching experience with children in kindergarten - grade 3 in an accredited school may substitute for this student teaching experience; or
 - iii. A valid early childhood education certificate from another state.
 - c. A valid Fingerprint Clearance Card issued by the Arizona DPS Department of Public Safety; and
 - d. A passing score on the professional knowledge portion of the Arizona Educator Proficiency Assessment once that portion of the AEPA is adopted by the Board; and
 - e. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment once that portion of the AEPA is adopted by the Board.
- J. Standard Early Childhood Education Certificate - birth through age ~~eight~~ 8**
1. By July 1, 2009, either a provisional or a standard early childhood education certificate shall be required for individuals teaching in public school early childhood education programs, except as provided in R7-2-610 or in R7-2-613(L). For individuals teaching in grades 1 - 3, this certificate is optional, but recommended.
 2. This certificate is valid for six years.

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- 3. The requirements are:
 - a. Qualification for the Provisional Early Childhood Education Certificate, except as provided in R7-2-612(J)(4); and
 - b. Two years of verified teaching experience with children birth through age eight or grade three in a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities.
- 4. An individual may also qualify for a standard Early Childhood Education Certificate if the individual:
 - a. Holds current National Board Certification in Early Childhood; and
 - b. Holds a valid fingerprint Clearance Card issued by ~~DPS~~ the Arizona Department of Public Safety.

K. Provisional Foreign Teacher Teaching Certificate

- 1. This certificate is required for a teacher or professor from any foreign country, state, territory or possession of the United States contracted through the foreign teacher exchange program as authorized by federal statutes enacted by the Congress of the United States or other foreign teacher recruitment programs approved by the United States Department of State.
- 2. This certificate is valid for one year and may be extended for an additional year by the consent of the contracting governing board, the education service agency, the charter holder, or the Arizona Board of Regents.
- 3. The requirements are:
 - a. Verification that training and background comply with the comparable Arizona teaching certificate as provided in R7-2-608(B)(2), R7-2-609(B)(2), R7-2-610(C)(3), (E)(3), (G)(2), (I)(2), (K)(2), (M)(2), R7-2-611(D)(2), (F)(2), (H)(2), (J)(2), or (L)(2).
 - b. Holds a valid fingerprint Clearance Card issued by the Arizona Department of Public Safety.
 - c. Demonstrates fluency in English as verified by the Test of English as a Foreign Language (TOEFL) or other English proficiency tests approved by the State Board of Education.
 - d. The passing score by the Test of English as a Foreign Language (TOEFL) or other English proficiency tests approved by the State Board of Education shall be determined by the Board using the results of validity and reliability studies. The passing score for each assessment shall be reviewed by the Board at least every three years.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 3. DEPARTMENT OF HEALTH SERVICES
CHILD CARE GROUP HOMES**

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 2106.)

[R09-119]

PREAMBLE

- 1. **Sections affected**

R9-3-201	<u>Rulemaking Action</u>
R9-3-203	Amend
	Amend
- 2. **The statutory authority for the rulemaking, including both the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statutes: A.R.S. § 36-136(F)
Implementing statute: A.R.S. § 36-897.01 and Laws 2009, Third Special Session, Ch. 10, § 8
Statute or session law authorizing the exemption: Laws 2009, Third Special Session, Ch. 10, § 37 and Laws 2009, Third Special Session, Ch. 7, § 28
- 3. **The effective date of the rules:**

January 1, 2010
- 4. **A list of all previous notices appearing in the Register addressing the exempt rule:**

Not applicable
- 5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Mary Wiley, Assistant Director
Address:	Department of Health Services

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Division of Licensing Services
150 N. 18th Ave., Suite 510
Phoenix, AZ 85007

Telephone: (602) 364-3064
Fax: (602) 364-4808
E-mail: wileym@azdhs.gov

or

Name: Thomas Salow, Acting Manager of Administrative Counsel and Rules

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: salowt@azdhs.gov

6. An explanation of the rule, including the agency's reasons for the rule, including the statutory citation to the exemption from regular rulemaking procedures:

The purpose of this rulemaking is to implement Laws 2009, Third Special Session, Ch. 10, § 8, effective November 24, 2009, that allows the Department to raise fees in fiscal year 2009-2010 for the child care group home certification services the Department provides. A.R.S. § 36-897.01(A) requires a child care group home to be certified by the Department. A.R.S. § 36-897.02(F) requires the Department to monitor the operation of a child care group home at least two times each year to ensure that the child care group home is meeting the Department's standards of care.

The Department was appropriated approximately half of the Division of Licensing Services (DLS) operating budget for fiscal year 2009-2010. The Department is authorized to obtain the remainder of DLS' operating budget by increasing fees for the child care and health care facilities regulated by DLS.

The Department determined that a \$1,000 initial certificate application fee, a \$1,000 renewal certificate application fee, and a \$100 late fee will cover the costs associated with regulating child care group homes. The estimated costs are based on the number of currently certified child care group homes.

In order to reduce the impact of the increase in fees for persons applying for or operating a certified child care group home, the Department is providing an opportunity for a certified child care group home to receive a discount of \$500 toward the certificate application fee, by agreeing in writing to implement the ADHS EMPOWER PACK pilot program. The ADHS EMPOWER PACK pilot program includes age-appropriate materials and activities to empower children to make good choices about nutrition, physical activity, and tobacco use. Additionally, as part of the ADHS EMPOWER PACK pilot program, the child care group home will serve as a distribution point for information on the state's smoking cessation services to the parents of children attending the child care group home. Child care group homes that agree in writing to participate in the ADHS EMPOWER PACK pilot program will be responsible for a \$500 initial or renewal certificate application fee and, if applicable, a \$100 late filing fee.

The Department will continue to review the revenues generated and the Department's costs to ensure the increased revenues generated cover the Department's costs but do not exceed the amount established by Laws 2009, Third Special Session, Ch. 10, § 38 for fiscal year 2009-2010.

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

None

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

Not applicable

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

Not applicable

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

Not applicable

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

Not applicable

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

Not applicable

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

None

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 3. DEPARTMENT OF HEALTH SERVICES

CHILD CARE GROUP HOMES

ARTICLE 2. CERTIFICATION

Section

R9-3-201. Application for a Certificate

R9-3-203. Certificate Renewal

ARTICLE 2. CERTIFICATION

R9-3-201. Application for a Certificate

- A.** To be eligible to obtain a certificate to operate a child care group home, an applicant for a certificate shall:
1. Be at least 21 years of age;
 2. Possess a high school diploma, high school equivalency diploma, associate degree, or bachelor degree;
 3. Complete Department-provided orientation that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 4. Hold a valid fingerprint clearance card.
- B.** To obtain a certificate to operate a child care group home, an applicant shall submit to the Department an application completed using a Department-provided form and including:
1. The applicant's name and ~~social security~~ Social Security number;
 2. The name to be used for the child care group home, if any;
 3. The address of the residence;
 4. The mailing address of the applicant, if different than the address of the residence;
 5. The phone number of the residence;
 6. The phone number of the applicant, if different than the phone number of the residence;
 7. The name and address of each controlling person;
 8. If the applicant is a business organization, the following:
 - a. The applicant's type of business organization;
 - b. The following information about an individual who is to service as the primary contact for information regarding the application:
 - i. Name;
 - ii. Address;
 - iii. Phone number; and
 - iv. Fax number, if any;
 - c. The following information about the applicant's statutory agent of the individual designated by the applicant to accept service of process and subpoenas for the applicant:
 - i. Name;
 - ii. Address;
 - iii. Phone number; and
 - iv. Fax number, if any;
 - d. The name, title, and address of each officer and board member or trustee;
 - e. A copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
 - f. If the applicant is a corporation, a certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated no earlier than six months before the date of application; and
 - g. If the applicant is a limited liability company, a certificate of good standing or a registration of good standing issued to the applicant by the Arizona Corporation Commission and dated no earlier than six months before the date of application;

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9. A list of the rooms to be used for child care services;
10. A list of the service classifications to be offered at the child care group home;
11. Whether the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building;
12. If the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building, the following:
 - a. The year of manufacture for the mobile home, manufactured home, or factory-built building; and
 - b. Copies of the following documents:
 - i. The installation permit required by A.A.C. R4-34-606;
 - ii. If the residential building is a factory-built building, the certificate of occupancy required by A.A.C. R4-34-801; and
 - iii. If the mobile home is a rehabilitated mobile home, the rehabilitation permit required by A.A.C. R4-34-606 and the certificate of compliance issued under A.A.C. R4-34-606;
13. A floor plan of the residential building to be used at the child care group home, showing:
 - a. The location and dimensions of each room in the residential building, with designation of the rooms to be used and not to be used for child care services;
 - b. The location of each exit from the residential building;
 - c. The location of each sink and toilet to be used by enrolled children;
 - d. The location of each smoke or heat detector in the residential building;
 - e. The location of each fire extinguisher in the residential building; and
 - f. The location of each telephone in the residential building;
14. A site plan of the residence showing:
 - a. The location and dimensions of the outdoor activity area,
 - b. The height of the fence around the outdoor activity area,
 - c. The location of each exit from the outdoor activity area,
 - d. The location of the residential building,
 - e. The location of each swimming pool,
 - f. The location of the fence around each swimming pool,
 - g. The height of the fence around each swimming pool, and
 - h. The location and dimensions of any other building or structure at the residence;
15. A copy of a certificate of completion issued by the Department showing that the applicant has completed the orientation required by subsection (A)(3);
16. A copy of the applicant's high school diploma, high school equivalency diploma, associate degree, or bachelor degree;
17. The following information about the applicant; each individual who is to be a staff member at the child care group home, including the individual who is to serve as the provider; and each individual who resides in the residential building to be used at the child care group home:
 - a. Full name;
 - b. Birth date;
 - c. If a staff member, job title;
 - d. If a resident, relationship to the applicant or provider;
 - e. If a staff member, hire date;
 - f. If an adult staff member or an adult resident, the following:
 - i. If a fingerprint clearance card has not yet been obtained, date that an application for a fingerprint clearance card was submitted to the Department of Public Safety;
 - ii. If a fingerprint clearance card has not yet been obtained, the Department of Public Safety application number;
 - iii. If a fingerprint clearance card has been obtained, expiration date of the fingerprint clearance card; and
 - iv. Date that a criminal history affidavit was completed;
18. A copy of the applicant's current and valid fingerprint clearance card;
19. A criminal history affidavit completed by the applicant;
20. A copy of a certificate of completion issued by the Department showing that the individual who is to serve as provider has completed the orientation required by subsection (A)(3);
21. ~~A An initial certificate application fee of \$1,000, in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services for the fee required by A.R.S. § 36-897.01;~~ and
22. The notarized signature of the applicant affirming:
 - a. That the individual signing on behalf of the applicant is an individual designated under R9-3-103 and has the authority to sign on behalf of the applicant;
 - b. That no controlling person has been denied a certificate to operate a child care group home or a license to operate

Notices of Exempt Rulemaking

- a child care facility for the care of children in this state or another state, unless the denial was based on the controlling person's failure to complete the certification or licensing process according to a required time-frame;
- c. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
- d. Whether the applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
- e. That the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
- f. That the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
- g. That the information provided in the application, including the information in the documents attached to the application form, is accurate and complete.

R9-3-203. Certificate Renewal

- A. At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application completed using a Department-provided form and including:
 - 1. The applicant's name;
 - 2. The child care group home's certificate number;
 - 3. The child care group home's name, if applicable;
 - 4. The child care group home's street address, mailing address, and telephone number;
 - 5. The applicant's type of business organization, if applicable;
 - 6. If there have been any changes in the controlling person information submitted under R9-3-201(B)(7), a list of the changes;
 - 7. If there have been any changes to the organizational information submitted under R9-3-201(B)(8), a list of the changes and a copy of each new organizational document and each organizational document changed since the document was provided under R9-3-201(B)(8);
 - 8. A renewal certificate application fee of \$1,000, in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services for the fee required by A.R.S. § 36-897.01; and
 - 9. The notarized signature of the applicant affirming:
 - a. That the individual signing on behalf of the applicant is an individual designated under R9-3-103 and has the authority to sign on behalf of the applicant;
 - b. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state, unless the denial was based on the controlling person's failure to complete the certification or licensing process according to a required time-frame;
 - c. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
 - d. Whether the applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - e. That the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - f. That the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 - g. That the information provided in the application, including the information in the documents attached to the application form, is accurate and complete.
- B. An applicant that submits the items required by subsection (A) later than 45 days before the expiration of the current certificate shall submit to the Department ~~the a late filing fee required by A.R.S. § 36-897.01~~ of \$100 in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services.
- C. If an applicant submits to the Department the items required by subsection (A) and, if applicable, the fee required ~~by~~ in subsection (B) before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28.
(See the text of § 28 on page 2106.)

[R09-118]

PREAMBLE

- 1. Sections Affected**

R9-5-201	Amend
R9-5-205	Amend
R9-5-210	New Section

- 2. The statutory authority for the rulemaking, including both the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statutes: A.R.S. § 36-136(F)
Implementing statute: A.R.S. § 36-882 and Laws 2009, Third Special Session, Ch. 10, § 7
Statute or session law authorizing the exemption: Laws 2009, Third Special Session, Ch. 10, § 37

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

January 1, 2010

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

Not applicable

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

Name:	Mary Wiley, Assistant Director
Address:	Department of Health Services Division of Licensing Services 150 N. 18th Ave., Suite 510 Phoenix, AZ 85007
Telephone:	(602) 364-3064
Fax:	(602) 364-4808
E-mail:	wileym@azdhs.gov
or	
Name:	Thomas Salow, Acting Manager of Administrative Counsel and Rules
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:	salowt@azdhs.gov

- 6. An explanation of the rule, including the agency's reasons for the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

The purpose of this rulemaking is to implement Laws 2009, Third Special Session, Ch. 10, § 7, effective November 24, 2009, that allows the Department to raise fees in fiscal year 2009-2010 for the child care facility licensing services the Department provides. A.R.S. § 36-882(A) prohibits a child care facility from receiving any child for care, supervision, or training unless the facility is licensed by the Department. A.R.S. § 36-885(B) requires the Department to make at least one unannounced visit annually.

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The Department was appropriated approximately half of the Division of Licensing Services (DLS) operating budget for fiscal year 2009-2010. The Department is authorized to obtain the remainder of DLS' operating budget by increasing fees for the child care and health care facilities regulated by DLS.

The Department determined that a \$1,000 initial license application fee, a \$1,000 renewal license application fee, and a \$100 late fee for facilities with a licensed capacity of five to 10 children; a \$4,000 initial license application fee, a \$4,000 renewal license application fee, and a \$400 late fee for facilities with a licensed capacity of 11 to 59 children; and a \$7,800 initial license application fee, a \$7,800 renewal license application fee, and a \$780 late fee for facilities with a licensed capacity of 60 or more children will cover the costs associated with regulating child care facilities. The estimated costs are based on the number of currently licensed child care facilities.

In order to reduce the impact of the increase in fees for persons applying for or operating a licensed child care facility, the Department is providing an opportunity for a licensed child care facility to receive a discount of 50% toward the application fee by agreeing in writing to implement the ADHS EMPOWER PACK pilot program. The ADHS EMPOWER PACK pilot program includes age-appropriate materials and activities to empower children to make good choices about nutrition, physical activity, and tobacco use. Additionally, as part of the ADHS EMPOWER PACK pilot program, the child care facility will serve as a distribution point for information on the state's smoking cessation services to the parents of children attending the child care facility. A child care facility with a capacity of five to 10 children that agrees in writing to participate in the ADHS EMPOWER PACK pilot program will be responsible for a \$500 initial or renewal application fee and, if applicable, a \$100 late filing fee. A child care facility with a capacity of 11 to 59 children that agrees in writing to participate in the ADHS EMPOWER PACK pilot program will be responsible for a \$2,000 initial or renewal application fee and, if applicable, a \$400 late filing fee. A child care facility with a capacity of 60 or more children that agrees in writing to participate in the ADHS EMPOWER PACK pilot program will be responsible for a \$3,900 initial or renewal application fee and, if applicable, a \$780 late filing fee.

The Department will continue to review the revenues generated and the Department's costs to ensure the increased revenues generated cover the Department's costs but do not exceed the amount established by Laws 2009, Third Special Session, Ch. 10, § 38 for fiscal year 2009-2010.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact:**
Not applicable
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules, (if applicable):**
Not applicable
11. **A summary of the comments made regarding the rule and the agency response to them:**
Not applicable
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:**
None
14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**
No
15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES

ARTICLE 2. FACILITY LICENSURE

Notices of Exempt Rulemaking

Section

- R9-5-201. Application for a License
- R9-5-205. License Renewal
- R9-5-210. ~~Repealed Fees~~

ARTICLE 2. FACILITY LICENSURE

R9-5-201. Application for a License

- A. An applicant for a license shall:
 - 1. Be at least 18 years of age;
 - 2. If an individual, be a U.S. citizen or legal resident alien and a resident of Arizona;
 - 3. If a corporation, association, or limited liability company, be a domestic entity or a foreign entity qualified to do business in Arizona;
 - 4. If a partnership, have at least one partner who is a U.S. citizen or legal resident alien and a resident of Arizona;
 - 5. Submit to the Department an application that includes:
 - a. A notarized application form signed by the applicant stating:
 - i. The applicant's name;
 - ii. The facility's name, street address, mailing address, and telephone number;
 - iii. The applicant's type of business organization;
 - iv. The name and business or residential address of each controlling person;
 - v. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state;
 - vi. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked in this state or another state for reasons that relate to endangerment of the health and safety of children;
 - vii. Whether the applicant agrees to allow the Department to submit supplemental requests for information; and
 - viii. That the applicant has read and will comply with these rules and declares that the information provided in the application is accurate and complete;
 - b. If the applicant is a business organization, an Attachment to Application including the following organizational information about the applicant:
 - i. The address of the business organization;
 - ii. The name, title, and address of each officer and board member or trustee; and
 - iii. A copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
 - c. A copy of the applicant's valid class one or class two fingerprint clearance card issued according to A.R.S. § 41-1758.03;
 - d. A Criminal History Affidavit Class I or Class II completed by the applicant and including the information required by A.R.S. § 36-883.02;
 - e. A certificate issued by the Department showing that the applicant has completed at least four hours of Department-provided training that included the Department's role in licensing and regulating child care facilities under A.R.S. Title 36, Chapter 7.1, Article 1 and these rules;
 - f. If the applicant is an individual, a copy of one of the following for the applicant:
 - i. A U.S. passport,
 - ii. A birth certificate,
 - iii. Naturalization documents, or
 - iv. Documentation of legal resident alien status;
 - g. If the applicant is a corporation or a limited liability company, a certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated within six months before the date of application;
 - h. If the applicant is a partnership or an association, a copy of one of the following for one partner or association member of the applicant:
 - i. A U.S. passport,
 - ii. A birth certificate,
 - iii. Naturalization documents, or
 - iv. Documentation of legal resident alien status;
 - i. The following information about the applicant's designated agent:
 - i. Name;
 - ii. Residential and business addresses;
 - iii. Residential and business telephone numbers; and
 - iv. Residential and business fax numbers, if any;
 - j. A copy of one of the following for the applicant's designated agent:

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- i. A U.S. passport,
 - ii. A birth certificate,
 - iii. Naturalization documents, or
 - iv. Documentation of legal resident alien status;
 - k. The documents required by R9-5-607;
 - l. An Applicant, Staff, and Resident Report Form, including the applicant's name and address; a statement that the information on the form is accurate and complete; the dated signature of the applicant; and the following information about the applicant, each staff member, and each resident:
 - i. Name;
 - ii. Social security number or identification number issued by the U.S. Immigration and Naturalization Service;
 - iii. Birth date;
 - iv. Hire date, if applicable;
 - v. Job title, if a staff member, or relationship to the applicant or director, if a resident;
 - vi. Date of high school diploma or high school equivalency diploma, if applicable; and
 - vii. Information demonstrating each individual's compliance with A.R.S. § 36-883.02;
 - m. An Agricultural Land Notification Form, including:
 - i. The facility's name and address;
 - ii. Whether the facility is located within one-fourth mile of agricultural land; and
 - iii. If the facility is located within one-fourth mile of agricultural land, the names and addresses of the owners or lessees of all agricultural land located within one-fourth mile of the facility;
 - n. If the facility is located within one-fourth mile of agricultural land, and a child care facility has not previously been licensed at the same location, a copy of an agreement complying with A.R.S. § 36-882(D) for each parcel of agricultural land affected;
 - o. A Director Qualifications Form completed by the individual that the applicant intends to have serve as facility director, including:
 - i. The name of the individual;
 - ii. The facility's name, address, and telephone number;
 - iii. A statement that the individual is at least 21 years of age, will accept the primary responsibility for the daily administration and operation of the facility, and possesses the minimum qualifications required by R9-5-401;
 - iv. An indication of the individual's credentials or academic experience complying with R9-5-401;
 - v. A list of the individual's qualifying child care experience, including beginning and ending dates; positions held; each facility's name, address, and telephone number; a description of the experience at each facility; and the number of hours per week worked at each facility;
 - vi. A copy of the individual's diploma or transcript from each high school, college, university, or other educational facility attended by the individual, showing the name and location of the educational facility; the course of study pursued at the educational facility; the date of any diploma or degree attained at the educational facility; and the number of credit hours completed or the diploma or degree attained at the educational facility;
 - vii. A copy of the certificate of attendance from each child-care workshop attended by the individual;
 - viii. A statement that the individual has provided the licensee with the names, addresses, and telephone numbers of two professional references and two personal references and with at least one written professional reference and one written personal reference;
 - ix. A statement that the information in the Director Qualifications Form is accurate and complete; and
 - x. The signature of the individual; and
 - p. The applicable fee required by A.R.S. § 36-882 in R9-5-210.
- B.** The Department requires a separate license and a separate application for:
1. Each facility owned by the same person at a different location, and
 2. Each facility owned by a different person at the same location.
- C.** The Department does not require a separate application and license for a structure that is:
1. Located so that the structure and the facility:
 - a. Share the same street address, or
 - b. Can be enclosed by a single unbroken boundary line that does not encompass property owned or leased by another;
 2. Under the same ownership as the facility; and
 3. Intended to be used as a part of the facility.

R9-5-205. License Renewal

- A.** At least 45 days before the expiration date of a current license, an applicant for renewal of a license shall submit to the Department an application including:

Notices of Exempt Rulemaking

1. A notarized application form signed by the applicant that includes:
 - a. The applicant's name;
 - b. The facility's name, street address, mailing address, and telephone number;
 - c. The applicant's type of business organization; and
 - d. A statement that the applicant has read and will comply with these rules and declares that the information provided in the application is accurate and complete;
 2. An Attachment to Application including any changes to the information previously submitted as prescribed in R9-5-201(A)(5); and
 3. The applicable fee required by A.R.S. § 36-882 in R9-5-210.
- B.** An applicant that submits the items required by subsection (A) later than 45 days before the expiration date of the current license shall pay to the Department the a late filing fee required by A.R.S. § 36-882, as follows:
1. For a child care facility with a licensed capacity of five to 10 children, \$100;
 2. For a child care facility with a licensed capacity of 11 to 59 children, \$400; or
 3. For a child care facility with a licensed capacity of 60 or more children, \$780.
- C.** If an applicant submits the items required by subsection (A) and the late fee required by in subsection (B), if applicable, before the expiration date of the current license, the current license does not expire until the date specified in A.R.S. § 41-1092.11(A).

R9-5-210. Repealed Fees

An applicant submitting an initial application or a renewal application for a child care facility shall submit to the Department a fee as follows:

1. For a child care facility with a licensed capacity of five to 10 children, \$1,000;
2. For a child care facility with a licensed capacity of 11 to 59 children, \$4,000; or
3. For a child care facility with a licensed capacity of 60 or more children, \$7,800.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

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

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 2106.)

[R09-117]

PREAMBLE

- | | |
|---|-----------------------------------|
| 1. Sections affected
R9-10-122 | Rulemaking Action
Amend |
| 2. The statutory authority for the rulemaking, including both the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:
Authorizing statutes: A.R.S. § 36-136(F)
Implementing statute: A.R.S. § 36-405 and Laws 2009, Third Special Session, Ch. 10, § 4
Statute or session law authorizing the exemption: Laws 2009, Third Special Session, Ch. 10, § 37 and Laws 2009, Third Special Session, Ch. 7, § 28 | |
| 3. The effective date of the rules:
January 1, 2010 | |
| 4. A list of all previous notices appearing in the Register addressing the exempt rule:
Not applicable | |
| 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Mary Wiley, Assistant Director
Address: Department of Health Services
Division of Licensing Services
150 N. 18th Ave., Suite 510
Phoenix, AZ 85007 | |

Notices of Exempt Rulemaking

Telephone: (602) 364-3064
Fax: (602) 364-4808
E-mail: wileym@azdhs.gov

or

Name: Thomas Salow, Acting Manager of Administrative Counsel and Rules

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: salowt@azdhs.gov

6. An explanation of the rule, including the agency's reasons for the rule, including the statutory citation to the exemption from regular rulemaking procedures:

The purpose of this rulemaking is to implement Laws 2009, Third Special Session, Ch. 10, § 4 effective November 24, 2009, specifically provisions in the law that allow the Department to raise fees in fiscal year 2008-2009 for services the Department provides. A.R.S. § 36-405 requires a person to obtain a health care institution license before a person establishes, conducts, or maintains a health care institution. Pursuant to A.R.S. §§ 36-424 and 36-425, the Department provides licensing and monitoring services to health care institutions.

The Department was appropriated approximately half of the Division of Licensing Services (DLS) operating budget for fiscal year 2009-2010. The Department is authorized to obtain the remainder of DLS' operating budget by increasing fees for the health care and child care facilities regulated by DLS.

The Department determined that the time spent conducting onsite facility inspections is related to the health care institution's licensed capacity. "Licensed capacity" is defined in A.R.S. § 36-401(A)(30) as "the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this Chapter if the person is expected to stay in the health care institution for more than twenty-four hours."

To determine the amount that licensing fees would need to be increased to offset the decrease in the general fund appropriation, the Department identified the amount of general fund appropriations previously allocated for each health care institution licensing program in DLS. (The Department receives some funding from other state agencies and the federal government to support licensing and Medicare/Medicaid certification activities.) The Department then calculated the licensing fees each licensing program would generate under the current fee structure and subtracted this amount from the general fund amounts previously allocated to the licensing program to identify how much of an increase in licensing fees would be necessary to generate the funding needed to continue operating the licensing program. For each licensing program, the Department then multiplied the base fee and licensed capacity fee currently in R9-10-122 by a factor sufficient to cover the necessary funding.

ASSISTED LIVING LICENSING

This program receives 34% of the program's operating funds from another state agency. The remaining costs for operating the program are approximately \$2.6M. The program licenses 1,819 facilities with a total licensed capacity of 28,379. Currently, the Department collects \$913,875 in licensing fees and determined that the fees will need to be increased by a factor of 2.8.

BEHAVIORAL HEALTH LICENSING

This program receives 67% of the program's operating funds from another state agency. The remaining costs for operating the program are approximately \$1M. The program licenses 854 facilities with a total licensed capacity of 7,012. Currently, the Department collects \$265,000 in licensing fees and determined that the fees will need to be increased by a factor of 3.75.

LONG TERM CARE LICENSING

This program receives 38% of the program's operating funds from the federal government and 38% from another state agency. The remaining costs for operating the program are approximately \$1.2M. The program licenses 133 facilities with a total licensed capacity of 15,666. Currently, the Department collects \$431,550 in licensing fees and determined that the fees will need to be increased by a factor of 2.9.

MEDICAL FACILITIES LICENSING

This program receives 67% of the program's operating funds from the federal government. The remaining costs for operating the program are approximately \$1.3M. The program licenses 1,460 facilities with a total licensed capacity

Notices of Exempt Rulemaking

of 16,294. Currently, the Department collects \$359,783 in licensing fees and determined that the fees will need to be increased by a factor of 3.65.

The Department expects the fees to cover the costs associated with regulating health care institutions. The estimated costs are based on the number and licensed capacity of currently licensed health care institutions.

The Department will continue to review the revenues generated and the Department's costs to ensure the increased revenues generated cover the Department's costs but do not exceed the amount established by Laws 2009, Ch. 8, § 38, Third Special Session, for fiscal year 2009-2010.

- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. **The summary of the economic, small business, and consumer impact:**
Not applicable
- 10. **A description of the changes between the proposed rules, including supplemental notices, and final rules, (if applicable):**
Not applicable
- 11. **A summary of the comments made regarding the rule and the agency response to them:**
Not applicable
- 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:**
None
- 14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**
No
- 15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

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

ARTICLE 1. GENERAL

Section
R9-10-122. Fees

ARTICLE 1. GENERAL

R9-10-122. Fees

- A. An applicant who submits to the Department architectural plans and specifications for the construction or modification of a health care institution shall also submit an architectural drawing review fee as follows:
 - 1. Fifty dollars for a project with a cost of \$100,000 or less;
 - 2. One hundred dollars for a project with a cost of more than \$100,000 but less than \$500,000; or
 - 3. One hundred fifty dollars for a project with a cost of \$500,000 or more.
- B. An applicant submitting an initial application or a renewal application for a health care institution license shall submit to the Department an application fee of ~~\$50.00~~ \$50.
- C. Except as provided in subsection (D) or (E), an applicant submitting an initial application or a renewal application for a health care institution license shall submit to the Department a license fee as follows:
 - 1. ~~For a facility with no licensed capacity, \$100.00~~ an adult day health care facility, assisted living home, or assisted living center:
 - a. For a facility with no licensed capacity, \$280;
 - b. For a facility with a licensed capacity of one to 59 beds, \$280, plus the licensed capacity times \$70;

Notices of Exempt Rulemaking

- c. For a facility with a licensed capacity of 60 to 99 beds, \$560, plus the licensed capacity times \$70;
- d. For a facility with a licensed capacity of 100 to 149 beds, \$840, plus the licensed capacity times \$70; or
- e. For a facility with a licensed capacity of 150 beds or more, \$1,400, plus the licensed capacity times \$70;
- 2. For a facility with a licensed capacity of one to 59 beds, \$100.00, plus the licensed capacity times \$25.00 behavioral health service agency:
 - a. For a facility with no licensed capacity, \$375;
 - b. For a facility with a licensed capacity of one to 59 beds, \$375, plus the licensed capacity times \$94;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$750, plus the licensed capacity times \$94;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$1,125, plus the licensed capacity times \$94; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,875, plus the licensed capacity times \$94;
- 3. For a facility with a licensed capacity of 60 to 99 beds, \$200.00, plus the licensed capacity times \$25.00; nursing care institution:
 - a. For a facility with a licensed capacity of one to 59 beds, \$290, plus the licensed capacity times \$73;
 - b. For a facility with a licensed capacity of 60 to 99 beds, \$580, plus the licensed capacity times \$73;
 - c. For a facility with a licensed capacity of 100 to 149 beds, \$870, plus the licensed capacity times \$73; or
 - d. For a facility with a licensed capacity of 150 beds or more, \$1,450, plus the licensed capacity times \$73; or
- 4. For a facility with a licensed capacity of 100 to 149 beds, \$300.00, plus the licensed capacity times \$25.00; or hospital, a home health agency, a hospice, a hospice inpatient facility, an abortion clinic, a recovery care center, an outpatient surgical center, an outpatient treatment center, or an unclassified health care institution:
 - a. For a facility with no licensed capacity, \$365;
 - b. For a facility with a licensed capacity of one to 59 beds, \$365, plus the licensed capacity times \$91;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$730, plus the licensed capacity times \$91;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$1,095, plus the licensed capacity times \$91; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,825, plus the licensed capacity times \$91.
- 5. ~~For a facility with a licensed capacity of 150 beds or more, \$500.00, plus the licensed capacity times \$25.00.~~
- D. A person who has paid a health care institution license fee for a facility and submits a behavioral health service agency application for the same facility shall submit an application fee but is not required to submit an additional license fee.
- E. Subsection (C) does not apply to a health care institution operated by a state agency according to state or federal law or to an adult foster care home.
- F. All fees are nonrefundable except as provided in A.R.S. § 41-1077.