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 2. ADMINISTRATION

CHAPTER 2. ARIZONA COMMISSION ON THE ARTS

PREAMBLE

1. Sections Affected — **Rulemaking Action**

Article 2	New Article
R2-2-201	New Section
R2-2-202	New Section
R2-2-203	New Section
R2-2-204	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-983.02

Implementing statute: None

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

Name: Mollie Lakin-Hayes

Address: 417 W. Roosevelt St.
Phoenix, AZ 85003

Telephone: (602) 255-5882

Fax: (602) 256-0282

E-mail: mlakinhayes@ArizonaArts.org

4. An explanation of the rule, including the agency's reasons for initiating the rule:

These rules set forth procedures to be followed by the Arizona Commission on the Arts ("Commission"), its staff and grant review panels in receiving, considering and reviewing applications for, and distribution of, general operating support grants from the Arizona Arts Trust Fund. The proposed rule was initiated by the Commission as mandated by the Arizona Legislature when it established the Arizona arts program.

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

Not applicable

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

The preliminary summary anticipates that several state agencies will experience a minimal increase in staff time; that cities, counties and non-profit arts organizations receiving grants will experience minimal to substantial increase in revenue; that public and private employment by cities, counties and non-profit organizations receiving grants will experience increased employment; that small businesses and consumers will experience no direct impact.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:

Name: Mollie Lakin-Hayes

Address: 417 W. Roosevelt St.
Phoenix, AZ 85003

Telephone: (602) 255-5882

Fax: (602) 256-0282

E-mail: mlakinhayes@ArizonaArts.org

8. The time, place and nature of the proceedings for the adoption, amendment or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Three public hearings to receive input and comment are scheduled:

Date: Wednesday, September 5, 2001

Time: 10:00 a.m.

Location: Tucson/Pima Arts Council Board Room
240 N. Stone
Tucson

Nature: Public hearing for input and comment

AND

Date: Wednesday, September 12, 2001

Time: 1:00 p.m.

Location: Coconino Center for the Arts Amphitheater Stage
2300 N. Fort Valley Rd.
Flagstaff

Nature: Public hearing for input and comment

AND

Date: Wednesday, September 26, 2001

Time: 1:00 p.m.

Location: Arizona Commission on the Arts Conference Room
417 W. Roosevelt St.
Phoenix

Nature: Public hearing for input and comment

The record will close at 2:00 p.m., Wednesday, September 26, 2001. Written comments may be mailed or delivered by 2:00 p.m., Wednesday, September 26, 2001 to the person named in item #7. The Commission anticipates submission of the final proposed rules package to the Governor's Regulatory Review Council for review and adoption at their meeting December 4, 2001.

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

None

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

None

11. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 2. ARIZONA COMMISSION ON THE ARTS

ARTICLE 2. GRANTMAKING PROCEDURES FOR GRANTS FROM THE ARIZONA ARTS TRUST FUND

Section

ARTICLE 2. GRANTMAKING PROCEDURES FOR GRANTS FROM THE ARIZONA ARTS TRUST FUND

R2-2-201. Definitions

In this Article, unless the context otherwise requires:

Applicant means an organization that is applying for a grant.

Application means the documentation and material that an applicant submits to request a grant.

Arizona Arts Trust Fund means the fund created by A.R.S. § 41-983.01 and funded with $15 from each annual filing fee submitted to the Arizona Corporation Commission by for-profit corporations.

Arizona Arts Trust Fund Grants means those general operating support grants which include funds derived from the Arizona Arts Trust Fund.

Board member means a trustee of a non-profit organization elected or appointed according to that organization's bylaws.

Commission means the Arizona Commission on the Arts, a state agency, consisting of fifteen members appointed by the Governor.

Commissioner means one of 15 Governor-appointed members of the Commission responsible for the administration of the Arizona arts program and the Arizona arts endowment fund.

Criteria means the established and published standards used to evaluate an application to determine if a grant award is recommended.

Cultural diversity plan means a plan approved and signed by the board of directors of an applicant for a general operating support grant. The plan shall include goals and strategies to identify representatives from racial or ethnic communities to serve as board members, evaluation of past efforts to reach racial or ethnic board members, resources to be contacted to increase racial or ethnic representation, and a chart documenting the number of board members from racial or ethnic communities.

Denial conference means the method by which applicants that were not recommended for a grant may request a review of their application.

Fiscal agent means any Arizona organization, designated 501(c)(3) tax exempt by the Internal Revenue Service, that accepts grant funds on behalf of an organization not meeting the nonprofit tax-exempt requirements.

General operating support means a grants program administered by the Commission that provides funds to organizations to be used for administrative or artistic expenses, or both.

Grant means an award of financial support to an organization, for the purposes requested in the application.

Grantee means an organization receiving grant funds.

Grant conditions means specific requirements, agreed to by the grantees in writing, that must be met or undertaken to receive a grant.

Grant deadline means the published date by which an application must be postmarked or hand-delivered to the Commission to be considered for a grant review.

Grant review panel means a group of citizens appointed by the Commission to review and make recommendations on public policy and applications for grants.

Grant review panel chair means a Commissioner who serves as a non-voting member of the panel to ensure that state law is followed and that there is an open, fair process for the review of applications by the grant review panel.

Grant review panelist means an individual serving on the grant review panel.

Grant review panel comments means documented comments made by the grant review panelists during the application review process that become the public record of the process after the final grants are awarded.

Guidelines means information published annually describing the Commission's grant program, including the application process, forms and formats, eligibility requirements and criteria.

Legal requirements means the federal and state standards and regulations including those regarding fair labor, civil rights, accessibility, age discrimination, lobbying with appropriated monies, accounting records, and other published requirements to which organizations accepting a grant must adhere.

Match means the applicant's financial contribution to the project, in addition to the grant, that demonstrates the community support of the project.

Non-profit organization means schools, governmental units, and corporations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

Substantial interest has the same meaning as in A.R.S. § 38-502.

Underserved populations means persons who are members of ethnic or racial minorities, have disabilities, or are from communities outside the metropolitan areas of Phoenix and Tucson.

R2-2-202. Eligibility

A. To be eligible to receive an Arizona Arts Trust Fund grant under this Article, an applicant shall meet the following additional requirements:
1. Be based in Arizona;
2. Be a city or county government; be designated as a nonprofit 501(c)(3) organization by the Internal Revenue Service; or be an unincorporated organization using an Arizona-based nonprofit 501(c)(3) organization as a fiscal agent;
3. Submit no more than the maximum allowable number of grant applications per year as published in the Commission's guidelines;
4. Match grant funds with applicant funds as required by the Commission;
5. Have the production, presentation or service of the arts as its primary mission.

R2-2-203. Criteria

A. The following criteria shall be used by the grant review panels and the Commission for reviewing general operating support grants and granting funds from the Arizona Arts Trust Fund:
1. Artistic quality and creativity;
2. Ability of the applicant organization's programs to serve the needs of the community, including potential public exposure and public benefit, and efforts to reach artists and audiences from culturally diverse groups;
3. Managerial and administrative ability of the applicant organization to carry out arts programming and properly administer funds granted;
4. Appropriateness of the applicant organization's budget to carry out its proposed programs;
5. History of the applicant organization in producing, presenting or serving the arts.

B. Further, the Commission shall also take into consideration in approving grants:
1. Applicants' service to underserved populations;
2. Applicants' employment of and/or contracting with artists who are members or racial minorities;
3. Inclusion of racial or ethnic minority members on applicant organizations' governing boards.

R2-2-204. Process for Obtaining Grant from the Arizona Arts Trust Fund

A. The Commission shall establish an annual grant deadline and publish grant guidelines by January of each year. Applications shall be postmarked or delivered by 5:00 p.m. on the grant deadline date. Late applications shall not be filed by the Commission but shall be returned without review.

B. An applicants shall submit a narrative and budget that address the criteria; forms and formats for the narrative and budget shall be provided to applicants by the Commission. An applicant may submit supplemental information including slides, videotapes, audio recordings, press coverage, and print or other materials that document the artistic work of the applicant.

C. The Commission shall conduct a grant review process:
1. The Commission shall appoint grant review panels. Each panel shall be assigned a specific group of grant applications to review. The Commission shall appoint three to seven community members to serve on each of the grant review panels. Grant review panelists shall be appointed by the Commission for one year and may serve no more than three consecutive years on the same panel. No more than two members of any panel shall serve on the panel for the second and third years.
2. Grant review panelists shall read all the applications assigned to their panel prior to the meeting. Upon request, they shall attend events of the applicant or speak with a representative of the applicant to be informed about the applicant organization. At the grant review panel meeting, they shall contribute to the discussion of the applications; rate applications based on the facts in the applications and their own professional judgments about the merit of the applications, in relation to the criteria; and provide policy and procedural suggestions for the Commission.
3. If a grant review panelist has a substantial interest in any application, the panelist shall declare the interest verbally and in writing and shall not participate in the discussion of or the vote on the application.

4. The grant review panel chair shall chair the meeting and shall ensure that the discussion relates to the required criteria, that Commission policies and open meeting laws are followed, and that all grant review panelists have an opportunity to speak.

D. Following the grant review panel process, Commission members shall receive grant review panelists' recommendations and grant review panel comments for each application. At the Commission meeting following Commission members' receipt of grant review panelists' recommendations, the Commission shall discuss the recommendations of the grant review panels and shall vote to accept, reject, or modify the recommendations of the grant review panels.

E. All applicants shall be notified in writing of the Commission's decisions. Any applicant that is not recommended for funding may request and shall be provided a denial conference. The Commission shall establish and publish in its grant guidelines the process for requesting and receiving a denial conference. The Commission shall not provide a denial conference based on dissatisfaction with the amount of a grant.

F. All applicants shall accept in writing the legal requirements and grant conditions before grant funds shall be released.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected **Rulemaking Action**

R4-23-110	Amend
R4-23-404	Amend
R4-23-405	Amend
R4-23-406	Amend
R4-23-407	Amend
R4-23-409	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 32-1904(A)(1), and 32-1904(B)(3) and (B)(5)

Implementing statutes: A.R.S. §§ 32-1926(B), 32-1927(B)(3), 32-1963.01(K), 32-1964, and 32-1968(C)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 978, February 23, 2001

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@qwest.net

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Board's five-year rule review in September 1997 identified Sections R4-23-404, R4-23-405, R4-23-406, R4-23-407, and R4-23-409 for amending. Sections R4-23-404, R4-23-405, R4-23-406, and R4-23-409 are amended to increase the clarity, conciseness, and understandability of the Sections. The definition for "immediate notice" in R4-23-405 is moved to R4-23-110 with the Board's other rule definitions. R4-23-406(A) and (B) are repealed, and R4-23-406(C) and (D) are renumbered. R4-23-406(A) is a repeat of statutory language and is not necessary. R4-23-406(B) is not necessary because the drugs listed is subsection (B)(1) are now available as FDA approved generic equivalent drug products the drugs. The dosage forms listed in subsection (B)(2) are not substitutable by statutory definition. The amendments to Section R4-23-407 make changes that clarify prescription order requirements, prescription refill documentation requirements, and expand and improve the prescription transfer process and record-

keeping. The amended rule will include format, style, and grammar changes necessary to comply with the current Administrative Procedure Act.

The Board believes that making these rules will benefit the public health and safety by establishing standards for professional practices and benefit pharmacists and pharmacies by the recognizing the use of improved technology as part of the established standards.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

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

Not applicable

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

The cost to the Board of Pharmacy and the Secretary of State for writing and publishing the rule will be minimal. The proposed rule will have little economic impact on pharmacies. The rule clarifies and updates existing language that relates to unethical practices, change of pharmacist-in-charge, substitution of prescription drugs, prescription requirements, and returning drugs and devices. The proposed rule adds subsection R4-23-407(D)(5) to establish standards for the electronic transfer of original prescription order information between pharmacies owned by the same company. This new subsection may provide a nonquantifiable cost savings to pharmacies related to more efficient use of pharmacy personnel and electronic prescription transfers. Existing rule requires that a prescription transfer is made between two pharmacists. The proposed rule will allow the use of pharmacy interns and pharmacy technicians for many transfers. The use of nonpharmacist personnel for some prescription transfers may also provide a nonquantifiable cost savings to pharmacies through more efficient use of pharmacy personnel. The proposed rule will have no economic impact on the public. The majority of the changes in the proposed rule are updates in format, style, and grammar to provide a clear, concise, and understandable document. The Board, pharmacies, and the public benefit from a rule that establishes standards for unethical practices, change of pharmacist-in-charge, substitution of prescription drugs, prescription requirements, and returning drugs and devices in Arizona.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	Dean Wright, Compliance Officer
Address:	Board of Pharmacy 4425 W. Olive Ave., Suite 140 Glendale, AZ 85302
Telephone:	(623) 463-2727, ext. 131
Fax:	(623) 934-0583
E-mail:	rxcop@qwest.net

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

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, September 4, 2001. An oral proceeding is scheduled for:

Date:	September 4, 2001
Time:	10:00 a.m.
Location:	4425 W. Olive Ave., Suite 140 Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed above.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-404. Unethical Practices
R4-23-405. Change of Responsibility
R4-23-406. Substitution for Prescription Drugs
R4-23-407. Prescription Requirements
R4-23-409. Returning Drugs and Devices

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

"FDA" means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

"Immediate notice" means a notice sent by mail, facsimile, or electronic mail to the Board Office within 24 hours of an event, such as the termination of a pharmacist-in-charge, or knowledge of a pending event.

"Inactive ingredient" means any component other than an "active ingredient" present in a drug.

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-404. Unethical Practices

A. Rebates prohibited~~:~~. ~~The offer, delivery, receipt or acceptance, by any~~ A pharmacist or ~~non-pharmacist~~ pharmacy permittee~~, of~~ shall not offer, deliver, receive, or accept any unearned rebate, refund, commission, preference, patronage dividend, discount, or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest of co-ownership in or with any person to whom such patients, clients or customers are referred, ~~is prohibited;~~ except for those rebates or premiums that are paid completely and directly to ~~the~~ a patient. ~~Among other things, this~~ A prohibited rebate shall also include the following:

1. ~~Payment to medical practitioner:~~ Payment to a medical practitioner in money or other consideration for prescription orders prescribed by the medical practitioner~~.~~; and
2. ~~Payment to nursing home:~~ Payment to a ~~nursing home~~ long-term care or assisted living facility or other health care institution in money, discount, rental, or other consideration for:
   a. Prescription medication or devices dispensed or sold for the patients or inhabitants of such facility or institution above the prevailing rate ~~which might be considered a rebate~~; or
   b. Drug selection and drug utilization review services, collaborative drug therapy management services, or other pharmacy consultation services provided for the patients or inhabitants of such facility or institution above the prevailing rate.

B. Prescription order blanks advertising prohibited~~:~~. ~~No~~ A pharmacist or pharmacy permittee shall not:

1. Directly or indirectly furnish~~, or cause to be furnished to, any medical practitioner~~ to a medical practitioner a prescription order ~~blanks referring~~ blank that refers to ~~any~~ a specific pharmacist or pharmacy in any manner ~~whatsoever.~~; and
2. ~~No pharmacist or pharmacy shall~~ Actively or passively participate in any arrangement or agreement ~~whereby~~ where a prescription ~~orders are~~ order is prepared, written, or issued in a manner ~~which~~ that refers to a specific pharmacist or pharmacy.

C. Claiming professional superiority~~:~~. ~~No~~ A pharmacist or pharmacy permittee shall not advertise professional superiority in a manner ~~to reflect~~ that reflects adversely on the qualifications of ~~others~~ another pharmacist or pharmacy.

D. Fraudulent claim for service~~:~~. ~~No~~ A pharmacist or pharmacy permittee shall not claim the performance of a service ~~which he~~ that the pharmacist or pharmacy permittee knows or should have known ~~had~~ was not ~~been~~ performed~~;~~, such as, claiming to have dispensed a prescription medication that was not dispensed.

E. Fraudulent claim for a fee~~:~~. ~~No~~ A pharmacist or pharmacy permittee shall not claim a fee for a service that was not performed or ~~was not~~ earned. It is not fraudulent to divide a prescription order into two or more portions of prescription medication at the request of ~~the~~ a patient, or for some other ethical reason, and charge a dispensing fee for such additional service. It is fraudulent to divide such a prescription order merely to obtain an additional fee.

~~**F.** Acceptance of prescription order and distribution of prescription medication: No pharmacist shall participate in any arrangement or agreement whereby prescription orders or prescription medication may be left at, picked up from, accepted by, or delivered to any place of business not licensed as a pharmacy; provided, however, that nothing in this regulation shall prohibit a pharmacist or pharmacy by means of its employee or by use of a common carrier, from picking up prescription orders or delivering prescription medications at the office or home of the medical practitioner, at the residence of the patient, or at the hospital or medical care facility in which the patient is confined.~~

~~**G.**~~**F.** Prohibiting ~~prescribed drugs~~ a prescription-only drug from being dispensed over the counter~~:~~. ~~No~~ A drug or device shall not be dispensed from the information on a prescription order unless the prescription medication or device is properly dispensed~~,~~ and labeled and the prescription order is filed in accordance with this Chapter.

R4-23-405. Change of Responsibility

~~**A.**~~ A pharmacist designated as the pharmacist-in-charge for a pharmacy, manufacturer, or other establishment shall give immediate ~~written~~ notice, as defined in R4-23-110, when:

1. ~~of the termination of such~~ The pharmacist's responsibility as a pharmacist-in-charge is terminated; or
2. ~~shall make such a notification~~ The pharmacist knows of a pending termination ~~whenever he has such information~~ of the pharmacist's responsibility as a pharmacist-in-charge.

~~**B.** "Immediate notice" means a notice sent to the executive director within 24 hours of such termination or knowledge of pending termination.~~

R4-23-406. Substitution for Prescription Drugs

~~**A.** All drugs shall comply with federal law.~~

~~**B.** Exclusions:~~

~~1. The following dosage forms shall not be substituted:~~
~~a. Injectable suspensions other than antibiotics,~~
~~b. Suppositories containing active ingredients of which systemic absorption is necessary for therapeutic activity, and~~
~~c. Different delivery systems for aerosol and nebulizer drugs.~~
~~2. The following are not interchangeable:~~
~~a. Creams for ointments or ointments for creams;~~
~~b. Tablets for capsules or capsules for tablets; and~~
~~c. Elixirs for syrups or syrups for elixirs.~~

~~**C.**~~**A.** Approved abbreviations. Whenever a substitution is made pursuant to A.R.S. § 32-1963.01, a pharmacist may use the approved abbreviation that accompanies the name of the manufacturer or distributor listed in subsection (~~D~~B) of this Section.

~~**D.**~~**B.** Manufacturers and distributors. The names of manufacturers and distributors ~~which~~ that have met the requirements of A.R.S. § 32-1963.01(~~I~~H) are recorded and available as a list at the Board office or on the Board's web page.

R4-23-407. Prescription Requirements

A. Prescription orders. A pharmacist shall ensure that:

1. A prescription order dispensed by the pharmacist ~~shall include~~ includes the following information:
   a. Date of issuance;
   b. Name and address of the person to whom, patient for whom, or the owner of the animal for which the drug or device is dispensed;
   c. ~~Name of~~ Drug name, strength, and dosage form or device name;
   d. Name of the drug's or device's manufacturer or distributor when written generically or a substitution is made;
   e. ~~Strength~~ Prescribing medical practitioner's directions for use;
   f. Date of dispensing;
   g. Quantity prescribed and if different quantity dispensed;
   h. For a prescription order for a controlled substance, the medical practitioner's address and D.E.A. number;
   i. For a written prescription order, the medical practitioner's signature;
   j. For an oral prescription order, the medical practitioner's name and telephone number; and
   ~~h.~~k. Name or initials of the dispensing pharmacist ~~or medical practitioner dispensing the drug~~; ~~and~~
   ~~i. In the case of an oral prescription, the prescriber's instructions written on the face of the prescription by the pharmacist.~~
2. ~~Records of dispensing prescription-only drugs shall be made and kept for three years by wholesalers, manufacturers, pharmacies, and, except when administered to a patient upon whom the medical practitioner personally attends, by~~

~~medical practitioners.~~ A record of the dispensing of a drug or device is kept for three years from the date the drug or device is dispensed, except for a drug or device personally administered by a medical practitioner to the medical practitioner's patient; and

3. The ~~direct~~ dispensing of a ~~prescription medication shall comply~~ drug or device complies with the packaging requirements of the United States Pharmacopeia and of the Consumer Product Safety Commission.

B. Prescription refills. A pharmacist shall ensure that the following information ~~shall be~~ is recorded on the back of a prescription order when it is refilled:

1. Date refilled~~;~~,
2. Quantity dispensed~~;~~,
3. Name or approved abbreviation of the manufacturer or distributor when written generically or a substitution is made~~;~~, and
4. The name or initials of the dispensing pharmacist ~~or intern~~.

C. ~~A copy of a prescription order is not a valid prescription order and may not be dispensed.~~ A pharmacist may furnish a copy of a prescription order to the patient for whom it was prescribed or to the authorized representative of such patient if such copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY". A copy of a prescription order is not a valid prescription order and a drug or device shall not be dispensed from the information on a copy.

D. Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permittee or pharmacist-in-charge shall ensure that the following occur:

1. Both the original and the transferred prescription ~~must be~~ order are maintained for a period of three years ~~from the date of~~ after the last ~~refill~~ dispensing date.
2. ~~Pharmacies electronically accessing the same prescription record must satisfy all the information requirements of a manual mode for the prescription transferral.~~

~~3.~~2. Original prescription order information ~~may be~~ is transferred only one time during the life of ~~the~~ a prescription ~~in the case of~~ for a Schedule III, IV, ~~and~~ or V controlled ~~substances~~ substance and without limitation up to the number of originally authorized refills ~~in the case of~~ on a prescription for a non-controlled ~~prescription-only drugs~~ substance drug.

~~4.~~3. Transfer within Arizona.

a. ~~Transfer~~ The transfer of original prescription order information for a non-controlled ~~prescription-only drugs~~ substance drug ~~must meet~~ meets the following conditions:
   i. ~~Transfer~~ The transfer of information is communicated directly between two licensed pharmacists, a licensed pharmacist and a licensed pharmacy or graduate intern, or two licensed pharmacy or graduate interns;
   ii. The following information is recorded by the transferring pharmacist or pharmacy or graduate intern:
      (1) The word "void" is written on the face of the invalidated prescription unless an electronic transfer occurs or an oral transfer occurs and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
      (2) The name and address of the pharmacy to which the prescription ~~was~~ is transferred, the name of the receiving pharmacist or pharmacy or graduate intern ~~receiving the prescription information~~, the date of transfer, and the name of the transferring pharmacist or pharmacy or graduate intern ~~who transfers the information~~ is written on the back of the prescription~~.~~ or entered into the transferring pharmacy's computer system; and
   iii. The following information is recorded by the receiving pharmacist or pharmacy or graduate intern ~~receiving the transferred prescription~~:
      (1) The word "transfer" is written on the face of the transferred prescription; and
      (2) The following information is recorded on the transferred prescription:
         (a) Date of issuance of the original prescription;
         (b) Original number of refills authorized on the original prescription;
         (c) Date of original dispensing;
         (d) Number of valid refills remaining and the date of the last refill;
         (e) Name, address, and original prescription number of the pharmacy from which the prescription ~~was~~ is transferred;
         (f) Name of the transferring pharmacist or pharmacy or graduate intern; and
         (g) Name of the receiving pharmacist or pharmacy or graduate intern ~~receiving the prescription~~.

b. ~~Transfer~~ The transfer of original prescription order information for a Schedule III, IV, ~~and~~ or V controlled ~~substances must meet~~ substance meets the following conditions:
   i. ~~Transfer~~ The transfer of information is communicated directly between two licensed pharmacists;
   ii. The following information is recorded by the transferring pharmacist:
      (1) The word "void" is written on the face of the invalidated prescription unless an electronic transfer occurs or an oral transfer occurs and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and

(2) The name, address, and DEA number of the pharmacy to which the prescription ~~was~~ is transferred, the name of the receiving pharmacist ~~receiving the prescription information~~, the date of transfer, and the name of the transferring pharmacist ~~who transfers the information~~ is written on the back of the prescription~~.~~ or entered into the transferring pharmacy's computer system; and

iii. The following information is recorded by the receiving pharmacist ~~receiving the transferred prescription~~:

(1) The word "transfer" is written on the face of the transferred prescription~~.~~; and

(2) The following information is recorded on the transferred prescription:

(a) Date of issuance of original prescription;

(b) Original number of refills authorized on the original prescription;

(c) Date of original dispensing;

(d) Number of valid refills remaining and the date of the last refill;

(e) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription ~~was~~ is transferred;

(f) Name of the transferring pharmacist; and

(g) Name of the receiving pharmacist.

~~5.~~4. Transfer from out of state~~:~~.

a. ~~Transfer~~ The transfer of original prescription order information for a non-controlled ~~prescription-only drugs must meet~~ substance drug meets the conditions ~~set forth~~ in subsections ~~(D)(4)(a)(i) and (D)(4)(a)(iii)~~ (D)(3)(a)(i) and (D)(3)(a)(iii) of this ~~rule~~ Section.

b. ~~Transfer~~ The transfer of original prescription order information for a Schedule III, IV, ~~and~~ or V controlled ~~substances must meet~~ substance meets the conditions ~~set forth~~ in subsection ~~(D)(4)(b)(i) and (D)(4)(b)(iii)~~ (D)(3)(b)(i) and (D)(3)(b)(iii) of this ~~rule~~ Section.

5. Electronic transfer. The electronic transfer of original prescription order information meets the following conditions:

a. The electronic transfer is between pharmacies owned by the same company using a common or shared database;

b. The electronic transfer of original prescription order information for a non-controlled substance drug is performed by a pharmacist or a pharmacy or graduate intern, or pharmacy technician under the supervision of a pharmacist;

c. The electronic transfer of original prescription order information for a controlled substance is performed by two licensed pharmacists;

d. The electronic transfer of original prescription order information for a non-controlled substance drug meets the following conditions:

i. The transferring pharmacy's computer system:

(1) Invalidates the transferred original prescription order information;

(2) Records the identification code, number, or address of the pharmacy to which the prescription order information is transferred;

(3) Records the name or identification code of the receiving pharmacist, pharmacy or graduate intern, or pharmacy technician;

(4) Records the date of transfer; and

(5) Records the name or identification code of the transferring pharmacist, pharmacy or graduate intern, or pharmacy technician; and

ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(3)(a)(iii) of this Section;

e. The electronic transfer of original prescription order information for a controlled substance meets the following conditions:

i. The transferring pharmacy's computer system:

(1) Invalidates the transferred original prescription order information;

(2) Records the identification code, number, or address, and DEA number of the pharmacy to which the prescription order information is transferred;

(3) Records the name or identification code of the receiving pharmacist;

(4) Records the date of transfer; and

(5) Records the name or identification code of the transferring pharmacist; and

ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(3)(b)(iii) of this Section; and

f. In addition to electronic documentation of a transferred prescription order in the computer system, an original prescription order containing the requirements of this Section is filed in compliance with A.R.S. § 32-1964.

R4-23-409. Returning Drugs and Devices

A. After ~~it has been~~ a drug is taken from the premises where sold, distributed, or dispensed, ~~no~~ the drug shall not be accepted for return or exchange for the purpose of resale unless the following conditions ~~have been~~ are met:

1. ~~It~~ The drug is in ~~the~~ its original, manufacturer's, unopened container; and
2. The drug or its container has not been subjected to contamination or deterioration.

B. The provisions of subsection (A) of this Section do not apply to ~~drugs~~ a drug dispensed to:
1. A hospital ~~inpatients (see R4-23-659(B))~~ inpatient; or
2. ~~To nursing home~~ A resident~~s~~ of a long-term care facility where a licensed health care professional administers the drug, if a pharmacist is satisfied that the drug:
   a. Has been stored in compliance with the requirements of the official compendium; and
   b. Is not obviously contaminated or deteriorated.

C. After ~~it has left~~ a device is taken from the premises ~~of the seller~~ where sold, distributed, or dispensed, ~~no~~ the device shall not be accepted for return or exchange for the purpose of resale or reuse unless the following conditions ~~have been~~ are met:
1. ~~It~~ The device is found to be free of defects after inspection;
2. ~~It~~ The device is rendered incapable of transferring disease; and
3. ~~It~~ The device is not claimed to be new or unused.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE SERVICES DIVISION

PREAMBLE

1. Sections affected: **Rulemaking Action:**
R17-1-103 New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. § 28-366

Implementing statute: A.R.S. § 41-1033

3. A list of all previous notices appearing in the Register addressing the proposed rule:
Notice of Rulemaking Docket Opening: 7 A.A.R. 3053, July 13, 2001

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

Name:	George R. Pavia, Department Rules Supervisor
Address:	Arizona Department of Transportation Administrative Rules Unit, Mail Drop 507M 3737 N. 7th Street, Suite 160 Phoenix, AZ 85014-5017
Telephone:	(602) 712-8446
Fax:	(602) 241-1624
E-mail:	gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters: www.dot.state.az.us/about/rules.

5. An explanation of the rule, including the agency's reasons for initiating the rule:
The agency makes this rule to adequately inform the public of formal procedure required to request rulemaking or review of agency policy or practice.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:
None

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

Not applicable

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

The costs of this rulemaking to the Department, the Governor's Regulatory Review Council, and the Secretary of State are minimal clerical costs incurred in preparation, review, editing, and publishing of the rule. The benefit is clarity of procedure for a person interested in requesting Department rulemaking or review action. Clear detail of required procedure reduces costs of Department employee time in possible researching and explanation of correct administrative procedure. This rulemaking imposes no direct cost to any private business or member of the public.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Communication concerning the economic impact statement may be made with the officer listed in item #4.

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

No public hearing is scheduled in this rulemaking. A request for a public hearing may be made to the officer listed in item #4. If no request for hearing is received, the public comment period in this rulemaking will close at 4:30 p.m. on September 7, 2001.

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

None

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section

ARTICLE 1. GENERAL PROVISIONS

R17-1-103. Petition for Department Rulemaking or Review

A. A person may petition the Department under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a Department rule, including making a new rule or amending or repealing an existing rule; or
2. Review of an existing Department practice or substantive policy statement alleged to constitute a rule.

B. To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Department Director a written petition including the following information:
1. Name, address, telephone number, and facsimile number, if any, of the person submitting the petition;
2. Name of any person legally represented by the person submitting the petition;
3. If requesting a rulemaking action:
   a. Statement of the rulemaking action sought, including the A.A.C. citation of all existing rules, and the specific language of a new rule or rule amendment; and
   b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful.
4. If requesting a review of an existing practice or substantive policy statement:
   a. Subject matter of the existing practice or substantive policy statement, and
   b. Reasons why the existing practice or substantive policy statement constitutes a rule.
5. Dated signature of the person submitting the petition.

C. A person may submit supporting information with a petition, including:
1. Statistical data; and

2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.

D. The Department Director or the director's authorized representative shall send the person submitting a petition a written response within 60 calendar days of the date the Department receives the petition.