



NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, 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)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. BOARD OF COSMETOLOGY

[R16-117]

PREAMBLE

- | | |
|---|---------------------------------|
| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R4-10-108 | 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. § 32-504(A)(1)
 Implementing statute: A.R.S. §§ 32-504(A)(3) and 32-514
- 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: 22 A.A.R. 1611, June 17, 2016
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Donna Aune
 Address: State Board of Cosmetology
 1721 E. Broadway
 Tempe, AZ 85282-1611
 Telephone: (480) 784-4539
 Fax: (480) 784-4962
 E-mail: daune@azboc.gov
 Web site: www.azboc.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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**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 Board currently contracts with Professional Credential Services, Inc. (PCS) to administer and grade the Board's licensing examinations. PCS offers written cosmetology examinations in English, Spanish, Korean, and Vietnamese. This rulemaking allows the written licensing examination to be offered in Arizona in all available languages. The rulemaking also relates, in part, to a 5YRR submitted to the Council on February 16, 2016.

 An exemption from EO2016-03 was provided for this rulemaking by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's office, in an email dated May 16, 2016.
- 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 does not intend to review or rely on a study in its evaluation of or justification 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:

This rulemaking may make it easier for individuals who are more fluent in Spanish, Korean, or Vietnamese to pass the written licensing examination and obtain a license. This will have a positive economic benefit for these individuals. The Board will incur the cost of doing this rulemaking.

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

Name: Donna Aune
Address: State Board of Cosmetology
1721 E. Broadway
Tempe, AZ 85282-1611
Telephone: (480) 784-4539
Fax: (480) 784-4962
E-mail: daune@azboc.gov
Web site: www.azboc.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: Monday, September 12, 2016
Time: 12:00 p.m.
Location: 1721 E. Broadway
Tempe, AZ 85282-1611

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 rule does 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:

There is no federal law uniquely applicable to the subject matter of this rulemaking.

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. BOARD OF COSMETOLOGY

ARTICLE 1. GENERAL PROVISIONS

Section

R4-10-108. Pre-screening Review; Licensing Examinations Examination

ARTICLE 1. GENERAL PROVISIONS

R4-10-108. Pre-screening Review; Licensing Examinations Examination

A. ~~The A student planning to apply to the Board for licensure may, but is not required to, request that the Board may complete a pre-screening review of examination qualifications, if requested, whether the student is qualified to take the licensing examination, before the student graduates from a school, but the Board shall not approve the examination application until the~~ The student may request the pre-screening review before the student graduates from a school licensed by the Board but the student shall not be issued an examination date until the student has completed a minimum of:

- 1. 1450 hours of cosmetology training,



2. 500 hours of aesthetics or nail technician training,
 3. 550 hours of cosmetology instructor training,
 4. 400 hours for aesthetics instructor training, or
 5. 250 hours of nail technician instructor training.
- B.** After the Board completes the pre-screening review and determines the student has completed the number of hours specified in subsection (A), ~~an applicant may receive the Board or national professional organization with which the Board contracts to administer the licensing examination shall issue an examination date; to the student, but the applicant is~~ However, the Board shall not ~~allowed in~~ allow the student to take the examination site until the applicant student applies for licensure and provides a certification of graduation to the Board.
- C.** ~~If the applicant a student who has been issued an examination date fails to apply for licensure and provide a certification of graduation by the date set for the examination date or the applicant does not fails to appear at the examination site at the scheduled examination time, the applicant forfeits the examination fee is forfeited.~~
- D.** A request for a pre-screening review is not a substitute for an official agency acceptance or issuance of a license an application for licensure and does not guarantee the Board will issue a license.
- C.** ~~If the applicant does not request an examination pre-screening review, the Board shall not consider an examination application until the applicant has received the hours required for graduation and has graduated from a school licensed by the Board.~~
- D.E.** ~~All examinations shall be held in the Board's examination center at the Board's office unless another location is designated by the Board in its written notice to the applicant. The Board or national professional organization with which the Board contracts to administer the licensing examination shall provide written notice to an applicant of the date, time, and location for the examination.~~
- E.** ~~The Board shall notify applicants in writing of the time and place assigned for the examination.~~
- F.** An applicant shall provide photographic identification upon entering the examination center site. Acceptable forms of identification include United States issued The following U.S.-issued forms of identification are acceptable: passport, driver license, bank identification card, military identification, or other government-issued identification card. Identifi- cation shall contain a photograph of the applicant.
- G.** ~~An~~ The licensing examination shall ~~consist~~ consists of both a written and practical sections section, and the practical sections An applicant shall ~~include perform a live demonstrations~~ demonstration on a model as follows: during the practical section of the licensing examination. During the live demonstration, the applicant shall:
1. An applicant shall perform a cosmetology or nail technology demonstration on a mannequin, Provide the model required for the demonstration. If the applicant provides a live model for the demonstration, the live model shall not be a current or former student of aesthetics, cosmetology, or nail technology or a current or former licensee;
 2. An applicant shall perform a demonstration for an aesthetics examination on a person, and Provide all equipment, supplies, tools, or instruments required for the demonstration; and
 3. An applicant shall perform demonstrations for an instructor examination on a person for an aesthetics class or a mannequin for a cosmetology or nail technology class. Comply with all infection control and safety standards specified in R4-10-112, including those regarding blood spills. If an applicant fails to follow proper blood-spill procedures during the demonstration, the examination administrator shall dismiss the applicant from the examination and cause the examination fee to be forfeited.
- H.** An applicant shall comply with all infection control and safety standards required by R4-10-112 during the examination.
- H.H.** ~~An~~ If an applicant who cannot fails to appear for an a licensing examination as scheduled, shall forfeit the applicant forfeits the examination fee. An ~~If an applicant who arrives at an examination site after a the scheduled examination begins, the examination administrator shall not be allowed to test at the scheduled time allow the applicant to take the examination. If an An applicant arrives after the examination begins or fails to appear for a scheduled examination, the Board shall may reschedule the a missed examination upon payment of by paying another examination fee.~~
- I.** ~~The An applicant is allowed a one-time cancellation of the may cancel a scheduled examination test date if the applicant eaneels once by providing notice of cancellation at least 48 hours before the examination start time. The Board does not require another examination fee for rescheduling to reschedule a canceled examination.~~
- J.** ~~An applicant shall supply equipment, supplies, tools or instruments, and a model as required.~~
- K.** ~~An applicant shall not use a current or former student in an aesthetics, cosmetology, or nail technology school as a model in the live demonstration of aesthetics or instructor examinations.~~
- L.J.** ~~Examination Neither the Board nor the examination administrator shall make examination materials are not available for inspection or copying by any person, nor shall any A person shall not attempt to obtain or provide examination materials.~~
- M.K.** ~~The An applicant shall not bring and the examination administrator shall not allow written material or recording media in to either the written or practical sections section of the licensing examination for aestheticians, cosmetologists, or nail technicians. The examination administrator may exclude other items from the written or practical sections section of the licensing examination any items the examination administrator believes that may impede the fair administration or security of the examination. An The examination administrator shall dismiss from the examination an applicant who seeks to impede the fair administration of an exam the examination, or copies or asks for information from another applicant shall be dismissed from the examination and shall forfeit and cause the examination fee to be forfeited. An applicant who has a blood spill that is not treated following proper blood spill procedures in R4-10-112 shall be dismissed from the examination and shall forfeit the examination fee.~~
- N.L.** ~~If an applicant passes the examination but does not apply for an original license fails to complete the licensure process within one year after the date of the examination, the Board shall void the examination scores.~~



~~O.M.~~ If application is made for licensure by reciprocity, the Board ~~may~~ shall accept a score on a written or practical examination from another jurisdiction if the examination:

1. Is the same national examination ~~as that~~ administered in Arizona,
2. The score obtained by the applicant is at least the same as the passing score ~~that was~~ required by the Board at the time the applicant took the examination in the other jurisdiction, and
3. The applicant provides the Board with documentation from the other jurisdiction verifying the passing score and that the score was received within one year ~~of~~ before the application for licensure by reciprocity.

~~P.N.~~ The Board or national professional organization with which the Board contracts to administer the licensing examination shall conduct:

1. ~~all examinations~~ The practical section of the licensing examination in English and applicants an applicant shall submit answers in English;
2. The written section of the licensing examination in English and other languages specified by the national professional organization. An applicant may choose to take the written section of the licensing examination in any of the offered languages.