



**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 5. BOARD OF BARBERS**

[R16-227]

**PREAMBLE**

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| <p><b><u>1. Articles, Parts, and Sections Affected</u></b><br/>R4-5-103</p> <p><b><u>2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b><br/>Authorizing statute: A.R.S. § 32-304(A)(1)<br/>Implementing statute: A.R.S. § 32-328</p> <p><b><u>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:</u></b><br/>Notice of Rulemaking Docket Opening: 22 A.A.R. 2625, September 23, 2016</p> <p><b><u>4. The agency's contact person who can answer questions about the rulemaking:</u></b><br/>Name: Sam Barcelona<br/>Address: Barbers Board<br/>1400 W. Washington St., Suite 220<br/>Phoenix, AZ 85007<br/>Telephone: (602) 542-4498<br/>Fax: (602) 542-3093<br/>E-mail: sam.barcelona@azbarberboard.us<br/>Web site: www.barberboard.az.us</p> <p><b><u>5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:</u></b></p> | <p><b><u>Rulemaking Action</u></b><br/>Amend</p> |
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The Board is amending the rule for three reasons. First, the Board is concerned about having sums of cash in an unsecured office building, the need to make change when offered cash, and the need to move the cash from the Board office to the Department of Administration and then to the Treasurer's office. Second, both the Department of Administration and Treasurer's office have asked the Board to discontinue accepting cash payments. Third, consistent with the Governor's goal of having all state agencies provide e-commerce user friendly services, the Board wants to be able to accept payments by credit or debit card.

An exemption from EO2016-03 was provided by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's office, in an e-mail dated July 20, 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:

The economic impact of the rule change will be minimal. A licensee or applicant will no longer be able to pay fees in cash but will be able to use a credit or debit card. This may have some impact on licensees and applicants who do not have a bank account or credit card. The Board, and by extension, the state, will no longer have the risks associated with having sums of cash in an unsecured office building.

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

Name: Sam Barcelona  
Address: Barbers Board  
1400 W. Washington St., Suite 220  
Phoenix, AZ 85007  
Telephone: (602) 542-4498  
Fax: (602) 542-3093  
E-mail: sam.barcelona@azbarberboard.us  
Web site: www.barberboard.az.us

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, December 12, 2016  
Time: 9:00 a.m.  
Location: 1400 W. Washington St., Suite 220  
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 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 regarding the manner in which the Board accepts payment from licensees and applicants.

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 5. BOARD OF BARBERS

ARTICLE 1. GENERAL PROVISIONS

Section  
R4-5-103. Fee Payment

ARTICLE 1. GENERAL PROVISIONS

R4-5-103. Fee Payment





**8. The preliminary summary of the economic, small business, and consumer impact:**  
 Amending these rules will have a positive economic impact for foster home and Child Welfare Agency applicants. Homes with a bedroom leading to a pool enclosure will not have to undergo a significant renovation to be compliant with fire and pool safety rules. The amended rules will not require any additional safeguards that are not already required by state law, county code, and municipal ordinances in the State of Arizona.

**9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:**  
 Name: Jonathan Slater  
 Address: Department of Child Safety  
 3003 N. Central Avenue  
 Phoenix, AZ 85012  
 Telephone: (602) 255-2539  
 E-mail: jslater@azdes.gov  
 Web site: <https://dcs.az.gov/about/dcs-rules-rulemaking>

**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 may be submitted to: [DCSPolicyUpdate@azdes.gov](mailto:DCSPolicyUpdate@azdes.gov)  
 Close of public comment record. Tuesday, December 13, 2016 at 5 p.m.  
 The Department will hold an oral proceeding.  
 Date: Monday, December 12, 2016  
 Time: 5 p.m. to 7 p.m.  
 Location: Ability 360  
 5025 E. Washington St.  
 Phoenix, AZ 85034

Americans with Disabilities Act: Persons with disabilities may request reasonable accommodations by contacting the Arizona Department of Child Safety, Carrie Senseman, at (602) 255-2534. Please make requests as early as possible to allow time to arrange the accommodation.

**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:**

- 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 pertain to a requirement for foster home and Child Welfare Agency licensing. A general permit is not used. The Department is exempt from issuing a general permit for foster homes, (A.R.S. 8-503), and Child Welfare Agencies (A.R.S. § 8-505) under A.R.S. § 41-1037(A)(5).
- 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:**  
 42 U.S.C. 671. The rules are not more stringent than federal law.
- 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:**  
 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:**  
 Not applicable

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

**TITLE 21. CHILD SAFETY**

**CHAPTER 8. DEPARTMENT OF CHILD SAFETY  
 FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY**

**ARTICLE 1. LIFE SAFETY INSPECTIONS**

**R21-8-112. Fire Safety and Evacuation Plan Requirements**

**ARTICLE 1. LIFE SAFETY INSPECTIONS**

**R21-8-112. Fire Safety and Evacuation Plan Requirements**

The provider shall ensure:



1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fireplaces, and wood-burning stoves.
3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
4. A functioning fire extinguisher with a rating of “2A 10BC” or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of “2A 10BC” or greater is available on each level.
5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;
  - b. In each bedroom, if overnight care is provided; and
  - c. On each level of a multiple-level setting.
6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
  - a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
  - b. Identify multiple exits from the home;
  - c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms ~~shall lead leads~~ directly to the outside of the home, ~~but shall not lead into an area that serves as a pool enclosure; If that exit leads into an area that serves as a pool enclosure:~~
    - i. An individual receiving care in the home shall not use that bedroom and;
    - ii. If the exit is a window, it shall be secured with a latching device located not less than 54 inches above the finished floor;
    - iii. If the exit is a door, it shall be locked at all times with a latch or lock located a minimum of 54 inches above the floor. If there is no quick release on the lock, it must comply with the provisions of R21-8-112(11), and the key shall be located a minimum of 54 inches above the floor;
    - iv. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with R21-8-112(6)(c)(iii) and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.
  - d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
  - e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
  - f. Be maintained in the home to review with individuals residing in or receiving care in the home; and
  - g. Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.
7. All windows identified as fire exits, must have enough space for an adult to move through.
8. Each bedroom used by a foster or child in a residential group care facility receiving care or services has two exits the outside.
  - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
  - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
  - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
  - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
  - c. All persons in the home shall participate in the drill.
  - d. Records shall be maintained for each emergency drill and shall include:
    - i. Date and time of drill;
    - ii. Total evacuation time;
    - iii. Exits used;
    - iv. Problems noted; and
    - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.



11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
  - a. There is breakable glass within 40 inches of the interior locking mechanism;
  - b. There is another exit with a quick release mechanism on the same level of the premises; and
  - c. The key for the deadbolt is permanently maintained in a location that is:
    - i. Within six feet of the locking mechanism;
    - ii. Accessible to all household members;
    - iii. Reviewed with persons residing in or receiving care in the home; and
    - iv. Identified on the emergency evacuation plan, specified in subsection (6).
12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

### R21-8-113. Pool Safety

A. No change

- B. For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision.
    - a. The exterior side of the fence or barrier is at least five feet high;
    - b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
    - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
    - d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
    - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
    - f. The connection between the panels of the fence cannot be separated without a key or a tool;
    - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
    - h. If the home or building to provide care or supervision constitutes part of the enclosure:
      - i. The enclosure does not interfere with safe egress from the home;
      - ii. A door from the home does not open within the pool enclosure; unless it is a bedroom door in a bedroom not occupied by an individual receiving care and such a door cannot be opened by a foster child or child in a residential group care facility because it is either permanently locked as required in R21-8-112(6)(c)(iii) or barricaded inoperable. Any key shall not be accessible to a foster child or child in a residential group care facility;
      - iii. A window located in a room that is designated as a bedroom for a foster child or child in a residential group care facility shall not open into the pool enclosure; or shall be permanently locked and not used for egress; and
      - iv. Other windows that open into the pool enclosure are permanently secured to open no more than four inches; as required in R21-8-122(c)(ii).
      - v. Animal or doggie doors shall not open directly into the pool enclosure.
  3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
    - a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
    - b. The gate latch is at least 54" above the ground and is equipped with a key or combination lock.
  4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
  5. Hot tubs and spas must have safety covers that are locked when not in use.
  6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.

C. No change

D. No change

E. No change

F. No change