

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2033.) The Governor's Office authorized the notice to proceed through the rulemaking process on June 24, 2011.

[R12-146]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R4-30-247 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. §§ 32-106(A)(1),(9), 32-106(F) and 32-111(D)(7)
Implementing statute: A.R.S. §§ 32-101(18) and 32-122.02
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 18 A.A.R. 1148, May 18, 2012
- 4. The agency's contact person who can answer questions about the rulemaking:**
Name: Melissa Cornelius, Deputy Director
Address: 1110 W. Washington St., Suite 240
Phoenix, AZ 85007
Telephone: (602) 364-4933
Fax: (602) 364-4931
E-mail: Melissa.cornelius@azbtr.gov
Web site: www.azbtr.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
During the 2010 2nd Regular Legislative Session, amendments were made to A.R.S. § 32-101(18), adding "Swimming pools and Spas" to the definition of what constitutes a home inspection in Arizona. The Board must modify its existing rule relating to home inspection to incorporate the legislative changes, in order to protect the public health, safety and welfare.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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
- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

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

The Board expects that updating A.A.C. R4-30-247 will benefit all parties involved in its regulatory processes. This proposed rulemaking will incorporate legislatively authorized inspections of Swimming Pools and Spas into the Board's rule regarding what constitutes a home inspection in Arizona.

The proposed rule change will not impose any additional costs for small home inspection businesses in Arizona. It proposes to exempt those home inspectors who have been certified prior to February 28, 2012 from any additional or testing requirements related to swimming pools and spas. The proposed rule change does not require home inspectors to include inspections of swimming pools and spas in their inspection reports. But, it will require those who choose to conduct these inspections to comply with the Board's adopted Standards of Practice in order to protect the public's health, safety and welfare.

The proposed rulemaking is not expected to have a significant negative impact on the following sectors of the economy: 1) the competitiveness of professionals in Arizona compared to their counterparts from other states; 2) the prices of goods and services in the state; 3) state revenues. Any additional administrative costs to state agencies, such as to the Board, the Secretary of State's Office, and the Governor's Regulatory Review Council, are not expected to be significant.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Melissa Cornelius, Deputy Director
Address: 1110 W. Washington St., Suite 240
Phoenix, AZ 85007
Telephone: (602) 364-4933
Fax: (602) 364-4931
E-mail: Melissa.cornelius@azbtr.gov
Web site: www.azbtr.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Board has no proceeding scheduled. The Board will accept written and/or oral comments at its office, 1110 W. Washington St., Suite 240, Phoenix, AZ 85007, between 8:00 a.m. and 5:00 p.m., Monday through Friday, for 30 days from the date this proposed rule is published in the *Register*.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 2. REGISTRATION PROVISIONS

Section

R4-30-247. Home Inspector Certification

ARTICLE 2. REGISTRATION PROVISIONS

R4-30-247. Home Inspector Certification

- A. An applicant for certification as a home inspector shall submit an original and one copy of a completed application package that contains the following:
1. Evidence of successful completion, within two years before the date of application, of the National Home Inspector Examination as administered by the Examination Board of Professional Home Inspectors;
 2. The information in subsections (B)(1) through (10);
 3. A completed fingerprint card;

4. Applicable fees;
 5. Evidence of successful completion of ~~80~~ 84 hours of classroom training or an equivalent course conducted by an educational facility that is licensed by the applicable post-secondary education regulatory agency in the home state of the facility, or accredited by the Accrediting Commission of the Distance Education and Training Council, or by an accrediting agency approved by the United States Department of Education. The course of study shall encompass all of following major content areas:
 - a. Structural Components,
 - b. Exterior,
 - c. Roofing,
 - d. Plumbing,
 - e. Heating,
 - f. Cooling,
 - g. Electrical,
 - h. Insulation and Ventilation,
 - i. Interiors,
 - j. Fireplaces and Solid Fuel-Burning Devices, ~~and~~
 - k. Swimming Pools & Spas, and
 - ~~k-l.~~ Professional Practice; and
 6. An applicant who has lawfully conducted home inspections as part of a business shall provide evidence of successful completion of 100 home inspections that meet the standards referenced in R4-30-301.01 on a form provided by the Board. An applicant under this subsection shall meet all other requirements for certification in this Section;
 7. To complete a home inspector in-training program, an applicant who otherwise qualifies for certification as a home inspector except for meeting the qualification in subsection (A)(6), shall present evidence of completion of 30 parallel inspections. The 30 parallel inspections and home inspection report shall meet the standards in R4-30-301.01 and be retained by the applicant for at least two years from the date of application. The applicant shall conduct these inspections on separate residential dwelling units and shall list them on a log provided by the Board. The log shall include, with respect to each inspection, the address of the property, the date of the inspection, and the name and certification number of the supervising home inspector. The Board may hold the applicant's package for a period of one year based solely on the need for time to permit the applicant to complete the required parallel inspections. All time-frames promulgated under A.R.S. Title 41, Chapter 6, Article 7.1 are suspended during this period.
- B.** A certified home inspector is not required to inspect a pool and/or spa as part of a home inspection. If a certified home inspector conducts a pool and/or spa inspection, it shall be conducted in accordance with the "Standards of Professional Practice for the Inspection of Swimming Pools & Spas for Arizona Home Inspectors," ("Standards") adopted by the Board on February 28, 2012 and incorporated by reference without any later amendments or editions. Copies of the Standards are available at the Board's office.
- ~~B-C.~~** The application package shall contain the following:
1. Name, residence address, mailing address if different from residence address, and telephone number;
 2. Date of birth and ~~social security~~ Social Security number of the applicant;
 3. Citizenship or legal residence;
 4. A detailed explanatory statement regarding:
 - a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant in any state or jurisdiction;
 - b. Refusal of any professional or occupational registration, license, or certification by any state or jurisdiction;
 - c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant;
 - d. Any alias or other name used by the applicant;
 - e. Any conviction for a felony or misdemeanor, other than a minor traffic violation.
 5. Documentation of absolute discharge from sentence at least five years before the date of application if an applicant has been convicted of one or more felonies;
 6. State or jurisdiction in which any professional or occupational registration, license or certification is held; type of registration, license, or certification; number; year granted, and how registration, license, or certification was granted (that is, by examination, education, experience, or reciprocity);
 7. The current status of any application for any type of professional or occupational registration, license, or certification pending in another state or jurisdiction;
 8. A release authorizing the Board to investigate the applicant's education, experience, and moral character and repute;
 9. Certification that the information provided to the Board is accurate, true, and complete;
 10. Copy of one report that meets the standards in R4-30-301.01; and
 11. Sworn statement or statements by the supervising certified home inspector or inspectors that the parallel inspections conducted by the applicant meet the standards in R4-30-301.01.

- ~~C.D.~~ The Board staff shall review all applications and, if necessary, refer completed applications to the Home Inspector Rules and Standards Committee for evaluation. If the application is complete and in the proper form, the Board staff or committee is satisfied that all statements on the application are true, and the applicant is eligible in all other aspects to be certified as a home inspector, the Board staff or committee shall recommend that the Board certify the applicant. If the evidence is not clear and convincing of qualification for certification, the matter shall be reviewed by the committee and the committee may request additional information regarding any issue upon which the applicant has not established qualification by clear and convincing evidence.
- ~~D.E.~~ A certified home inspector shall notify the Board in writing within five business days of any loss of, or change in, financial assurance. The Board shall suspend the certificate holder's certification immediately and prohibit further home inspections until current proof of financial assurance is provided to the Board. The Board shall revoke a certificate if the certificate holder fails to provide proof of financial assurance within 90 days of loss of financial assurance or lapse of policy. All certified home inspectors shall provide proof of financial assurance at the time of each annual certification renewal. The Board shall not renew a home inspector certification unless the financial assurance is in full force and effect.
- F. A registrant who has been certified by the Board to conduct home inspections prior to February 28, 2012 will be exempt from any additional education or testing requirements.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 49. BOARD OF ATHLETIC TRAINING

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2033.)

[R12-145]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R4-49-101 | Amend |
| R4-49-102 | Amend |
| R4-49-103 | Amend |
| R4-49-201 | Amend |
| R4-49-202 | Amend |
| R4-49-203 | Amend |
| R4-49-204 | Amend |
| R4-49-205 | Amend |
| R4-49-207 | New Section |
| R4-49-208 | New Section |
| R4-49-302 | Amend |
| R4-49-401 | Amend |
| R4-49-403 | Amend |
| R4-49-404 | Amend |
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. § 32-3402
Implementing statute: A.R.S. § 32-3404
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
Notice of Rulemaking Docket Opening: 17 A.A.R. 2469, December 9, 2011
4. The agency's contact person who can answer questions about the rulemaking:
Name: J. Randy Frost
Address: 4205 N. 7th Ave., Suite 305
Phoenix, AZ 85013
Telephone: (602) 589-8353
Fax: (602) 589-8354

E-mail: randy.frost@otboard.az.gov

Web site: <http://www.at.az.gov>

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Arizona Board of Athletic Training is revising the majority of its rules for consistency. The rules in Articles 1 through 4 are not consistent with Arizona Revised Statutes, Title 32 (Professions and Occupations), Chapter 41, Articles 1 through 3. Specifically, Senate Bill 1131 of the 47th Legislature was signed into law in 2006. It adds A.R.S. § 32-4103(C), allowing the Board to adopt rules to prescribe continuing education requirements for license renewal and A.R.S. § 32-4127, allowing for the issuance of a temporary license.

In addition, Senate Bill 1326 and House Bill 2142 of the 49th Legislature were signed into law in 2010. The significantly revise the following statutes: A.R.S. § 32-4101 definitions; A.R.S. § 32-4103(C), requiring the Board to prescribe the appropriate education and training for an athletic trainer; A.R.S. § 32-4103(E), stating that an athletic trainer is subject to civil liability; A.R.S. § 32-4151(D), setting the limitation for treatment of persons participating in an athletic event; A.R.S. § 32-4103(C)(2), allowing for the appointment of advisory committees; A.R.S. § 32-4104(A), allowing the Board to jointly hire an Executive Director; A.R.S. § 32-4104(B), requiring the Board to hire staff; A.R.S. § 32-4105, establishing an athletic training fund; and A.R.S. § 32-4128, requiring an applicant to provide fingerprints for licensure.

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

The Board did not rely on or review any study for this rulemaking.

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

Not applicable

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

The proposed rules affect the Board, licensees, businesses that employ athletic trainers, providers of continuing education and consumers of licensees' services. The proposed rule's impact on the Board will be the usual rulemaking related costs, which are minimal.

The rule changes are necessary to bring the board into compliance with statute revisions made in 2006 and 2010. The Board estimates that the proposed rule changes will have minimal to moderate impact on the licensees and the businesses that hire them. Licensees will see minimal impact from an increase in fees paid for a license and the costs for continuing education. Businesses that hire the licensees and pay for their license renewals and continuing education may see minimal to moderate increases. A provider of continuing education will benefit from the revenue it receives for providing continuing education courses to licensees. Consumers of a licensee's services may see minimal increases in the fees rendered for services but will benefit from the requirement for continuing education. The continuing education requirement for licensees will give some assurance to consumers that licensees are up to date on current athletic training practices.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: J. Randy Frost
Address: 4205 N. 7th Ave., Suite 305
Phoenix, AZ 85013
Telephone: (602) 589-8353
Fax: (602) 589-8354
E-mail: randy.frost@otboard.az.gov
Web site: <http://www.at.az.gov>

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be received at the address listed in item 9 for at least 30 days after the Notice of Proposed Rulemaking is published in the *Register*. An oral proceeding will be scheduled if one is requested. Should a request for an oral proceeding be received, notice of that proceeding will be published in a future edition of the *Register*.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

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a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the rules.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

- A.R.S. § 32-401, Definitions R4-49-101(1)
- A.R.S. § 41-1072(1), Administrative completeness R4-49-101(3)
- A.R.S. § 38-431.03(B), Confidential records R4-49-101(10)(a)
- A.R.S. § 41-1010, Confidential records R4-49-101(10)(f)
- A.R.S. § 41-1072(3), Substantive review time-frame R4-49-101(10)(f)
- A.R.S. § 41-1077, Fees R4-49-101(19)
- A.R.S. § 32-4103(A)(8), Board Meetings R4-49-103(A)
- A.R.S. § 32-4122, Qualifications R4-49-201(A)(1)
- A.R.S. § 41-1072, Application review R4-49-205(A)
- A.R.S. § 41-1072(1) and listed in subsection (A)(2), Application review R4-49-205(C)
- A.R.S. § 41-1072(3) and listed in subsection (A)(3), Application review R4-49-205(D)
- A.R.S. § 41-1092.07, Request for hearing R4-49-205(D)(4)(c)
- A.R.S. § 32-4154 et seq. in accordance with A.R.S. Title 41 Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings, Hearing procedures R4-49-301
- A.R.S. § 41-1092.09, Rehearing R4-49-302(A)
- A.R.S. § 32-4101 (3), Scope of practice, R4-49-401
- A.R.S. § 32-4101 (3), Standards of practice R4-49-403
- A.R.S. § 32-4153 (10), Code of ethics R4-49-404
- A.R.S. § 32-1401 (10), Direction of a licensed physician R4-49-405
- A.R.S. § 32-1800 (11), Direction of a license physician R4-49-405
- A.R.S. § 32-4103 (B), Direction of a licensed physician R4-49-405(2)

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 49. BOARD OF ATHLETIC TRAINING

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-49-101.	Definitions
R4-49-102.	Fees
R4-49-103.	Board Operations

ARTICLE 2. LICENSURE

Section	
R4-49-201.	Qualifications for Licensure
R4-49-202.	Original License Application
R4-49-203.	Renewal License
R4-49-204.	Expired License: Reinstatement

R4-49-205. License Application Review
R4-49-207. Temporary Licenses
R4-49-208. Continuing Education

ARTICLE 3. HEARINGS

Section
R4-49-302. Rehearing or Review of Decision

ARTICLE 4. ATHLETIC TRAINING PRACTICE

Section
R4-49-401. Scope of Practice
R4-49-403. Standards of Practice
R4-49-404. Code of Ethics

ARTICLE 1. GENERAL PROVISIONS

R4-49-101. Definitions

In addition to the definitions at A.R.S. § 32-4101, in this Chapter:

1. "Accredited educational institution" means an educational institution accredited by the ~~North Central Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, Northwest Association of Schools and Colleges, Western Association of Schools and Colleges, or Southern Association of Colleges and Schools.~~ CAATE or its predecessors.
2. "Active pursuit of athletic training certification" means:
 - a. Current enrollment in an educational program to fulfill academic requirements for athletic training certification; or
 - b. Current participation in fieldwork experience to fulfill the fieldwork experience requirements for athletic training certification.
3. ~~"Administrative completeness review time frame" has the same meaning as in A.R.S. § 41-1072(1).~~
4. ~~3.~~ "Applicant" means an individual requesting an original license, a temporary license, a renewal license, or a reinstated license from the Board.
5. ~~4.~~ "Application packet" means the forms and documents the Board requires an applicant to submit or to be submitted on an applicant's behalf.
6. ~~5.~~ "Approved national athletic training certifying agency;" means the ~~National Athletic Trainers' Association Board of Certification, Inc.~~ BOC.
7. ~~6.~~ "Athlete" means:
 - a. A person participating in, or preparing for, a competitive team or individual sport; or
 - b. A member of a professional athletic team.
7. "Approved provider" means an educational provider approved by the BOC.
8. "Athletic training certification" means current athletic trainer certification provided by the ~~National Athletic Trainers' Association Board of Certification, Inc.~~ BOC.
9. "Completed application" means an application packet that is correctly completed and includes the verified signature of the applicant, applicable fees, and all required documentation.
10. "BOC" means the Board of Certification, Inc.
11. "CAATE" means the Commission on Accreditation of Athletic Training Education.
10. ~~12.~~ "Confidential record" means:
 - a. Minutes of executive sessions except as provided in A.R.S. § 38-431.03(B);
 - b. A record classified as confidential by another law, rule, or regulation applicable to the Board;
 - c. College or university grades, medical or mental health information, and professional references of an applicant except that the applicant who is the subject of the information may view or copy the record;
 - d. An applicant's driver license number, social security Social Security number, home address, ~~and~~ home phone number, personal e-mail address, place of birth, and birth date;
 - e. A record for which the Board determines that public disclosure will have a significant adverse effect on the Board's ability to perform its duties or will otherwise be detrimental to the best interests of the state. When the Board determines that the reason justifying the confidentiality of the record no longer exists, the Board shall make the record available for public inspection and copying; and
 - f. Information regarding a complaint under investigation except as provided in A.R.S. § 41-1010.
13. "Continuing education" means a structured learning process required of a licensee to maintain licensure that includes study in the areas of athletic training practice through an institute, seminar, lecture, conference, workshop, mediated instruction, programmed learning course, or postgraduate study in athletic training.

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14. "Continuing education unit" or "CEU" means one contact hour of participation in a continuing education course.
- ~~11-15.~~ "Day" means a calendar day.
- ~~12-16.~~ In addition to A.R.S. § 32-4101(5), "Direct supervision" means:
- a. ~~The athletic trainer is present in the facility or on the campus where the athletic training student is performing services;~~
 - b. ~~The athletic trainer is immediately available for consultation; and~~
 - a. The athletic trainer can immediately intervene on behalf of the patient, and
 - ~~e.b.~~ The athletic trainer reviews the performance of the athletic training student every grading period.

~~13-17.~~ "Facility of practice" means the principal location of an agency or organization where an athletic trainer provides athletic training services but excludes areas used predominantly for athletic sport or competition.

~~14-18.~~ "Good moral character" means ~~an~~ the applicant; has not taken any action that is grounds for disciplinary action against a licensee under A.R.S. § 32-4153.

 - a. ~~Has not, within five years of application for licensure, been convicted of, plead guilty to, or plead nolo contendere to a felony or misdemeanor that is directly related to public health, athletic care, or education. This includes, but is not limited to:~~
 - i. ~~Rape;~~
 - ii. ~~Sexual abuse;~~
 - iii. ~~Actual or threatened use of a weapon of violence; or~~
 - iv. ~~The illegal use, sale, or distribution of a controlled substance.~~
 - b. ~~Has not, within five years of application for licensure, committed any act involving dishonesty, fraud, misrepresentation, gross negligence, or incompetence;~~
 - e. ~~Is not currently incarcerated in a penal institution;~~
 - d. ~~Has not had a professional license revoked or suspended for cause by this state or by any other jurisdiction, or surrendered a professional license in lieu of disciplinary action;~~
 - e. ~~Has not had athletic training certification revoked or suspended for cause by an approved national athletic training certifying agency; or~~
 - f. ~~Has not practiced without the required licensure in this state or in another jurisdiction within the United States within the two years immediately preceding the filing of the application for licensure.~~

~~15-19.~~ "Good standing" means that an athletic trainer: in this state or any other jurisdiction:

 - a. Has a current license;
 - b. Is not presently subject to any disciplinary action, consent order, or settlement agreement; and
 - c. Has no disciplinary action, consent order, or settlement agreement pending before any licensure Board or court.

~~16-20.~~ "Licensee" means a person licensed in Arizona as an athletic trainer.

~~17.~~ "NATA-BOC" means National Athletic Trainers' Association Board of Certification, Inc.

~~18-21.~~ "National examination" means the national athletic training certification examination provided by the NATA-BOC BOC.

~~19.~~ "Substantive review time frame" has the same meaning as in A.R.S. § 41-1072(3).

R4-49-102. Fees

- A. An applicant shall pay the following fees:
 - 1. Application for original license fee: ~~\$250;~~ \$300;
 - 2. Renewal license fee: ~~\$125;~~ \$175;
 - 3. Reinstatement of a license fee: ~~\$125;~~ \$200.00. This is in addition to the renewal license fee;
 - 4. Duplicate license fee: \$25.
- B. The Board shall charge 25¢ per page for copies of records, documents, letters, minutes, applications, and files or appropriate fees as defined by A.R.S. § 39-121.03.
- C. All fees are nonrefundable except as provided in A.R.S. § 41-1077.
- D. An applicant shall pay original license fees and returned or insufficient fund replacement checks in cash or by cashier's check, ~~or~~ money order, credit card or by debit card if available.
- E. An applicant shall pay renewal, reinstatement, and duplicate license fees in cash or by cashier's check, money order, or personal check.

R4-49-103. Board Operations

- A. The Board shall meet annually in January ~~on or after the third Monday of the month.~~ The Board shall hold additional meetings as required by A.R.S. § 32-4103(A)(8) and as necessary to conduct the Board's business. Meetings may be convened by the Chair, a majority vote of the Board members, or upon written request to the Chair from at least two Board members.

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- B. All Board records shall be open to public inspection and copying, except confidential records. Records may be inspected at the Board Office Monday through Friday, 8:00 a.m. to 5:00 p.m., except state holidays or other days in which the office is required to be closed.

ARTICLE 2. LICENSURE

R4-49-201. Qualifications for Licensure

- A. To qualify for an athletic trainer license a person shall:

1. Meet the requirements at A.R.S. § 32-4122, and
2. Complete an athletic training education program accredited by CAATE or its predecessors, and
- ~~2-3.~~ Pass the national examination.

- ~~B. An applicant who is certified as an Athletic Trainer by NATA-BOC and continuously maintains athletic training certification before January 1, 2004 and is otherwise qualified for licensure under this Chapter, is exempt from subsection (A)(2).~~

R4-49-202. Original License Application

- A. An applicant for an athletic trainer license shall submit an original application that includes the following information:

1. Applicant's full name;
2. Applicant's name as it will appear on the license;
3. Other names used;
4. Social Security number;
5. Residence address and telephone number;
6. Date of birth;
7. Applicant's national athletic training certificate number and date of certification;
8. Post-secondary educational institutions attended;
9. Professional experience, field work, or both within the last five years;
10. Employer's name, address, and telephone number;
11. Current or previous athletic training or other professional license or certification numbers from other states and foreign countries and the status of each license or certification;
12. Current and previous arrest, criminal conviction, and disciplinary actions from any licensing agency or court;
13. E-mail address, if available;
14. Statement of citizenship or alien status and submittal of documents showing the individual's presence in the United States is authorized under federal law;
- ~~13-15.~~ Affidavit of truth attesting to the truthfulness of the information provided signed and notarized.

- B. An applicant shall submit or cause to be submitted on the applicant's behalf the following:

1. Application fee,
2. Written verification from the ~~NATA-BOC~~ BOC of athletic training certification or a passing score on the national examination as required by R4-49-201,
3. Official academic transcripts from institutions listed on the application, and
4. Two letters attesting to the applicant's good moral character from health care providers licensed ~~under 4 A.A.C. Title 49 pursuant to A.R.S. § 32-4101 et seq.~~
5. A readable fingerprint card and associated fee for submission to the Department of Public Safety or current clearance card issued by the Department of Public Safety.

- C. An original license shall expire one year from the date of issuance.

R4-49-203. Renewal License

- A. To renew a license, a licensee shall submit a renewal application and a renewal fee, ~~in compliance with the schedule in subsection (D).~~

- B. A licensee shall sign the renewal application and include the following:

1. Applicant's full name;
2. Applicant's name as it will appear on the renewal license;
3. Residence address and telephone number;
4. Current Arizona Board of Athletic Training license number;
5. Arrest, criminal conviction, and disciplinary actions from any licensing agency or court since last license renewal;
6. Social Security number;
7. Employer's name, address, and telephone number;
8. Attestation of compliance with the continuing education requirements listed in R4-49-208;
9. A readable fingerprint card and associated fee for submission to the Department of Public Safety or a current clearance card issued by the Department of Public Safety if the previous submission is at least five years old or the Department of Public Safety clearance card will expire within the term of the renewed license;
10. Statement of continuance of citizenship and/or right to work in the United States or submittal of documents showing

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the right to work exists.

~~8-11.~~ Signature and date.

- C. A licensee shall submit the renewal application and fees to the Board office ~~by the first day of the month, based on the following schedule:~~ at least 14 days prior to the expiration date of the current license.
1. ~~Last name begins with A-B: January;~~
 2. ~~Last name begins with C-D: February;~~
 3. ~~Last name begins with E-F: March;~~
 4. ~~Last name begins with G-H: April;~~
 5. ~~Last name begins with I-J: May;~~
 6. ~~Last name begins with K-L: June;~~
 7. ~~Last name begins with M-N: July;~~
 8. ~~Last name begins with O-P-Q: August;~~
 9. ~~Last name begins with R-S: September;~~
 10. ~~Last name begins with T-U: October;~~
 11. ~~Last name begins with V-W: November; and~~
 12. ~~Last name begins with X-Y-Z: December.~~
- D. ~~Renewal license fees for the year immediately following the issuance of an original license are based on the time between the issuance of the original license and the time of license renewal as follows:~~
1. ~~Less than two months: No fee;~~
 2. ~~Two months or more but less than four months: 20% of the renewal license fee;~~
 3. ~~Four months or more but less than six months: 40% of the renewal license fee;~~
 4. ~~Six months or more but less than eight months: 60% of the renewal license fee;~~
 5. ~~Eight months or more but less than 10 months: 80% of the renewal license fee; and~~
 6. ~~Ten months or more: 100% of the renewal license fee.~~

R4-49-204. Expired License: Reinstatement

- A. A license expires if it is not renewed on or before the renewal date.
- B. An expired license may be reinstated within three years of expiration of the license if:
1. The former licensee has: ~~current certification from the NATA-BOC as an athletic trainer;~~
 - a. Current certification from the BOC as an athletic trainer; or
 - b. Proof of continuing education to meet the requirements for the time not licensed;
 2. A renewal application is submitted under R4-49-203; and
 3. The license reinstatement fee and renewal fee are paid under R4-49-102;
 4. The former licensee attests, in writing, that the licensee has not practiced athletic training in Arizona during the time the license was expired.

R4-49-205. License Application Review

- A. For an original license, renewal license, or reinstated license as an athletic trainer the time-frames required by A.R.S. § 41-1072 et seq. are:
1. Overall time-frame: 120 days
 2. Administrative completeness review time-frame: 60 days
 3. Substantive review time-frame: 60 days
- B. An administratively complete application for licensure consists of all the information and documents listed in:
1. R4-49-202 for an original athletic training license;
 2. R4-49-203 for renewal of an athletic training license; and
 3. R4-49-204 for reinstatement of an athletic training license.
- C. The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(2), begins on the date the Board receives an application.
1. If the application is not administratively complete when received, the Board shall send a notice of deficiency to the applicant. The deficiency notice shall state the documents and information needed to complete the application.
 2. The applicant shall submit to the Board the missing documents and information within 120 days from the ~~postmark~~ date of the deficiency notice. The time-frame for the Board to finish the administrative completeness review is suspended from the ~~postmark~~ date of the deficiency notice until the date the Board receives the missing documents and information.
 3. If the applicant fails to provide the missing documents and information within the 120 days provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be licensed shall apply again under R4-49-202, R4-49-203, or R4-49-204.
 4. When the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.

- D. Substantive** The substantive review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(3), begins on the postmark date of the notice of administrative completeness.
1. During the substantive review time-frame, the Board may make ~~one~~ comprehensive written request requests for additional information- and may make additional requests for additional information by written agreement with the applicant.
 2. The applicant shall submit to the Board the additional information identified in the request for additional information within 60 days from the postmark date of the request for additional information. The time-frame for the Board to finish the substantive review of the application is suspended from the postmark date of the request for additional information until the Board receives the additional information.
 3. Unless an applicant requests that the Board deny a license within the 60-day period in subsection (D)(2), the Board shall close the file of an applicant who fails to submit the additional information within the 60 days provided. An applicant whose file is closed and who wants to be licensed shall apply again under R4-49-202, R4-49-203, or R4-49-204.
 4. When the substantive review is complete, the Board shall inform the applicant in writing of its decision to grant or deny a license to the applicant.
 - a. The Board shall deny a license if it determines that the applicant does not meet all substantive criteria for licensure required by statute and rule.
 - b. The Board shall grant a license if it determines that the applicant meets all substantive criteria for licensure required by statute and rule.
 - c. If the Board denies an application, the applicant may, within 30 days of service of the notice of denial, make a written request for a hearing to review the Board's decision. The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Article 10.
 - d. In a hearing conducted on a denial of a license, the applicant has the burden of proof.

R4-49-207. Temporary Licenses

- A.** Subject to subsection (B), the executive director may issue a temporary license to an applicant for a license if the applicant meets the requirements of A.R.S. § 32-4127.
- B.** The executive director shall not issue a temporary license without prior board approval if:
1. The applicant is the subject of a pending complaint before the Board or any other state health care regulatory entity;
 2. The applicant has had a license or certificate to practice a health care profession suspended or revoked by another state health care regulatory entity;
 3. The applicant has a criminal history or history of disciplinary action by a state health care regulatory entity; or
 4. The applicant has been previously denied an application for an athletic training license.
- C.** A temporary licensee is subject to disciplinary action by the Board pursuant to A.R.S. § 32-4153.

R4-49-208. Continuing Education

- A.** As a prerequisite to renewal, a licensee shall complete at least 15 CEUs in the area of athletic training since the issuance of the previous license.
- B.** A licensee shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the licensee completed during the preceding two years, and
 - b. Consists of a statement of credit or a certificate issued by an approved provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the licensee completed during the renewal on the renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- C.** Licensees may provide proof of continued BOC certification to meet the CEU requirements of this Section.
- D.** All licensees shall complete a course approved by the Board on the athletic training statutes and this Chapter within one year of obtaining an original license or license renewal. This course needs only to be taken one time.
- E.** In addition to the CEU requirements above, all licensees shall maintain current certification in cardiopulmonary resuscitation from a provider that is approved by the Board.
- F.** Upon written request to the Board 30 days prior to the license renewal date the Board may waive a licensee's continuing education requirement in the case of extreme hardship such as, but not limited to, mental or physical illness, disability, absence from the United States, service in the United States Armed Forces or other extraordinary circumstances as determined by the Board.
- G.** The Board may audit a licensee's continuing education records and revoke, suspend, or place on probation the license of a licensee who fails to comply with continuing education completion, recording, or reporting requirements of this Section.
- H.** A licensee who is aggrieved by a decision of the Board concerning continuing education units may request a hearing before the Board.

ARTICLE 3. HEARINGS

R4-49-302. Rehearing or Review of Decision

- A. ~~The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10. Any party in a contested case or appealable agency action before the Board may file a motion for rehearing or review within 30 days after service of the final administrative decision. Service is complete upon personal service or five days after the date the decision is mailed by certified mail to the party's last known address of record. The party shall attach a full supporting memorandum specifying the grounds for the motion.~~
- B. A party is required to file a motion with the Board for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board, or any orders or abuse of discretion, that deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the proceedings;
 7. Evidence that the Board's decision was a result of passion or prejudice; or
 8. Findings of fact or decision that was not justified by the evidence or was contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period, for a maximum of 20 days, for good cause as described in subsection (I).
- G. Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and:
1. A ruling on the motion will further administrative convenience, expedition, or economy; and
 2. A ruling on the motion will avoid undue prejudice to any party.

ARTICLE 4. ATHLETIC TRAINING PRACTICE

R4-49-401. Scope of Practice

A licensee shall work within the scope of practice for athletic trainers stated in A.R.S. § ~~32-4101(3)~~ 32-4101(4) and the domains, tasks, knowledge, and skills contained in ~~National Athletic Trainers' Association Board of Certification Role Delineation Study: Athletic Training Profession (4th Edition), published in 1999 by the National Athletic Trainers' Association Board of Certification, Inc., 1512 S. 60th St., Omaha, NE 68106-2102,~~ the competencies contained in the Athletic Training Educational Competencies (5th Edition), published in 2010 by the National Athletic Trainers' Association, Inc. 2952 Stemmons Freeway, Dallas, TX 75247, which is incorporated by reference and is on file with the Arizona Board of Athletic Training Office and the Secretary of State's office. The material incorporated contains no future amendments or editions.

R4-49-403. Standards of Practice

A licensee shall ~~work within~~ comply with the standards of practice for athletic trainers stated in A.R.S. § 32-4101(3) and the standards of professional practice contained in ~~National Athletic Trainers' Association Board of Certification Standards of Professional Practice, Disciplinary Process, Requirements to Maintain Certification for the Certified Athletic Trainer, published in 2000 2006 by the National Athletic Trainers' Association Board of Certification, Inc., 1512 S. 60th St., Omaha, NE 68106-2102,~~ which is incorporated by reference and is on file with the Arizona Board of Athletic Training Office and the Secretary of State's office. The material incorporated contains no future amendments or editions.

R4-49-404. Code of Ethics

A licensee shall work within the code of ethics for athletic trainers stated in A.R.S. § 32-4153(10) and the Code of Ethics of

the National Athletic Trainers' Association, published in 1997 by the National Athletic Trainers' Association, 2952 Stemmons Freeway, Dallas, TX 75247, which is incorporated by reference and is on file with the Arizona Board of Athletic Training Office and the Secretary of State's office. The material incorporated contains no future amendments or editions.

NOTICE OF PROPOSED RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2033.)

[R12-142]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action

R10-4-101	Amend
R10-4-102	Amend
R10-4-103	Amend
R10-4-104	Amend
R10-4-105	Amend
R10-4-106	Amend
R10-4-107	Amend
R10-4-108	Amend
R10-4-109	Amend
R10-4-110	ReNUMBER
R10-4-110	New Section
R10-4-111	ReNUMBER
R10-4-111	Amend
R10-4-201	Amend
R10-4-202	Amend
R10-4-203	Amend
R10-4-204	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 41-2405(A)(8)

Implementing statute: A.R.S. § 41-2407

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 18 A.A.R. 722, March 30, 2012

4. The agency's contact person who can answer questions about the rulemaking:

Name: Larry Grubbs, Program Manager
Address: Arizona Criminal Justice Commission
1110 W. Washington St., Suite 230
Phoenix, AZ 85007
Telephone: (602) 364-1154
Fax: (602) 364-1175
E-mail: lgrubbs@azcjc.gov
Web site: www.azcjc.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The current rules were made in a rulemaking that went into effect in January 2008. Experience using the rules and feedback from stakeholders indicate that changes are needed to make the rules more effective in achieving their goals. This rulemaking makes the necessary changes.

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This rulemaking is exempt from the rulemaking moratorium contained in Executive Order 2012-03 under paragraph (4)(c) of the Order.

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

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

Not applicable

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

The amount of funds available to provide compensation awards or assistance to crime victims is not increased as a result of this rulemaking. However, the total amount that can be awarded to a claimant is increased and the amount that can be claimed for various expenses is also increased. The following changes may have some economic impact:

- Clarifying that a collateral source of compensation must be accessible to a claimant;
- Clarifying that insurance proceeds are a collateral source of compensation only if payable to cover a specific compensable cost;
- Removing the requirement that crime-scene cleanup be provided only by a professional service;
- Expanding crime-scene cleanup to include replacing exterior doors, locks, or windows;
- Clarifying that criminally injurious conduct exists regardless of whether a perpetrator is apprehended or charged;
- Deleting the requirement that mental distress be extreme;
- Allowing an operational unit to serve more than one county;
- Amending the formula used to distribute funds to each operational unit to include the operational unit's share of crime in the state;
- Clarifying that an agency that serves as an operational unit is required to forward to the Board a claim made by an Arizona resident relating to conduct occurring outside of Arizona in an area without a crime victim compensation program;
- Requiring Board members to have training;
- Providing limited exceptions for a victim or claimant who is delinquent in paying a fine, monetary penalty, or restitution imposed as a result of conviction of a state crime;
- Clarifying the transportation costs that are compensable;
- Increasing the maximum amount of a claim;
- Increasing the amounts allowed for funeral and crime-scene cleanup expenses;
- Establishing a maximum amount allowed for transportation expenses;
- Clarifying when the victim's conduct may result in a reduction or denial of compensation; and
- Adding a process for state-level claim review.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Larry Grubbs, Program Manager
Address: Arizona Criminal Justice Commission
1110 W. Washington St., Suite 230
Phoenix, AZ 85007
Telephone: (602) 364-1154
Fax: (602) 364-1175
E-mail: lgrubbs@azcjc.gov
Web site: www.azcjc.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Tuesday, September 18, 2012

Time: 2:00 p.m.
Location: 1110 W. Washington St., Suite 250
Phoenix, AZ 85007

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules require no permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The Victims Compensation and Assistance Act of 1984 as amended by The Justice for All Act of 2004 and the Violence against Women and Department of Justice Reauthorization Act of 2005 create crime victim compensation and crime victim assistance programs. These programs provide funds to the states for use in implementing state programs. A state does not receive funding unless the state meets certain minimal criteria. Arizona receives funds under these Acts.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

Section

- R10-4-101. Definitions
- R10-4-102. Administration of the Fund
- R10-4-103. Statewide Operation
- R10-4-104. Operational Unit Requirements
- R10-4-105. Crime Victim Compensation Board
- R10-4-106. Prerequisites for a Compensation Award
- R10-4-107. Submitting a Claim
- R10-4-108. Compensation Award Criteria
- R10-4-109. Hearing; Request for Rehearing ~~or Review~~
- R10-4-110. State-level Claim Review
- ~~R10-4-110-R10-4-111. Emergency Compensation Award~~

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. Grant Eligibility Requirements
- R10-4-204. Services

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

R10-4-101. Definitions

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.

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3. "Claimant" means a natural person who files a claim.
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is ~~available~~ accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
 - a. The perpetrator or a third party responsible for the perpetrator's actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
 - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
 - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required, insurance for a temporary, ~~nonoccupational~~ non-occupational disability;
 - e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable ~~for loss~~ to cover a specific compensable cost due to criminally injurious conduct or an act of international terrorism;
 - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
 - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for: ~~a professional service to remove or attempt to remove blood~~
 - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct occurring in within a residence or the surrounding curtilage;
 - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct occurring within a residence or the surrounding curtilage.
9. "Criminally injurious conduct" means conduct that:
 - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
 - b. Poses a substantial threat of physical injury, ~~extreme~~ mental distress, or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. "Derivative victim" means:
 - a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism;
 - b. A child born to a victim after the victim's death;
 - c. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
 - d. A member of the victim's family who witnessed the criminally injurious conduct or act of international terrorism or who discovered the scene of the criminally injurious conduct;
 - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or discovered the scene of the criminally injurious conduct; or
 - f. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
 - a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct or an act of international terrorism;
 - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
 - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
 - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
13. ~~"Extreme mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.~~
14. ~~13.~~ "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
15. ~~14.~~ "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation,

Native American ceremony, or burial.

- ~~16-15.~~ “Good cause” means a reason that the Board determines is substantial enough to afford a legal excuse.
- ~~17-16.~~ “Inactive claim” means a claim for which no compensation award is made for 12 consecutive months.
- ~~18-17.~~ “Incident of criminally injurious conduct” means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
- ~~19-18.~~ “International terrorism” has the meaning prescribed in 18 U.S.C. 2331.
- ~~20-19.~~ “Jurisdiction” means any county in this state.
- ~~21-20.~~ “Medical expense” means a reasonable and customary cost for medical care provided to a victim due to a physical injury or medical condition that is a direct result of criminally injurious conduct or an act of international terrorism.
21. “Mental distress” means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
22. “Mental health counseling and care expense” means a reasonable and customary cost to assess, diagnose, and treat a victim’s or derivative victim’s ~~extreme~~ mental distress resulting from criminally injurious conduct or an act of international terrorism.
23. “Minimum wage standard” means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
24. “Operational unit” means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
25. “Program” means the Crime Victim Compensation Program.
26. “Proximate cause” means an event sufficiently related to criminally injurious conduct to be held the cause of the criminally injurious conduct.
- ~~26-27.~~ “Reasonable and customary” means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
- ~~27-28.~~ “Resident” means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
- ~~28-29.~~ “Subrogation” means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
30. “Total and permanent disability” means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct and:
- Produces a significant and sustained reduction in the victim’s former mental or physical abilities dramatically altering the victim’s ability to interact with others and carry on normal functions of life;
 - Lessens the victim’s ability to work to a material degree; or
 - Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim’s crime-related condition can reasonably be expected.
31. “Transportation costs” means a travel expense that may be reimbursed to a claimant as follows:
- Mileage, calculated at the rate established by:
 - The operational unit, or
 - The state if the operational unit has not established a mileage rate;
 - Fare expenses; and
 - Vehicle rental at the cost specified in the rental agreement.
- ~~29-32.~~ “Victim” means a natural person who suffers a physical injury or medical condition, ~~extreme~~ mental distress, or death as a direct result of:
- Criminally injurious conduct,
 - An act of international terrorism,
 - The person’s good faith effort to prevent criminally injurious conduct or an act of international terrorism, or
 - The person’s good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.
- ~~30-33.~~ “Work loss” means a reduction in income from:
- Work that a victim or derivative victim would have performed if the victim had not been a victim; and
 - Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

R10-4-102. Administration of the Fund

- The Commission shall deposit in the Fund all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a claimant.
- The Commission shall designate one operational unit ~~in~~ for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.

- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a formula that the Commission determines annually using:
1. A ~~uniform~~ base amount for each operational unit,
 2. An analysis of the prior year's ~~expenditure claim activity, and~~
 3. The share of population of each jurisdiction, and
 4. The share of crime of each jurisdiction.
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes ~~the an~~ operational unit ~~in~~ for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall ~~allow a claimant from that jurisdiction to apply directly to the Commission for a compensation award. The Commission will determine whether to designate an additional operational unit to accept claims from that jurisdiction or~~ make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.
- I. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.

R10-4-103. Statewide Operation

For any ~~portion of the state~~ jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article or provide for a program by contract.

R10-4-104. Operational Unit Requirements

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
1. Only if the public or private agency agrees not to:
 - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
 - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
 - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
 2. Only if the public or private agency agrees to:
 - a. Forward to the Board a claim relating to an incident of criminally injurious conduct or an act of international terrorism occurring in the public or private agency's jurisdiction or jurisdictions;
 - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
 - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring outside of Arizona in an area without a crime compensation program;
 - ~~d.~~ Notify the Commission of any change in the public or private agency's program procedures before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
 - ~~e.~~ Submit a written quarterly financial report to the Commission, on a form provided by the Commission, and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;
 - ~~f.~~ Provide an application form to a claimant;
 - ~~g.~~ Comply with all civil rights requirements;

~~g-h.~~ Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and

~~h-i.~~ Monitor a compensation award to ensure that amounts paid are consistent with this Article.

- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

R10-4-105. Crime Victim Compensation Board

A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.

B. Board members serve a three-year term and are eligible for reappointment.

~~B-C.~~ When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.

~~C-D.~~ When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.

~~D-E.~~ A majority of the Board membership constitutes a quorum that may transact the business of the Board.

~~E-F.~~ The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.

~~F-G.~~ The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.

~~G-H.~~ As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.

I. An employee of an operational unit shall not serve as a Board member.

J. A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.

K. A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.

L. A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

R10-4-106. Prerequisites for a Compensation Award

A. The Board shall make a compensation award only if it determines that:

1. Criminally injurious conduct or an act of international terrorism:
 - a. Occurred in Arizona; or
 - b. Occurred outside of Arizona in an area without a crime compensation program and affected a resident;
2. The criminally injurious conduct or act of international terrorism directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
3. The victim of the criminally injurious conduct or act of international terrorism or a person who submits a claim regarding criminally injurious conduct or an act of international terrorism was not:
 - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - b. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - c. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - d. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 - e. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
4. The criminally injurious conduct or act of international terrorism was reported to an appropriate law enforcement

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authority within 72 hours after its discovery;

5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct or act of international terrorism that is not compensable by a collateral source; and
7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct or act of international terrorism.

B. The Board shall extend the time limits under subsections (A)(4) and ~~(A)(7)~~ (7) if the Board determines there is good cause for a delay.

C. If a victim died as a result of criminally injurious conduct, the requirement under subsection (A)(3)(e) is waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.

D. If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under subsection (A)(3)(e), the requirement under subsection (A)(3)(e) may be waived for:

1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious conduct or an act of international terrorism, or
2. A compensation award for expenses under R10-4-108(C)(3).

R10-4-107. Submitting a Claim

A. If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:

1. A victim;₂
2. A derivative victim;₂
3. A person authorized to act on behalf of a victim or a deceased victim's dependent;₂ or
4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.

~~**B.** An operational unit shall not accept a claim from a person who is:~~

- ~~1. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;~~
- ~~2. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;~~
- ~~3. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;~~
- ~~4. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or~~
- ~~5. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.~~

~~**C.**~~**B.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct or act of international terrorism, the person shall submit a separate claim regarding each incident of criminally injurious conduct or act of international terrorism.

~~**D.**~~**C.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct or act of international terrorism, each person shall submit a separate claim.

~~**E.**~~**D.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit ~~in~~ for the jurisdiction in which the incident of criminally injurious conduct occurred or ~~in the county and state~~ to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct is an act of international terrorism ~~lives or occurred in an area without a victim compensation program~~. The claimant shall provide the following:

1. About the victim:
 - a. Full name,
 - b. Residential address,
 - c. Gender,
 - d. Date of birth,
 - e. Residential and work telephone numbers,
 - f. ~~Social Security number;~~
 - ~~g-f.~~ Statement of whether the victim is deceased,
 - ~~h-g.~~ Ethnicity,
 - ~~i-h.~~ Statement of whether the victim is a resident, and
 - ~~j-i.~~ Statement of whether the victim is disabled;

2. About the claimant if the claimant is not the victim:
 - a. Full name;
 - b. Residential address;
 - c. Gender;
 - d. Date of birth;
 - e. Residential and work telephone numbers;
 - f. ~~Social Security number;~~
 - ~~g-f.~~ Relationship to the victim; and
 - ~~h-g.~~ If there are multiple victims or derivative victims of an incident of criminally injurious conduct or act of international terrorism, the name, residential address, ~~Social Security number~~, and date of birth of each, and for derivative victims, the relationship to the victim;
3. About the crime:
 - a. Type of crime;
 - b. Statement of whether the crime was related to domestic violence;
 - c. Statement of whether the crime was a federal crime;
 - d. Date on which crime was committed;
 - e. Date on which crime was reported to law enforcement authorities;
 - f. Name of law enforcement agency to which the crime was reported;
 - g. Name of law enforcement officer to whom the crime was reported;
 - h. Law enforcement report number;
 - i. Location of crime;
 - j. Name of perpetrator, if known; and
 - k. Brief description of the crime and resulting injuries;
4. About a civil lawsuit:
 - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
 - b. If the answer to subsection ~~(E)(4)(a)~~ (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
5. About benefits from collateral sources:
 - a. List of the benefits the claimant has received since the incident of criminally injurious conduct or act of international terrorism or is entitled to receive; and
 - b. For each benefit identified:
 - i. Type of benefit,
 - ii. Contact address and telephone number; and
 - iii. Claimant's identification or policy number;
6. About the economic loss for which compensation is requested:
 - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider, ~~and if mileage is claimed for medical care, the date and mileage of each trip;~~
 - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider, ~~and if mileage is claimed for mental health counseling and care, the date and mileage of each trip;~~
 - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
 - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
 - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid; ~~and~~
 - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and
7. The claimant's dated signature:
 - a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge; and
 - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source; and
 - c. Authorizing the release of confidential information necessary to administer the claim; and
 - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct or act of international terrorism and is necessary to verify the claim.

~~F.E.~~ A claimant shall attach the following to the claim form submitted under subsection ~~(E)~~ (D):

1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection ~~(E)(6)~~ (D)(6); and
2. If work loss expenses are claimed, a signed statement on official letterhead:
 - a. From the claimant's employer verifying the information provided under subsection ~~(E)(6)(e)~~ (D)(6)(c); and
 - b. If applicable, from the physician or mental health care provider indicating ~~that~~ the claimant:
 - i. ~~was~~ Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
 - ii. Is totally and permanently disabled.

R10-4-108. Compensation Award Criteria

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, whether to make a compensation award and if so, the terms and amount of the compensation award. The Board shall make a decision within 60 days after the operational unit receives a claim under R10-4-107 unless good cause exists. The Board shall inform the claimant in writing within ~~five~~ 10 days of the Board's decision.
- B. The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C. The Board shall make a compensation award only for the following:
 1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, or death.
 - a. The Board shall include the following as a medical expense:
 - i. Repair of damage to a prosthetic device, eyeglasses or other corrective lenses, or a dental device; and
 - ii. Durable medical equipment; and
 - iii. ~~Reasonable transportation costs related to obtaining medical care.~~
 - b. The Board shall not include as a medical expense a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;
 2. Reasonable and customary work loss expenses for:
 - a. A victim whose ability to work is reduced due to physical injury, ~~extreme~~ mental distress, or medical condition resulting from the criminally injurious conduct or act of international terrorism;
 - b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;
 - c. ~~A deceased victim's spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild~~ derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the ~~spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild~~ derivative victim listed in R10-4-101(10)(a) through (c);
 - d. A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;
 - e. A derivative victim to make funeral arrangements or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or
 - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required as a result of the criminally injurious conduct or act of international terrorism;
 3. Reasonable and customary funeral expenses. Expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
 4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's ~~extreme~~ mental distress resulting from the criminally injurious conduct or act of international terrorism if:
 - a. The mental health counseling and care is provided by an individual who:
 - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
 - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101,
 - iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or
 - iv. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
 - b. The mental health counseling and care expenses:
 - i. ~~Include only reasonable costs of transportation related to obtaining the mental health counseling and care; and~~
 - ii. ~~Do~~ do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary; and
 5. Reasonable and customary crime scene cleanup expenses due to a victim's ~~death from criminally injurious conduct in~~

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- a residence homicide, aggravated assault, or sexual assault; and
6. Reasonable and customary transportation costs related to:
- a. Obtaining medical care as defined in subsection (C)(1).
 - b. Obtaining mental health counseling and care as defined in subsection (C)(4).
 - c. Attending a court proceeding directly related to the incident of criminally injurious conduct that is the subject of the claim.
 - d. The victim obtaining a medical forensic examination or participating in a medical forensic interview, and
 - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(d).

D. The Board shall not make a compensation award to a claimant that exceeds:

- 1. ~~Twenty thousand dollars~~ \$25,000 for all economic loss ~~sustained by the claimant submitted under a claim~~ as a result of an incident of criminally injurious conduct or act of international terrorism;
- 2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
- 3. For work loss expenses:
 - a. Work loss expenses under subsections (C)(2)(a) and ~~(C)(2)(e)~~ (c) are limited to an amount per calendar week equal to 40 hours per week at the current minimum wage and the maximum amount specified in subsections (D)(1) and ~~(D)(2)~~ (2).
 - b. Work loss expenses under subsections (C)(2)(b) and ~~(C)(2)(d)~~ (d) are limited to an amount per calendar month equal to 40 hours per month at the current minimum wage and the maximum amount specified in subsections (D)(1) and ~~(D)(2)~~ (2).
 - c. Work loss expenses under subsection (C)(2)(e) are limited to an amount equal to 24 hours at the current minimum wage, and
 - d. Work loss expenses under subsection (C)(2)(f) are limited to an amount equal to 160 40 hours per week at the current minimum wage ~~to a maximum of 160 hours~~;
- 4. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
- 5. For funeral expenses, ~~\$5,000~~ \$10,000; and
- 6. For crime scene cleanup expenses, ~~\$1,000~~ \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional service to include only repair or cleanup material costs for one-time use items; and
- 7. For transportation costs, \$1,500 paid as reimbursement of actual transportation expenses.

~~E.~~ If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.

~~E.F.~~ The Board shall deny or reduce a compensation award to a claimant if:

- 1. The victim or claimant has recouped or is eligible to recoup the economic loss from a collateral source except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;
- 2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
- 3. The Board determines that the victim's physical injury, medical condition, ~~extreme~~ mental distress, or death was due in substantial part to the victim's:
 - a. Negligence,
 - b. Intentional unlawful conduct ~~that occurred at the time of the incident of criminally injurious conduct that was the proximate cause of the incident of criminally injurious conduct,~~ or
 - c. Conduct, ~~that intentionally intended to provoke~~ provoked or ~~aggravated~~ aggravate, that was the proximate cause of the incident of criminally injurious conduct.

~~F.G.~~ The Board shall deny or reduce a compensation award under subsection ~~(E)(3)~~ (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the victim's physical injury, medical condition, ~~extreme~~ mental distress, or death.

~~G.H.~~ The Board shall deny a compensation award to a claimant if:

- 1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial health or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
 - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or act of international terrorism or failed to appear as a witness for the prosecution;
 - b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct or act of international terrorism escaped prosecution or the prosecution of the suspect was

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negatively affected; or

- c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; or
2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.

~~H-I.~~ If there are insufficient funds to make a compensation award, the Board may;

1. Deny the claim,
2. Make a partial award and reconsider the claim later during the fiscal year, or
3. Extend the claim into a subsequent fiscal year.

~~I-J.~~ The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.

~~J-K.~~ The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

~~K-L.~~ The operational unit may close an inactive claim:

1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;²
2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case;² and
3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.

R10-4-109. Hearing; Request for Rehearing or Review

~~A.~~ ~~If the prerequisites in R10-4-106 are met, the~~ Board shall conduct a hearing regarding a claim submitted under this Article ~~if:~~

- ~~1. The Board determines that a hearing will enable it to evaluate the claim and make a proper decision; or~~
- ~~2. A claimant appeals a decision made by the Board without a hearing. A claimant who wishes to have a hearing shall submit to the Board a written request within 30 days after receiving notice of the Board's decision stating the basis for the request.~~

~~B.~~ The Board shall provide a claimant with at least ~~30 days~~ 10 days' notice of a hearing ~~and due process or rehearing.~~

~~C.~~ The Board shall ~~serve any~~ provide written notice required under this Section by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal service or within ~~five days after mailing by certified mail~~ of its decision to the claimant within 10 days after a hearing or rehearing.

~~D.~~ The Board shall ~~provide written~~ serve notice of its decision ~~to the claimant within 20 days after a hearing~~ a compensation award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.

~~E.~~ The Board may request a rehearing of a decision at any time and for any reason under this Article.

~~E-F.~~ A claimant who is aggrieved by a decision of the Board made ~~after~~ at a hearing may request a rehearing ~~or review~~ of the decision within 30 days after the Board serves notice of the decision. A claimant shall request ~~for~~ a rehearing ~~or review~~ in writing and specify the grounds for the request.

~~F-G.~~ A claimant may amend a request for a rehearing ~~or review~~ of a Board decision at any time before it is ruled on by the Board.

~~G-H.~~ The Board may require additional written explanation of an issue raised in a request for rehearing ~~or review~~ of a Board decision and may provide for oral argument.

~~H-I.~~ The Board ~~may~~ shall grant a rehearing ~~or review~~ for any of the following reasons materially affecting a claimant's rights:

1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
2. Misconduct of the Board, the operational unit, or staff of the operational unit;
3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
5. The decision is not justified by the evidence or is contrary to law.

~~J.~~ When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.

~~I-K.~~ The Board may affirm or modify a decision ~~or grant a rehearing to the claimant~~ on all or part of the issues for any of the reasons listed in subsection ~~(H)~~ (I). An order ~~granting a rehearing or~~ modifying a decision shall specify with particularity the grounds for the order. ~~If a rehearing is granted, the rehearing shall cover only the matters specified in the order.~~

~~J.~~ Not later than 30 days after the date of a decision and after giving the claimant notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a hearing on a request by a claimant. The Board may grant a request for a rehearing or review for a reason not stated in the request. An order granting a rehearing or review shall specify with particularity the grounds on which the hearing or review is granted.

R10-4-110. State-level Claim Review

- A.** The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
 2. A representative of the Office of the Attorney General, and
 3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- B.** The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 days after receiving the written request required under subsection (C).
- C.** A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- D.** A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E.** When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
1. Considers only evidence previously presented to the Board, and
 2. Decides only whether the Board's decision was consistent with the standards in this Article.
- F.** The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G.** A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim;
or
 2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- H.** The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 days after the state-level claim review.

~~R10-4-110~~R10-4-111, Emergency Compensation Award

- A.** After receiving a claim submitted under R10-4-107, an operational unit may grant ~~an~~ one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
- The person to whom the emergency compensation award is made is or will be an eligible claimant, and
 - Serious hardship will result to the person if an immediate compensation award is not made.
- B.** An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed ~~\$500~~ \$1,000.
- C.** If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

R10-4-201. Definitions

In this Article:

- "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
- "Crime" means conduct, completed or preparatory, committed in Arizona, that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
- "Financial support from other sources" means that at least one-fourth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
- "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
- "Immediate family" means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
- "In-kind contribution" means a non-cash donation to which a cash value can be given.
- "Subrogation" means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
- "Substantial financial support from other sources" means that at least half of the financial support to a victim assistance program is from sources, not including in-kind contributions, other than the Fund.
- "Victim" means a natural person against whom a crime is perpetrated and the victim's immediate family.

R10-4-202. Administration of the Fund

- A. The Commission shall deposit in the Fund all funds received under A.R.S. §§ 31-466(A) and 31-411(F) and any other funds received for victim assistance.
- B. The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution and effective and efficient use of the funds.
- C. At least ~~two months~~ six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is www.azcjc.gov.
- D. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

R10-4-203. Grant Eligibility Requirements

- A. A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney's office or law enforcement agency.
- B. A public agency or private nonprofit organization qualified under subsection (A) may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a program that:
 - 1. Provides services described in R10-4-204 to victims;
 - 2. Does not use Commission funds or federal funds to supplant funds otherwise available to the program for victim assistance;
 - 3. Uses volunteers effectively and efficiently to provide victim services;
 - 4. Promotes coordinated public and private efforts to assist victims within the community served;
 - 5. Assists a victim in seeking available victim compensation benefits; and
 - 6. Complies with all applicable civil rights laws.
- C. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for at least three years shall demonstrate to the Commission that the program:
 - 1. Has substantial financial support from a source other than the Fund; and
 - 2. Has a history of providing effective services to victims. The Commission shall determine whether the program's victim services are effective based on:
 - a. The length of time the program has provided victim services, and
 - b. Whether data indicate program results are achieved in a cost-effective manner.
- D. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for fewer than three years shall demonstrate to the Commission that the program:
 - 1. Has financial support from a source other than the Fund; and
 - 2. Is designed to meet a currently unmet need for a specific victim service.
- E. To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:
 - 1. Submit to the Commission quarterly financial reports, on a form provided by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
 - 2. Submit an annual report to the Commission, on a form provided by the Commission, and provide the following information:
 - a. Number of victims served ~~by type of crime~~ during the reporting period, by type of crime;
 - b. Type of services provided;
 - c. Number of times each service was provided;
 - d. Ethnic background, age, and sex of each victim served;
 - e. ~~Number and type~~ Type of assistance provided to victims in obtaining victim compensation;
 - f. Number of times each type of assistance was provided; and
 - g. A narrative assessment of the impact of Commission funds on the program.

R10-4-204. Services

- A. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services:
 - 1. Crisis intervention services to meet the urgent emotional or physical needs of a victim. Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;
 - 2. Emergency services including:

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- a. Temporary shelter for a victim who cannot safely remain in current lodgings;
 - b. Petty cash for immediate needs related to transportation, food, shelter, and other necessities; and
 - c. Temporary repairs such as locks and windows damaged as a result of a crime to prevent the ~~immediate re-burglarization of a home or apartment from being re-burglarized immediately;~~
3. Support services, including:
 - a. Counseling dealing with the effects of victimization;²
 - b. Assistance dealing with other social services and criminal justice agencies;²
 - c. Assistance in obtaining the return of property kept as evidence;²
 - d. Assistance in dealing with the victim's landlord or employer;² and
 - e. Referral to other sources of assistance as needed;
 4. Court-related services, including:
 - a. Direct services or petty cash that helps a victim participate in criminal justice proceedings, including transportation to court, child care, meals, and parking expenses; and
 - b. Advocate services including escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
 5. Notification services, including notifying a victim:
 - a. Of significant developments in the investigation or adjudication of the case;
 - b. That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled; and
 - c. Of the final disposition of the case.
- B.** A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to provide:
1. Training for salaried or volunteer staff of criminal justice, social services, mental health, or related agencies, who provide direct services to victims; and
 2. Printing and distributing brochures or similar announcements describing the direct services available, how to obtain program assistance, and volunteer opportunities.
- C.** A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
1. Crime prevention efforts, other than those aimed at providing specific emergency help after ~~a victimization~~ an individual is victimized;
 2. General public relations programs;
 3. Advocacy for a particular legislative or administrative reform;
 4. General criminal justice agency improvement;
 5. A program in which victims are not the primary beneficiaries;
 6. Management training or training for persons who do not provide direct services to a victim; or
 7. Victim Compensation provided under ~~R10-4-101 et seq~~ this Chapter.