



## **Replacement Check List**

For rules filed within the  
1st Quarter  
January – March 31, 2017

# THE ARIZONA ADMINISTRATIVE CODE

Within the stated calendar quarter, this Chapter contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

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## **Title 4. Professions and Occupations**

### **Chapter 45. Board of Respiratory Care Examiners**

Supplement 17-1

#### **Sections, Parts, Exhibits, Tables or Appendices modified**

R4-45-102, R4-45-208 through R4-45-210

REMOVE Supp. 16-3  
Pages: 1 - 9

REPLACE with Supp. 17-1  
Pages: 1 - 9

*The agency's contact person who can answer questions about rules in Supp. 17-1:*

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*Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.*

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**PUBLISHER**  
**Arizona Department of State**  
**Office of the Secretary of State, Public Services Division**

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
PUBLIC SERVICES DIVISION  
March 31, 2017

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### **RULES**

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### **THE ADMINISTRATIVE CODE**

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

### **ADMINISTRATIVE CODE SUPPLEMENTS**

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31  
Second Quarter: April 1 - June 30  
Third Quarter: July 1 - September 30  
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

### **HOW TO USE THE CODE**

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

### **ARTICLES AND SECTIONS**

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

### **HISTORICAL NOTES AND EFFECTIVE DATES**

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

### **ARIZONA REVISED STATUTE REFERENCES**

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### **SESSION LAW REFERENCES**

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, [www.azsos.gov/services/legislative-filings](http://www.azsos.gov/services/legislative-filings).

### **EXEMPTIONS FROM THE APA**

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### **EXEMPTIONS AND PAPER COLOR**

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### **PERSONAL USE/COMMERCIAL USE**

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.*

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS**

(Authority: A.R.S. § 32-3504 et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

*Article 1, consisting of Sections R4-45-101 through R4-45-104, amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).*

*Article 1, consisting of Sections R4-45-101 through R4-45-104, adopted effective September 12, 1996 (Supp. 96-3).*

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## Board of Respiratory Care Examiners

**ARTICLE 1. GENERAL PROVISIONS****R4-45-101. Definitions**

In addition to the definitions in A.R.S. § 32-3501, in this Chapter, unless otherwise specified:

“Applicant” means an individual who meets the qualifications of A.R.S. § 32-3523 and applies for licensure under A.R.S. § 32-3522.

“Approved continuing education” means a planned course or program that the Board confirms meets the criteria in R4-45-210 or is approved by the American Association for Respiratory Care or the Arizona Society for Respiratory Care.

“Continuing education unit” or “CEU” means a segment of an approved continuing education.

“CRT examination” means the objective measure of essential knowledge, skills, and abilities required of an entry-level respiratory therapist, which is approved by the Board and administered by the NBRC.

“Day” means calendar day.

“Direct supervision” means that a licensed respiratory care practitioner, or physician licensed under A.R.S. Title 32, Chapters 13 or 17, is physically present at a work site and readily available to provide respiratory care to a patient.

“Executive Director” means the officer employed by the Board to perform administrative and investigative functions.

“Grandfathered” means to license a respiratory therapist who has a CRT credential and applies for licensure before January 1, 2017 without meeting the qualifications required by these rules.

“License” means the document issued by the Board to practice respiratory care in Arizona.

“License application package” means a license application form and any documents required to be submitted with the license application form.

“Licensee” means an individual who holds a current license issued under A.R.S. Title 32, Ch. 35.

“National Board for Respiratory Care, Inc.” or “NBRC” means the national credentialing board for respiratory therapy.

“Pharmacological, diagnostic, and therapeutic agents,” as used in A.R.S. § 32-3501(5), means medications that are aerosolized and given through artificial airways or vascular access.

“RRT credential” means an award issued to a respiratory therapist by the NBRC who passes the RRT examination.

“RRT examination” means the objective measure of essential knowledge, skills, and abilities at a level that is higher than the CRT examination and that is required of a respiratory therapist and approved by the Board.

“Verification by a licensed respiratory therapist,” as used in A.R.S. § 32-3521(B)(7) and (C), means a licensee’s written confirmation, before equipment is delivered, that the equipment is consistent with the patient’s prescription and needs.

“Verification of license” means a form the Board provides to an applicant to submit for completion by a state to confirm that the applicant currently holds or previously held a license, certification, or registration from that state.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).  
Amended by final rulemaking at 5 A.A.R. 1110, effective

March 22, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**R4-45-102. Fees**

- A.** Under the authority provided by A.R.S. § 32-3526 or other specified statutes, the Board establishes and shall collect the following fees:
1. Application for a license, \$100;
  2. Application based on a diploma from a foreign respiratory therapy school, \$200;
  3. Initial license, \$120;
  4. Biennial renewal of a license, \$150;
  5. Verifying an Arizona license to another state:
    - a. Current valid license, \$25;
    - b. Expired license, \$50;
  6. Duplicate license or duplicate wallet license card, \$25;
  7. Copy of the Board’s Respiratory Care Practitioner Register compiled under A.R.S. § 32-3504(A)(7):
    - a. Noncommercial, \$25;
    - b. Commercial, \$25 or the amount allowed under A.R.S. § 39-121.03(A), whichever is greater;
  8. Insufficient funds check submitted to the Board as payment of any fee, \$25;
  9. Fingerprint fee, authorized by A.R.S. § 41-1750(L), remitted by credit card, certified check, or money order, \$50; and
  10. Copy of the audiotape of a hearing under A.R.S. § 41-1092.07(E), \$25.
- B.** With the exception of the fingerprint fee specified in subsection (A)(10), all fees shall be remitted to the Board of Respiratory Examiners by personal check, credit card, certified check, or money order. All fees remitted to the Board are nonrefundable, except as provided in A.R.S. § 41-1077.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).  
Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1575, effective April 4, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3). Amended by exempt rulemaking at 23 A.A.R. 834, under Laws 2016, Ch. 49 § 10, effective June 1, 2017 (Supp. 17-1).

**R4-45-103. Service by the Board**

Service of any decision, order, subpoena, notice, or other written process may be made by, for, or on behalf of the Board by personal service or by mailing a copy by certified mail. The Board shall make service by certified mail to the address of record on file with the Board. Service upon an attorney who has appeared on behalf of a party constitutes service upon the party. If service is by certified mail, service is complete upon deposit in the United States mail.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).  
Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-104. Change of Name or Address**

- A.** A licensee shall notify the Board in writing within 30 days after the licensee’s name is legally changed. The licensee shall include with the notice a notarized or certified copy of the official document evidencing the name change. At the time of

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notification, the licensee shall request a duplicate license in the new name and pay the fee prescribed in R4-45-102(A)(7).

- B.** A licensee shall notify the Board in writing within 10 days after a change in the licensee's address of record.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).  
Amended by final rulemaking at 12 A.A.R. 968, effective  
May 6, 2006 (Supp. 06-1).

**R4-45-105. Electronic Communication**

- A.** To facilitate communication between the Board and an applicant, licensee, or continuing education provider, the Board shall make the following forms available on its web site:
1. Application for licensure,
  2. Verification of licensure,
  3. License renewal application, and
  4. Notice of change of address.
- B.** After completing a form that is available on the Board's web site, an applicant or licensee shall submit the form to the Board electronically or by mail or personal delivery.
- C.** An applicant or licensee that submits a form to the Board electronically shall use mail or personal delivery to submit or have submitted on behalf of the applicant other documents required under this Chapter.
- D.** An applicant or licensee that does not have access to the Board's web site may request from the Board a printed copy of any form listed in subsection (A).

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**ARTICLE 2. LICENSURE****R4-45-201. Application**

- A.** In addition to meeting the qualifications listed in A.R.S. § 32-3523(A), an applicant for a license to practice as a respiratory care practitioner shall submit the following information on the Board's license application form:
1. The applicant's full name and Social Security number;
  2. The applicant's current mailing, permanent and e-mail addresses;
  3. The applicant's current employer's name, address, and telephone number;
  4. The applicant's current employment position and beginning date of employment;
  5. The applicant's current supervisor's name and telephone number;
  6. The applicant's area of care or specialty;
  7. The applicant's birth date;
  8. The applicant's home and work telephone numbers;
  9. Any name by which the applicant has ever been known. The applicant shall submit documentation of name change if the applicant is applying for licensure under a name different from that on the applicant's credentials, educational degree, or diploma;
  10. A statement of the facts entitling the applicant to take the RRT examination, to receive a license without examination under R4-45-206;
  11. The name of any state or province in which the applicant has been granted a certification, registration, or license as a respiratory care practitioner; including the number, date issued, expiration date, and a statement whether that certificate, registration, or license has ever been the subject of discipline, censure, probation, practice restriction, suspension, revocation, or cancellation;

12. A statement whether the applicant has ever been denied a professional license or certificate or the privilege of taking an examination by a governing licensing authority and, if the answer is yes, a complete explanation of the denial including date, state or province, and a copy of any order issued;
  13. A statement whether the applicant is the subject of any pending disciplinary action that is directly or indirectly related to the practice of respiratory therapy and, if the answer is yes, a complete explanation, including date, state or province, and a copy of any order issued;
  14. A statement whether the applicant has ever voluntarily surrendered a professional license and, if the answer is yes, a complete explanation, including dates, state or province, and a copy of any order issued;
  15. A statement whether the applicant has ever filed an application for a respiratory care practitioner license in Arizona and, if the answer is yes, the date;
  16. A statement whether the applicant has been enrolled in or committed to a substance-abuse or alcohol-treatment program in the past 10 years and, if the answer is yes, a complete explanation, including date, place, and a copy of any documentation of completion of the program;
  17. Except for a minor traffic violation, a statement whether the applicant has ever been convicted of, pled no contest (nolo contendere) to, entered into any agreement concerning an arrest or charge (even if the agreement resulted in a dismissal or expungement of record), or has an outstanding arrest or charge for any violation of any law of any state of the United States, or a foreign country and, if the answer is yes, a complete explanation, including place, date, and a copy of any pertinent documentation such as a court order or plea agreement;
  18. A statement whether the applicant has had an intemperance to drugs or alcohol within the last 10 years and, if the answer is yes, a complete explanation;
  19. The applicant's physical description, including height, weight, and eye and hair color;
  20. The highest level of education completed by the applicant;
  21. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.;
  22. Consistent with the Board's authority under A.R.S. § 32-3522(B)(4), other information or documentation the Board determines is necessary to evaluate the applicant fully;
  23. A record or documentation release; and
  24. The applicant's certification that the information provided is true and complete and that the applicant has not engaged in any act prohibited by Arizona law or this Chapter.
- B.** An applicant shall submit or have submitted on the applicant's behalf the following with the license application form:
1. If NBRC-registered, a copy of the applicant's:
    - a. NBRC-issued registration;
    - b. RRT examination results; or
    - c. If grandfathered, CRT examination results.
  2. If not NBRC-certified or registered, a copy of the applicant's diploma awarded upon successful completion of an approved respiratory therapy training program or letter of completion from the registrar of an approved respiratory therapy training program that provides the date of the applicant's successful completion;
  3. If ever licensed as a respiratory care practitioner in another state, the information specified in R4-45-205;

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4. If foreign-trained, the information specified in R4-45-204;
  5. The fee required under R4-45-102(A)(1); and
  6. A full set of fingerprints submitted on a card provided by the Board for a state and federal criminal background check along with the fee prescribed at R4-45-102(A)(10).
- C.** An applicant shall inform the Board in writing of a change in the applicant's address or other contact information within 10 days from the date of the change.
- D.** An applicant shall inform the Board immediately, by fax or e-mail, of the following:
1. A change in any non-contact information provided on the license application,
  2. A change in the applicant's employment status and the reason for the change, or
  3. Other information that a reasonable person would believe is relevant to the Board's decision to grant or deny a license to the applicant.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**R4-45-202. Approved Respiratory Therapy Training Programs**

The Board shall approve any respiratory therapy training program that is accredited by the Committee on Accreditation for Respiratory Care.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-203. Examinations**

- A.** Except when a license may be issued without an examination under A.R.S. § 32-3524 or grandfathered, an applicant shall pass the RRT examination. The passing score is the scaled score set by the NBRC.
- B.** An applicant shall inform the Board as soon as possible by one of the following methods that the applicant passed the RRT examination:
1. Forward to the Board a copy of either the examination results or certificate, or
  2. Direct the NBRC to forward to the Board a copy of either the examination results or certificate.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**R4-45-204. Application by a Foreign-trained Applicant**

An applicant who has a diploma from a respiratory therapy school located outside the United States shall:

1. Cause the school from which the diploma was issued to deliver to the Board a certified copy of course transcripts and other information concerning the applicant's course of study sufficient to enable the Board to determine whether the course of study is equivalent to a training program approved under R4-45-202, and

2. Submit a photocopy of the applicant's diploma from the foreign respiratory therapy school.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1).

**R4-45-205. Application Based on Licensure by Another State**

If an application for a license is based on licensure by another state, the applicant shall cause the state that issued the license to deliver to the Board:

1. A certified copy of the license;
2. A verification of license, completed, signed, and authenticated by seal or notarization by the Board of the state issuing the license; and
3. Either a copy of the results of the RRT examination or a copy of another examination administered to the applicant, the results of the other examination, and any information necessary to enable the Board to determine whether the other examination is equivalent to the RRT examination.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**R4-45-206. Licensure Based on Organizational Registration or Certification**

The Board shall issue a license to an applicant without examination if the applicant:

1. Is qualified under A.R.S. § 32-3523,
2. Files an application for licensure under R4-45-201, and
3. Is registered or certified as a respiratory therapist by the NBRC.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-207. Renewal**

- A.** A respiratory care practitioner's first license expires on the licensee's second birthday following issuance of the license. Thereafter, a respiratory care practitioner's license expires every other year on the licensee's birthday.
- B.** To apply for renewal of a license, a licensee shall:
1. Complete a license renewal application form and provide the following information:
    - a. Applicant's full name;
    - b. Applicant's Arizona license number;
    - c. Applicant's mailing, permanent, and e-mail addresses and telephone number;
    - d. Applicant's highest educational degree;
    - e. Applicant's employment status;
    - f. Applicant's principal field of employment;
    - g. Current employer's name and address;
    - h. Current supervisor's name and telephone number;
    - i. Applicant's physical description, including height, weight, and eye and hair color;
    - j. A statement whether, since the time of last application, the applicant:
      - i. Has been arrested for, has pled guilty or no contest to, or has been convicted of a felony, mis-

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- demeanor, or undesignated offense, and if the answer is yes, a complete explanation, including place, date, charge, and a copy of any pertinent documentation such as a court order or plea agreement;
- ii. Has been arrested for a traffic violation that resulted in a fine greater than \$150, and if the answer is yes, a complete explanation, including date, offense, and a copy of any pertinent documentation such as a court order;
  - iii. Has been named in a civil or malpractice lawsuit relating to the applicant's employment as a respiratory care practitioner, and if the answer is yes, a complete explanation;
  - iv. Has been or is subject to any disciplinary action, consent order, or settlement regarding the applicant's license in any jurisdiction, and if the answer is yes, a complete explanation;
  - v. Has abused illegal substances, prescription drugs, or alcohol or been enrolled or committed to a substance-abuse or alcohol-treatment program, and if the answer is yes, a complete explanation, including date, place, and copy of any documentation of program completion; and
  - vi. Has been disciplined, suspended, or terminated from employment as a respiratory care practitioner, and if the answer is yes, a complete explanation;
- k. A statement of whether the applicant is in compliance with all federal and state law regarding storage, transfer, and access to medical records;
  - l. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.; and
  - m. The applicant's certification that the information provided is true and complete;
2. Pay the renewal fee prescribed in R4-45-102(A)(4); and
  3. Complete the required continuing education units.
- C.** The Board shall notify a licensee of:
1. Need to renew the licensee's license,
  2. Expiration of the licensee's license, and
  3. Audit of the licensee's continuing education records.
- D.** If a license expires because it is not renewed timely, the former licensee may apply for late renewal within two years from the date of expiration. To apply for late renewal, the former licensee shall comply with subsection (B).
- E.** If a former licensee does not apply for late renewal under subsection (D), the former licensee may obtain a new license only by applying as a new applicant.
- F.** Misrepresentation of information on the license renewal application form or of compliance with the continuing education requirement in R4-45-208 constitutes grounds for disciplinary action.
- Historical Note**
- Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1).
- R4-45-208. Continuing Education Requirement**
- A.** The following definitions apply to this Article:
1. "Acceptable documentation" means:
    - a. Transcripts;
    - b. Letters from course instructors; or
    - c. Certificates of Completion or other formal certifications provided by:
      - i. Hospitals;
      - ii. Course instructors; or
      - iii. Health organizations.
  2. "Initial licensure period" means the period of time from the date a licensee first obtains a license, to the date of the licensee's second birthday following the date a licensee first obtains a license.
  3. "Two-year licensure period" means the period of time two years from the initial licensure period, including the date a licensee renews a license pursuant to subsection (C).
- B.** Pursuant to A.R.S. § 32-3504(A)(9), a licensee shall acquire 20 CEUs during an initial licensure period and every two-year licensure period. A licensee shall acquire at least two of the 20 CEUs in ethics.
- C.** In order to renew a license, a licensee shall report compliance with the continuing education requirement.
- D.** A licensee shall maintain acceptable documentation for all CEUs for five years from the most recent date on the documentation,
- E.** Notwithstanding subsection (A), acceptable documentation other than a transcript must include the:
1. Licensee's full name;
  2. Title and date of the course or activity;
  3. Number of CEUs earned; and
  4. Instructor's name and signature.
- F.** A licensee shall submit acceptable documentation showing evidence of compliance only if requested by the Board.
- G.** The Board shall accept CEUs pursuant to R4-45-209.
- Historical Note**
- Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by exempt rulemaking at 23 A.A.R. 834, under Laws 2016, Ch. 49 § 10, effective June 1, 2017 (Supp. 17-1).
- R4-45-209. Acceptable Continuing Education**
- A.** The Board shall accept CEUs from a continuing education course approved by the:
1. American Academy of Allergy, Asthma & Immunology;
  2. American Academy of Pediatrics;
  3. American Academy of Physician Assistants;
  4. American Association for Respiratory Care and its state affiliates;
  5. American Association of Critical Care Nurses and its state affiliates;
  6. American College of Chest Physicians;
  7. American College of Emergency Physicians;
  8. American College of Physicians;
  9. American College of Health Care Executives;
  10. American Heart Association;
  11. American Lung Association and its state affiliates;
  12. American Medical Association and its state affiliates;
  13. American Nurses Association and its state affiliates;
  14. American Osteopathic Association and its state affiliates;
  15. American Thoracic Society and its state affiliates;
  16. Arizona Society for Respiratory Care;
  17. Center for Disease Control;
  18. Centers for Medicare Medicaid (Joint Commission);
  19. College of American Pathologists;
  20. National Asthma Educator Certification Board
  21. Red Cross of America;
  22. Society for American Anesthesiology; or
  23. Society of Critical Care Medicine and its state affiliates.
- B.** The Board shall accept no more than 15 CEUs during an initial licensure period or a two-year licensure period for courses or

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- activities a licensee completed online, except for live courses or activities a licensee completed online.
- C. The Board shall accept no more than five CEUs during an initial licensure period or a two-year licensure period in any one of the following courses:
1. Advanced cardiac life support;
  2. Neonatal advanced life support or neonatal resuscitation program; and
  3. Pediatric advanced life support.
- D. The Board shall not accept any CEUs in basic life support.
- E. The Board shall accept no more than 10 CEUs during an initial licensure period or a two-year licensure period for each NBRC specialty examination the licensee passes during the initial licensure period or the two-year licensure period.
- F. Notwithstanding subsection (E), the Board shall not accept CEUs for the following NBRC practitioner examinations:
1. The Therapist Multiple-Choice Examination; or
  2. The Clinical Simulation Examination.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by exempt rulemaking at 23 A.A.R. 834, under Laws 2016, Ch. 49 § 10, effective June 1, 2017 (Supp. 17-1).

**R4-45-210. Repealed****Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Repealed by exempt rulemaking at 23 A.A.R. 834, under Laws 2016, Ch. 49 § 10, effective June 1, 2017 (Supp. 17-1).

**R4-45-211. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**

The Board shall provide notice of an audit of continuing education records to a random sample of licensees. A licensee subject to a continuing education audit shall submit documentation that demonstrates compliance with the continuing education requirement within the time specified in the audit notice. If the licensee fails to submit documentation that demonstrates compliance with the continuing education requirement on or before the date specified in the audit notice, the Board shall provide written notice of intent to revoke the license issued to the licensee.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1).

**R4-45-212. Waiver of Requirements**

- A. When applying for renewal of a license, a licensee may request a waiver from completion of the continuing education requirement. The Board shall grant a waiver only if the licensee verifies in writing that during the period immediately before expiration of the license, the licensee:
1. Resided in a country outside the United States for at least one year, reasonably preventing completion of the continuing education requirement;
  2. Was absent from Arizona for at least one year, reasonably preventing completion of the continuing education requirement; or

3. Was prevented from completing the continuing education requirement for reasons of health or other good cause including:
    - a. Physical or mental disability of the licensee for at least one year, reasonably preventing completion of the continuing education requirement; or
    - b. Physical or mental disability of a member of the licensee's family for at least one year and the licensee had responsibility for the family member's care, preventing completion of the continuing education requirement.
- B. A licensee who claims a disability under subsection (A)(3) shall submit with the waiver request a written verification of the disability by a licensed physician.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-213. Repealed****Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Repealed by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**R4-45-214. Standards of Professional Conduct**

Conduct or practice that is contrary to recognized standards of ethics of the respiratory therapy profession, as used in A.R.S. § 32-3501(10)(i), includes the following:

1. Engaging in the practice of respiratory care in a manner that harms or may harm a patient or that the Board determines falls below the community standard;
2. Procuring or attempting to procure by fraud or misrepresentation a license or renewal of a license to practice respiratory care;
3. Violating a formal order, condition of probation, or stipulation issued by the Board, another regulatory entity of any state, or a court of law;
4. Obtaining a fee by fraud, deceit, or misrepresentation;
5. Falsely claiming attendance at an approved continuing education to meet license renewal requirements;
6. Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so;
7. Engaging in sexual intimacies with a patient unless the sexual intimacies were initiated before the practitioner-patient relationship was established;
8. Committing an act of sexual abuse, misconduct, harassment, or exploitation;
9. Acting in a manner that the Board determines, based on community standards, constitutes incompetence, gross negligence, repeated negligence, or negligence that results in harm or death of a patient;
10. Abandoning or neglecting a patient, including leaving a respiratory therapy assignment before properly advising supervisory personnel;
11. Failing to report for scheduled duty without properly advising supervisory personnel;
12. Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location;
13. Impersonating another licensed practitioner;

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14. Knowingly employing, directing, or supervising an individual in the performance of respiratory care who is not authorized to practice respiratory care;
15. Violating the confidentiality of information concerning a patient;
16. Inaccurately recording, falsifying, or altering a patient record, including a patient chart or medication administration record;
17. Misrepresenting or omitting a fact on an application for employment as a respiratory care practitioner;
18. Retaliating against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any practitioner;
19. Using, removing, or possessing property that belongs to an individual or entity without authorization;
20. Threatening the physical health or safety of a Board member or the Board's staff; and
21. Knowingly exceeding the scope of practice for a respiratory care practitioner at any health care location as the scope of practice is defined by the entity responsible for that health care location.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3). Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 3430, effective October 4, 2008 (Supp. 08-3).

**R4-45-215. Procedures for Processing Initial License Applications; Time-frames**

- A. For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time-frames for an initial license application:
  1. Administrative completeness review time-frame: 15 days;
  2. Substantive review time-frame: 90 days;
  3. Overall time-frame: 105 days.
- B. The administrative completeness review time-frame listed in subsection (A)(1) begins on the date the Board receives a license application package. During the administrative completeness review time-frame, the Board shall notify the applicant that the package is either complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
- C. An initial license application package is not complete until the Board receives the results of the state and federal criminal background check required at A.R.S. § 32-3504(A)(6), and the applicant fully complies with the requirements of R4-45-201, the applicable provisions of R4-45-202 through R4-45-206, and submits the fee prescribed in R4-45-102(A)(3).
- D. An applicant with an incomplete license application package shall supply the missing information within 210 days from the date of the notice. Both the administrative completeness review and overall time-frames are suspended from the date of the Board's notice until the date that the Board office receives all missing information.
- E. Upon receipt of all missing information, the Board shall notify the applicant that the license application package is complete. The Board shall not send a separate notice of completeness if the Board grants or denies a license within the administrative completeness review time-frame in subsection (A)(1).
- F. If an applicant fails to submit the missing information within the 210 days provided under subsection (D), the Board shall

close the applicant's file. An applicant whose file is closed and who later wishes to be licensed, shall apply anew.

- G. The substantive review time-frame listed in subsection (A)(2) begins on the date of the Board's notice of administrative completeness.
- H. If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant a comprehensive written request for the additional information. Both the substantive review and overall time-frames are suspended from the date on the Board's request until the date that the Board office receives the additional information.
- I. Within the time listed in subsection (A)(3), the Board shall grant or deny a license.
- J. If the Board denies a license, the Board shall send the applicant a written notice explaining:
  1. The reason for denial, with citations to supporting statutes or rules;
  2. The applicant's right to seek a fair hearing to challenge the denial; and
  3. The time period for appealing the denial.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-216. Procedures for Processing License Renewal or Reinstatement Applications; Time-frames**

- A. For the purposes of A.R.S. § 41-1073, the Board establishes the following licensing time-frames for renewal or reinstatement of a license:
  1. Administrative completeness review time-frame: 7 days;
  2. Substantive review time-frame: 60 days;
  3. Overall time-frame: 67 days.
- B. The administrative completeness review time-frame listed in subsection (A)(1) begins on the date the Board receives a license renewal application package. Within seven days of receiving a license renewal application package, the Executive Director shall notify the applicant that the license renewal application package is complete or incomplete. If the license renewal application package is incomplete, the Board's notice shall specify the missing information.
- C. A license renewal application package is not complete until the applicant fully complies with R4-45-207 and R4-45-208.
- D. The Board shall not send a notice of completeness if the Board renews the license within the administrative completeness time-frame in subsection (A)(1).
- E. The Board shall substantively review a license renewal application package and grant or deny the renewal within 60 days from the postmark date of the completion notice as follows:
  1. For an applicant who submits a license renewal application package before the applicant's existing license expires:
    - a. If the license renewal application package is complete, the Board shall renew the license; or
    - b. If the license renewal application package is incomplete and the applicant supplies the missing information before the existing license expires, the Board shall renew the license;
  2. For an applicant with an incomplete license renewal application package who supplies the missing information within seven days after the date the applicant's license expires, or an applicant who submits a complete license renewal application package within seven days after the date that the applicant's license expires, the

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Executive Director shall review the applicant's compliance with A.R.S. § 32-3556. The Board shall notify the applicant of the Board requirement for a signed statement regarding whether the applicant violated A.R.S. § 32-3556 during the time that the applicant's license was expired. The applicant shall submit the required statement within seven days from the postmark date of the Board's notice. Upon receipt of a complete license renewal application package and the signed statement:

- a. For an applicant who did not knowingly violate A.R.S. § 32-3556, the Board shall renew the license and issue a letter of concern within the substantive review time-frame;
- b. For an applicant who knowingly violated A.R.S. § 32-3556, the Board shall:

- i. Deny the renewal unless the applicant can demonstrate to the Board that no person was harmed by the violation, and the applicant understands the nature and consequences of the applicant's actions; or
- ii. Require the applicant to appear before the Board, present evidence regarding the applicant's violation of A.R.S. § 32-3556, and enter into an agreement regarding discipline. The Board shall conditionally renew the applicant's license. The Board shall remove the condition when the applicant complies fully with the agreement;

3. An applicant with an incomplete license renewal application package who supplies the missing information more than seven days after the date the applicant's license expires, or an applicant who submits a complete license renewal application package more than seven days but less than two years after the date the applicant's license expires, is an applicant for reinstatement. The Executive Director shall review the applicant's compliance with A.R.S. § 32-3556. The Board shall notify the applicant of the Board requirement for a signed statement regarding whether the applicant violated A.R.S. § 32-3556. The applicant shall submit the required statement within seven days from the postmark date of the Board's notice. Upon receipt of the signed statement, the Board shall:

- i. Deny the reinstatement unless the applicant can demonstrate to the Board that no person was harmed by the violation, and the applicant understands the nature and consequences of the applicant's actions; or
- ii. Require the applicant to appear before the Board, present evidence regarding the applicant's violation of A.R.S. § 32-3556, and enter into an agreement regarding discipline. The Board shall conditionally reinstate the applicant's license. The Board shall remove the condition when the applicant complies fully with the agreement.

- F. If the Board denies a license renewal or reinstatement, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time period for appealing the denial.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1). Amended

by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-217. Appeal from Denial**

- A. If the Board denies a license, an applicant may make a written request for a hearing to review the denial. The applicant shall file the request with the Board within 30 days following service of notice of the denial. The request shall state specifically the reasons why the Board should review its decision. The Board shall schedule the hearing at its next meeting or at the first meeting that is convenient for all parties.
- B. If an applicant who is denied a license does not request a hearing to review the denial or if the denial is affirmed, the Board shall administratively close the applicant's file. An individual who wishes to be considered for licensure after the individual's file is administratively closed shall reapply.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 968, effective May 6, 2006 (Supp. 06-1).

**R4-45-218. Reinstatement Following Revocation; Modification of Probation**

- A. Under A.R.S. § 32-3554, a former licensee whose license is revoked may apply to the Board after one year to have the license reinstated. A licensee who is placed on probation may apply to the Board after one year to have the conditions of probation modified.
- B. If a former licensee wishes to have a revoked license reinstated after the time stated in subsection (A), the former licensee shall meet the qualifications in A.R.S. § 32-3523(A) and comply with R4-45-201.
- C. A licensee who is placed on probation shall comply with R4-45-207 while on probation. If the licensee wishes to have the conditions of probation modified after the time stated in subsection (A), the licensee shall submit to the Board:
  1. A letter that contains the following information:
    - a. Name and address of licensee,
    - b. License number,
    - c. Date on which probation was imposed,
    - d. Reason that probation was imposed,
    - e. Conditions of probation,
    - f. Modification of conditions of probation requested, and
    - g. Reason a modification of conditions is warranted; and
  2. Evidence that supports the request for modification of conditions.
- D. The Board shall grant or deny a request for modification of conditions of probation based on its assessment of whether the licensee has complied with all conditions of probation and is able to practice respiratory care in a safe, skillful, and professional manner.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 3430, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 22 A.A.R. 2181, effective October 2, 2016 (Supp. 16-3).

**ARTICLE 3. HEARINGS****R4-45-301. Hearing Procedures**

The Board shall conduct all hearings, including those held under A.R.S. § 32-3553, according to the procedures in A.R.S. Title 41, Chapter 6, Article 10.

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**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).  
Amended by final rulemaking at 12 A.A.R. 968, effective  
May 6, 2006 (Supp. 06-1). Amended by final rulemaking  
at 14 A.A.R. 832, effective May 3, 2008 (Supp. 08-1).

**R4-45-302. 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 and the rules established by the Office of Administrative Hearings.
- B.** Except as provided in subsection (I), a party is required to file a motion 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 order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered 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 progress of the proceedings; or
  7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F.** Not later than 15 days after the date of a decision, and after giving the parties 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 it might have granted a rehearing or review 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. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted.
- G.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may serve opposing affidavits within 15 days after service of the motion. This period may be extended by the Board for a maximum of 20 days for good cause as described in subsection (H) or upon written stipulation of the parties. Reply affidavits may be permitted.
- H.** 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 a ruling on the motion will:
1. Further administrative convenience, expedition, or economy; or
  2. Avoid undue prejudice to any party.
- I.** If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare, the decision may be issued as a final decision without an opportunity for rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.

**Historical Note**

Adopted effective September 12, 1996 (Supp. 96-3).  
Amended by final rulemaking at 12 A.A.R. 968, effective  
May 6, 2006 (Supp. 06-1).