

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS

PREAMBLE

1. Sections Affected

R4-18-101
R4-18-102
R4-18-103
R4-18-104
R4-18-106
R4-18-106
R4-18-107
R4-18-108
R4-18-109
R4-18-110
R4-18-111
R4-18-116
R4-18-117
Article 2
R4-18-201
R4-18-202
R4-18-203
R4-18-204
R4-18-205
R4-18-206
Article 3
Article 4
R4-18-401
R4-18-402
Article 5
R4-18-501
R4-18-502
R4-18-503
R4-18-504
Article 6
Article 7
R4-18-701
Table 1
Article 8
R4-18-801
R4-18-802

Rulemaking Action

Amend
Amend
New Section
Repeal
Repeal
New Section
Amend
Amend
Repeal
Amend
Amend
Repeal
Repeal
New Article
New Section
New Section
New Section
New Section
New Section
New Section
Reserved
New Article
New Section
New Section
New Article
New Section
New Section
New Section
New Section
New Section
Reserved
New Article
New Section
New Table
New Article
New Section
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. § 32-1504(A)(1)

Implementing statutes: A.R.S. §§ 32-1501(8), 32-1504, 32-1522, 32-1522.01, 32-1523, 32-1523.01, 32-1524, 32-1525, 32-1526, 32-1527, 32-1529, 32-1551, 32-1559, 32-1560, 32-1561, 32-1581, and 41-1072 through 41-1078

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3. The effective date of the rules:

August 9, 2002

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 5725, December 21, 2001

Notice of Proposed Rulemaking: 8 A.A.R. 874, March 8, 2002

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

Name: Dr. Craig Runbeck, Executive Director

Address: Naturopathic Physicians Board of Medical Examiners
1400 W. Washington, Suite 230
Phoenix, AZ 85007

Telephone: (602) 542-8242

Fax: (602) 542-3093

E-mail: craig.runbeck@npbomex.az.gov

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

The proposed rules provide additional guidance and clarity to the regulated community and others impacted by the rules. Obsolete requirements are deleted. The rules add several new Articles, subject matter covered is increased. This rulemaking complies with statutory mandates that rules be promulgated to implement certain provisions. In addition to deleting certain Sections, changes are made to the following:

R4-18-101. Definitions. This Section is revised and updated. Definitions are added to address the broader scope of subject matter covered.

R4-18-102. Board Meetings; Elections. The amendments are primarily administrative in nature.

R4-18-103. Duties of Board Committees. This Section is administrative in nature.

R4-18-106. Rehearing and Review of Decision. Replaces old Section on examination subjects, which is no longer needed due to changes in statute.

R4-18-108. Titles, Use of Abbreviations. Covers titles and abbreviations that may and may not be used by a person regulated by the Board.

R4-18-110. Display of Licenses and Certificates: Notice of Change of Status: Student Identification:

R4-18-111. Notice of Civil and Criminal Actions: Only grammatical changes are made.

Articles 2, 4, 5, 7, and 8 are new and cover the following subjects:

R4-18-201. Jurisprudence Examination. Qualifications to take exam and passing requirements.

R4-18-202. License by Examination. Requirements for a license.

R4-18-203. License by Endorsement. Requirements for a license.

R4-18-204. Specialist Certificate. Requirements for a specialist certificate.

R4-18-205. Continuing Medical Education Requirements. Annual CME requirements for renewal of a license.

R4-18-206. Renewal of a License. Requirements for annual renewal.

R4-18-401. Approval of a School of Naturopathic Medicine. Requirements for approval.

R4-18-402. Annual Renewal of an Approved School of Naturopathic Medicine.

R4-18-501. Certificate to Engage in Clinical or Preceptorship Training. Requirements for clinical and preceptorship training programs.

R4-18-502. Annual Renewal of a Certificate to Engage in a Clinical or Preceptorship Training.

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program.

R4-18-504. Annual Renewal of a Certificate to Conduct a Clinical or Preceptorship Training Program.

R4-18-701. Time-frames for Board Decisions. This new Section complies with the statutory mandate to specify in a rule time-frames within which the Board will make licensing decisions.

R4-18-801. Experimental Medicine. Defines what procedures or devices are experimental.

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R4-18-802. Informed Consent and Duty to Follow Protocols. Requires Informed consent from a patient prior to engaging in an experimental procedure and requires all experimental procedures be approved by an Institutional Review Board.

7. 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

8. 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

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

A preliminary analysis indicates that the following provisions may have an economic, small business, or consumer impact.

R4-18-107. Fees. There are modest increases in the following fees to cover the rising costs of Board operations. The fees are within the statutory authority granted in A.R.S. § 32-1527.

R4-18-201. Jurisprudence Examinations. There is a fee assessed that is included under R4-18-107.

R4-18-202. License by Examination. There is a fee assessed that is included under R4-18-107.

R4-18-203. License by Endorsement. There is a fee assessed that is included under R4-18-107.

R4-18-204. Specialist Certificate. There is a fee assessed that is included under R4-18-107.

R4-18-205. Continuing Medical Education Requirements. There will be a cost associated with attending CME conferences. That cost will vary depending on the type of training the physician chooses.

R4-18-206. Renewal of a License. There is a fee assessed that is included under R4-18-107.

R4-18-401. Application for Recognition as an Approved School of Naturopathic Medicine. There is a fee assessed that is listed under R4-18-107.

R4-18-402. Renewal as an Approved School of Naturopathic Medicine. There is a fee assessed that is listed under R4-18-107.

R4-18-501. Application for a Certificate to Engage in Clinical or Preceptorship Training. There is a fee assessed that is listed under R4-18-107.

R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training. There is a fee assessed that is listed under R4-18-107.

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program. There is a fee assessed that is listed under R4-18-107.

R4-18-504. Annual Renewal of a Certificate to Conduct a Clinical or Preceptorship Training Program. There is a fee assessed that is listed under R4-18-107.

R4-18-802. Informed Consent and Duty to Follow Protocols.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Numerous grammatical, format, and word choice changes were made to make the rules more clear, concise, understandable and consistent with current rulewriting standards. Additionally, Article 3 and Article 6 that were included in the Proposed Rules are deleted in the Final Rules. These deletions were made in order to allow the Board time to rewrite Articles 3 and 6 to comply with changes in statute and needs of the Board's customers. The definitions that applied to Articles 3 and 6 are also removed from R4-18-101.

Article 3 dealt with the dispensing requirements for naturopathic physicians. This was removed after changes in statute rendered the Article obsolete. It will be rewritten consistent with the new law.

Article 6 dealt with the requirements for medical assistants. Questions were raised by various stakeholders about this rule and the decision was made by the Board to review and rewrite it before submitting it.

11. A summary of the principal comments and the agency response to them:

The Board received no written or oral comments on the Final Rules Package. There were comments on the two Articles that have been deleted from the Final Rules Package. Those Articles will be resubmitted after they have been rewritten to comply with new statutes and are more consistent with the needs of the public and the regulated community.

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

None

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

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-18-101. Definitions
- R4-18-102. Board Meetings; Elections; Officers
- R4-18-103. ~~Reserved~~ Duties of Board Committees
- R4-18-104. ~~Examination Procedures~~ Repealed
- R4-18-106. Examination Subjects Required for Licensing under A.R.S. § 32-1523 Rehearing or Review of Decision
- R4-18-107. Fees
- R4-18-108. Titles, Use of Abbreviations
- R4-18-109. ~~Continuing Education~~ Repealed
- R4-18-110. Display of Licenses and Certificates; Notice of Change of Status; Student Identification;
- R4-18-111. Notice of Civil and Criminal Actions
- R4-18-116. ~~Hearing Procedures~~ Repealed
- R4-18-117. ~~Rehearing or Review of Decision~~ Repealed

ARTICLE 2. ~~DELETED~~ LICENSES; SPECIALIST CERTIFICATES; CONTINUING MEDICAL EDUCATION; RENEWAL

Section

- R4-18-201. Jurisprudence Examination
- R4-18-202. License by Examination
- R4-18-203. License by Endorsement
- R4-18-204. Specialist Certificate
- R4-18-205. Continuing Medical Education Requirements
- R4-18-206. Renewal of a License

ARTICLE 3. RESERVED

ARTICLE 4. APPROVAL OF SCHOOLS OF NATUROPATHIC MEDICINE

Section

- R4-18-401. Approval of a School of Naturopathic Medicine
- R4-18-402. Annual Renewal of an Approved School of Naturopathic Medicine

ARTICLE 5. NATUROPATHIC CLINICAL TRAINING AND PRECEPTORSHIP TRAINING PROGRAM REQUIREMENTS

Section

- R4-18-501. Certificate to Engage in Clinical or Preceptorship Training
- R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training
- R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program
- R4-18-504. Annual Renewal of a Certificate to Conduct a Clinical or Preceptorship Training Program

ARTICLE 6. RESERVED

ARTICLE 7. TIME-FRAMES FOR BOARD DECISIONS

Section

- R4-18-701. Time-frames for Board Decisions
 - Table 1. Time-frames

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ARTICLE 8. EXPERIMENTAL MEDICINE

Section

R4-18-801. Experimental Medicine

R4-18-802. Informed Consent and Duty to Follow Protocols

ARTICLE 1. GENERAL PROVISIONS

R4-18-101. Definitions

For purposes of Title 32, Chapter 14 of the Arizona Revised Statutes and these regulations unless the context requires a different meaning or unless inconsistent with the manifest intention of the board:

~~“Abnormalities of the human mind and body” means diseases, injuries, ailments, or infirmities and other conditions of the human mind and body, ordinarily justifying professional assistance from a Naturopathic physician.~~

~~“Diagnosis” means the determination of the nature of a person’s condition and includes physical, clinical, and laboratory examinations, and the employment of x-rays for diagnostic purposes.~~

~~“Hygienic” means all forms of hygiene and the use of local and topical antiseptics and nonpoisonous, extracted, compounded, or concentrated substances obtained from an animal, a plant, or a mineral origin and utilized for aseptic and therapeutic purposes by a doctor of naturopathic medicine.~~

~~“Laws and regulations relating to public health” means any applicable state or federal law, relating to public health and includes but is not limited to the requirements for the registration of birth certificates, reporting of violent wounds and injuries and child abuse as required by law.~~

~~“Nonsurgical” means a system of treating without surgical invasion of the human body but does not preclude acupuncture, electrical currents, or the repair and care incident thereto to superficial lacerations and abrasions, and the removal of foreign bodies located in superficial structures, and the use of standard clinical procedures in connection therewith.~~

~~“Physiotherapy” means the treatment of disease by use of all natural forces, including but not limited to electrotherapy, hydrotherapy, acrotherapy, meehanotherapy, massage and therapeutic exercise.~~

~~“Preceptorship” means a clinical course of study wherein a student of naturopathic medicine works in a naturopathic clinic under the supervision of a doctor of naturopathic medicine.~~

~~“Sanitary” means the use of all forms of bacteriostatic procedures, including but not limited to the use of topical antiseptics.~~

~~“System of treating” means the total management of a disease or other condition of the human body, including its prevention, diagnosis, alleviation, treatment, and cure.~~

~~“Rebates” means requesting, listing, accepting or receiving any compensation or commission for prescribing or recommending any diagnostic or treatment procedure; or offering, giving or promising, either directly or indirectly, any gift in return for the procurement of a patient or patients for any diagnostic or treatment procedure.~~

In addition to the definitions in A.R.S. §§ 32-1501 through 32-1581, the following definitions apply to this Chapter unless otherwise specified:

“Administrative completeness review” means the Board’s process for determining that an applicant has provided, or caused to be provided, all of the application packet information and documentation required by statute or rule for an application for a license or a certificate.

“Applicant” means a person requesting from the Board an initial, temporary, or renewal license or certificate.

“Application” or “application packet” means the forms, documents, and information the Board requires to be submitted by an applicant or on behalf of an applicant.

“Approved Specialty College or Program” means any postdoctoral training program that awards a medical specialist certificate and is approved by one of the following:

The Council on Naturopathic Medical Education,

The American Association of Naturopathic Physicians, or

The Arizona Naturopathic Medical Association.

“Chief medical officer” means a physician who is responsible for a clinical, preceptorship, internship, or postdoctoral training program’s compliance with state and federal laws, rules, and regulations.

“Clinical training program” means a clinical training program operated in conjunction with an approved school of naturopathic medicine.

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“Continuing medical education” means courses, seminars, lectures, programs, conferences, and workshops related to subjects listed in A.R.S. § 32-1525(B), that are offered or sanctioned by one of the organizations referenced in R4-18-205 (B).

“Endorsement” means the procedure for granting a license in this state to an applicant who is currently licensed to practice naturopathic medicine by another state, district, or territory of the United States or by a foreign country that requires a written examination substantially equivalent to the written examination provided for in A.R.S. § 32-1525.

“Facility” means a health care institution as defined in A.R.S. § 36-401, office or clinic maintained by a health care institution or by an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29, office or public health clinic maintained by a state or county, office or clinic operated by a qualifying community health center under A.R.S. § 36-2907.06, or an office or clinic operated by a corporation, association, partnership, or company authorized to do business in Arizona under A.R.S. Title 10.

“Informed consent” means a document, signed by a patient or the patient’s legal guardian, that verifies that the patient or legal guardian understands the type of treatment the patient is to receive, and whether the clinician is a physician, preceptee, or an intern who is treating the patient. If an experimental or investigational protocol is to be followed, the informed consent form shall clearly state that the patient understands the procedures to be carried out, the risks and benefits of the procedure, medication or device to be used, that the patient can withdraw at any time, that the patient is voluntarily complying, and that the protocol meets the requirements of the institutional review board that approves the protocol.

“Institutional review board” means a group of persons that reviews investigational or experimental protocols and approves its use on animals or humans within an institution for the purposes of protecting the subjects of the investigational or experimental protocol from undue harm and assures that the research and its review is carried out according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection.

“Internship” means clinical and didactic training by a doctor of naturopathic medicine certified by the Board, in an institution, certified by the Board.

“License” means a document issued by the Board that entitles the individual to whom it is issued to practice naturopathic medicine.

“National board” means any of the following:

- The Federation of State Medical Licensing Boards,
- The National Board of Chiropractic Examiners,
- The National Board of Medical Examiners,
- The National Board of Osteopathic Examiners, or
- The North American Board of Naturopathic Examiners

“Preceptorship” means clinical training of not more than 24 months duration, by a person who holds a degree of doctor of naturopathic medicine, and is certified by the Board for preceptorship training.

“Resident physician in training” means a person who holds a degree of doctor of naturopathic medicine and is certified by the Board to diagnose and treat patients under supervision in an internship, preceptorship, or a post doctoral training program.

“Substantive review” means the Board’s process for determining whether an applicant for licensure, certification, or approval meets the requirements of A.R.S. Title 32, Chapter 14 and this Chapter.

“Supervise” means to be physically present and within sight or sound of a medical assistant, medical student, or an unlicensed resident physician in training, who is providing naturopathic medical care to a patient.

“Supervision” means a supervisor assumes legal responsibility and has oversight of activities relating to the diagnosis and treatment of a patient and the acquiring, preparing, and dispensing of devices and natural substances to a patient by a medical assistant, nurse, medical student, or a preceptee.

“Supervisor” means an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29 who supervises a medical student or a preceptee, or a person licensed under A.R.S. Title 32, Chapter 14 who supervises a medical assistant or a nurse.

R4-18-102. Board Meetings; Elections; Officers

- A. ~~The Board shall hold its statutorily required a regular meetings meeting in January and July of each year. Such other meetings of the Board, as may be required for the conduct of its business, shall be held from time to time as the board determines necessary. The officers shall be elected at the January meeting of the Board by majority vote of the Board members~~

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present at that meeting. The Board chairman shall preside at all Board meetings. If the chairman is disqualified or unable to attend, the Board vice-chairman shall preside at the meeting. If the Board vice-chairman is disqualified or unable to attend, the Board secretary-treasurer shall preside at the meeting.

- ~~B. The Board shall hold its annual election of officers at the January Board meeting.~~
- B. If an officer's position becomes vacant, the Board shall elect a member of the Board to complete the term of office that is vacant.
- C. A Board member shall attend meetings scheduled by the Board. The Board may recommend to the Governor that a Board member who fails to attend three consecutive Board meetings be removed from the Board.

R4-18-103. Reserved Duties of Board Committees

A committee appointed by the Board chairman shall make a report to the Board based on the findings or investigations of the committee and may make recommendations for further action by the Board.

R4-18-104. Examination Procedures Repealed

- ~~A. Prior to the commencement of written examination, each applicant shall be given an examination number which shall be the only identifying mark placed on the examination papers. Each page of the examination shall be marked with the identifying number, and no applicant's name shall appear on any page of the examination.~~
- ~~B. The pages of the examination shall be numbered consecutively at the top of each page. Only 1 side of a page may be used in answering examination questions.~~
- ~~C. Prior to the examination, applicants shall be informed of the time limit allowed for each section of the examination. No credit will be received for any work done by the applicant after the time limit.~~
- ~~D. In the event doubt exists as to the interpretation of a question, inquiries by the applicant shall be directed to a Board member only.~~
- ~~E. Any applicant using a book, paper or device to assist him or receiving assistance or giving assistance to another applicant, shall forfeit his right to continue the examination and shall forfeit his application fee.~~
- ~~F. At the close of the examination, each applicant shall return his answer sheets and deliver them, together with the examination questions, to a member of the Board or a duly appointed proctor.~~
- ~~G. Subsequent to review of the applicant's answers to the examination, results of the examinations will be forwarded in writing to each applicant.~~
- ~~H. The Board may administer the Naturopathic Physicians Licensing Exam (NPLEX) in lieu of all or part of an examination prepared by the Board.~~

R4-18-106. Examination Subjects Required for Licensing under A.R.S. § 32-1523 Rehearing or Review of Decision

The 2 subject areas of examination shall be:

- ~~1. Oral examination in the subject of naturopathic jurisprudence, including applicable federal and state laws, rules, and regulations.~~
- ~~2. Oral examination in the subject of practical clinical skills of naturopathic medicine, including but not limited to:
 - ~~a. Physical diagnosis;~~
 - ~~b. Medical emergencies; and~~
 - ~~e. Office procedures.~~~~

- A. Except as provided in subsection (G), any party who is aggrieved by a decision issued by the Board may file with the Board not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review. For purposes of this Section, a decision is considered served when personally delivered or five days after mailing by certified mail to the party at the party's last known residence or place of business.
- B. A motion for rehearing or review under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issue raised in the motion and may provide for oral argument.
- C. A rehearing or review of a decision may be granted by the Board for any of the following reasons materially affecting the party's rights:
 1. Irregularity in the proceedings of the Board, administrative law judge, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
 7. That the findings of fact or decision is not justified by the evidence, or is contrary to law.
- D. The Board may affirm or modify its decision or grant a rehearing or review, to all or any of the parties on all or part of the issues for the reasons specified in subsection (C). An order modifying a decision or granting a rehearing or review shall

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specify with particularity the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.

- E.** Not later than 35 days after the date a decision is rendered, the Board may, on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. In either case, the order shall specify the grounds for rehearing and review.
- F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for good cause.
- G.** If the Board makes specific findings that the immediate effectiveness of the decision is necessary for the preservation of the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions under A.R.S. Title 12, Chapter 7, Article 6.

R4-18-107. Fees

A. Application fees are as follows:

1. Medical license, \$300
2. Specialist certificate, \$300
3. Certificate to dispense, \$300
4. Medical assistant certificate, \$100
5. ~~Certificate to engage in a clinical~~ Clinical training program certificate, \$100 \$150
6. ~~Certificate to engage in an internship~~ Internship program certificate, \$100 \$150
7. ~~Certificate to engage in a preceptorship~~ Preceptorship program certificate, \$100 \$150
8. Certificate to conduct a clinical training program, ~~\$400~~ \$150
9. Certificate to conduct an internship training program, ~~\$100~~ \$150
10. Certificate to conduct a preceptorship training program, ~~\$100~~ \$150
11. ~~Certificate to conduct a postdoctoral program, \$100~~
12. ~~Certificate to conduct a school of naturopathic medicine, \$1,000~~

B. Examination fees are as follows:

1. For a regular medical license
 - a. Part 1—Basic medical science subjects, \$175
 - b. Part 2—Clinical medical science subjects, \$175
 - c. Part 3—Clinical medical competency subjects, \$175
2. For a medical license by endorsement, Part 3—Clinical medical competency subjects, \$175.

C. Initial issuance fees for a license or a certificate are as follows:

1. Medical license, \$20
2. Specialty certificate, \$20
3. Certificate to dispense, \$20
4. Medical assistant certificate, \$20
5. Certificate to engage in a clinical training program, \$20
6. Certificate to engage in an internship training program, \$20
7. Certificate to engage in a preceptorship program, \$20
8. Certificate to conduct a clinical training program, \$25
9. Certificate to conduct an internship training program, \$25
10. Certificate to conduct a preceptorship training program, \$25
11. Certificate to conduct a postdoctoral training program, \$25
12. Certificate to conduct a school of naturopathic medicine, \$35.

B. Arizona naturopathic jurisprudence examination, \$60

~~D.~~**C.** Annual renewal fees are as follows:

1. Medical license, ~~\$300~~ \$360
2. Certificate to Dispense, \$300
3. Medical assistant certificate, ~~\$60~~ \$100
4. ~~Certificate to engage in a clinical~~ Clinical training program certificate, \$120 \$150
5. ~~Certificate to engage in an internship~~ Internship training program certificate, \$120 \$150
6. ~~Certificate to engage in a preceptorship~~ Preceptorship program certificate, \$120 \$150
7. Certificate to conduct a clinical training program, \$396
8. Certificate to conduct an internship training program, \$396
9. Certificate to conduct a preceptorship training program, \$396

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10. ~~Certificate to conduct a postdoctoral training program, \$396~~
11. ~~Certificate to conduct a school of naturopathic medicine, \$396~~

~~E.D.~~ Late renewal fees are as follows:

1. Medical license, ~~\$150~~ \$180
2. Certificate to dispense, \$150
3. Medical assistant certificate, ~~\$30~~ \$50
4. ~~Certificate to engage in a clinical-Clinical training program certificate, \$60~~ \$75
5. ~~Certificate to engage in an internship Internship training program certificate, \$60~~ \$75
6. ~~Certificate to engage in a preceptorship Preceptorship training program certificate, \$60~~ \$75
7. Certificate to conduct a clinical training program, \$200
8. Certificate to conduct an internship training program, \$200
9. Certificate to conduct a preceptorship training program, \$200
10. ~~Certificate to conduct a postdoctoral training program, \$200~~
11. ~~Certificate to conduct a school of naturopathic medicine, \$200~~

~~F.E.~~ Other fees and charges are as follows:

1. For a duplicate license or certificate, ~~\$12.50~~ \$20
2. ~~For endorsement of an Arizona license, \$25~~
3. ~~For a copy of Board meeting minutes, \$25~~
4. 2. For photocopying Board records, documents, letters, applications, or files, \$5 or \$0.25 per page, whichever is greater
5. ~~3.~~ For each audio tape or computer disk containing information requested, \$25
6. ~~For each computer diskette containing information requested, not requiring programming, \$25~~
7. ~~4.~~ For written verification of a license or certificate, \$5 \$10
8. ~~For the inspection of a naturopathic medical school, Actual cost incurred by the Board~~
9. ~~5.~~ For the costs in locating a person who is licensed or certified, Actual cost incurred by the Board
10. ~~For a copy of the Official Annual Directory of Naturopathic Medicine, \$25~~
11. ~~6.~~ For submitting a fingerprint card to the department of public safety, \$24
12. ~~7.~~ For each insufficient fund check, \$25

~~G.~~ Civil Penalties are as follows:

1. As stated in A.R.S. 32-1553, for each violation of the Board's statutes or rules, \$1000 per violation to a maximum of \$10,000 for all violations.
2. As stated in A.R.S. 32-1581, for dispensing without a certificate to dispense, \$300 to \$1,000 per transaction.

R4-18-108. Titles, Use of Abbreviations

A. ~~A doctor of naturopathic medicine licensed in this state may use the designations "Doctor of Naturopathic Medicine", "Doctor of Naturopathy", "Naturopath", and "Naturopathic Physician". A physician issued a license by the Board may use any of the following titles or abbreviations:~~

1. Doctor of Naturopathic Medicine,
2. N.M.D.,
3. Doctor of Naturopathy,
4. N.D.,
5. Naturopath,
6. Naturopathic Physician, or
7. Naturopathic Medical Doctor.

B. ~~A doctor of naturopathic medicine licensed in this state may use the abbreviation "N.M.D.", "N.D.", and "D.N.". A physician issued a license, or a graduate of a school approved by the Board, shall not use any of the following titles or abbreviations:~~

1. Doctor of medicine (naturopathic),
2. M.D.(N.), or
3. M.D.(naturopathic).

C. An unlicensed graduate of a Board approved school of naturopathic medicine who is certified by the Board to engage in preceptorship training shall use the designation "(Preceptee)" after any of the designations in subsection (A). The preceptee shall also ensure that any patient treated by the preceptee signs an informed consent treatment form stating clearly that the preceptee is undergoing training, is not licensed, and identifying the name of the supervising physician.

D. An unlicensed graduate of a Board approved school of naturopathic medicine who is certified by the Board to engage in internship training shall use the designation "(Intern)" after any of the designations in subsection (A). The intern shall ensure that any patient treated by the intern signs an informed consent treatment form stating clearly that the intern is undergoing training, is not licensed and identifying the name of the supervising physician.

E. A person who is permanently retired under A.R.S. § 32-1528 may use any of the designations listed in subsection (A) if that person also uses the designation "(Retired)" after each designation.

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R4-18-109. ~~Continuing Education Repealed~~

- ~~A. Continuing education consisting of 15 classroom hours directly relating to the practice of naturopathic medicine shall be required annually.~~
- ~~B. The following courses and classes qualify for continuing education credit if directly related to the practice of naturopathic medicine:~~
- ~~1. Continuing education courses and classes offered under the direct supervision of a state or district association of naturopathic physicians, provided that the state or district in which the association is organized is one that licenses naturopathic physicians.~~
 - ~~2. Continuing education courses and classes offered by the Board approved schools of naturopathic medicine.~~
 - ~~3. Continuing education courses and classes offered by or approved by the American Medical Association or American Osteopathic Association.~~
 - ~~4. Any other continuing education courses or classes approved by the Board. Board approval shall be based upon the course content and requirement that the courses or classes sought to be approved have a level of instruction comparable to continuing education courses or classes offered by state and district associations or Board approved schools of naturopathic medicine.~~
- ~~C. The licensee shall provide to the Board proof (verified under oath by licensee) of continuing education as follows:~~
- ~~1. Dates of continuing education;~~
 - ~~2. Name of institution;~~
 - ~~3. Subject matter;~~
 - ~~4. Actual clock hours of instruction time.~~
- ~~D. The requirements of continuing education described in this rule shall not apply in the calendar year in which this rule becomes effective or to licensees during the calendar year of their first naturopathic license issued by the Board.~~

R4-18-110. Display of Licenses and Certificates; Notice of Change of Status; Student Identification

- ~~A. Each person licensed by the Board shall at all times display the that license, or a Board issued duplicate issued to him or her by the Board in a conspicuous place in his or her each location in which the person conducts regular and ongoing patient care activity, office or place of professional practice.~~
- ~~B. Licensees A person, business, or institution regulated by the Board shall notify the Board of any change in the information provided to the Board concerning a license or certificate application or its renewal, including changes in name, address, and place of practice, or actions taken against the licensee, for any reason, in any court or by any governmental regulatory body.~~
- ~~C. Each person certified by the Board to engage in clinical training shall wear an identification card issued by the approved naturopathic medical school conducting the training that clearly identifies the person as a student, at all times that the person is involved in clinical training. An approved school may keep all certificates to engage in clinical training issued by the Board at a central location of the primary training facility, if it is easily available for public viewing.~~
- ~~D. Each person, business, or institution that is issued a certificate by the Board shall display that certificate or a Board issued duplicate, in a conspicuous place at each location in which the person, business, or institution conducts regular and ongoing business activity.~~
- ~~E. All notice requirements under this rule shall be in writing and made within 30 days of change of status.~~

R4-18-111. Notice of Civil and Criminal Actions

- ~~A. Every A person licensed or certified by the Board licensee shall, within 10 days of receipt, notify the Board of any notice, subpoena, summons, or receipt of complaint, whether civil or criminal, arising directly or indirectly out of the licensee's person's conduct of his the person's professional practice activities.~~
- ~~B. To provide notice to the Board a person licensed or certified by the Board shall ~~consist of~~ provide either a photocopy or facsimile copy of such the notice or other service or a ~~may be in~~ letter form advising the Board of the nature of the cause of action, ~~setting forth any~~ allegations made by the plaintiff and his attorney of record, and giving the date, time, and place where appearance is required.~~
- ~~C. Notice to the Board shall be by certified or registered mail.~~

R4-18-116. Hearing Procedures Repealed

~~Hearings shall be conducted in accordance with the provisions of Title 41, Chapter 6 of the Arizona Revised Statutes.~~

R4-18-117. Rehearing or Review of Decision Repealed

- ~~A. Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than 10 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.~~

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- B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issue raised in the motion and may provide for oral argument.
- C.** A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - 1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - 2. Misconduct of the Board or the prevailing party;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 - 7. That the decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- E.** Not later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.
- F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within 10 days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- G.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any applicant for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- H.** For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
- I.** To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Board, such statutory provisions shall govern.

ARTICLE 2. ~~DELETED~~ LICENSES; SPECIALIST CERTIFICATES; CONTINUING MEDICAL EDUCATION; RENEWAL

R4-18-201. Jurisprudence Examination

In addition to the requirements of R4-18-202 or R4-18-203, every applicant for licensure shall take and pass the Arizona Naturopathic Jurisprudence Examination, administered by the Board, with a minimum score of 75%. The examination shall consist of multiple-choice and true-false questions. If an applicant passes the jurisprudence examination to obtain a clinical training certificate under R4-18-501 and is under the continuous regulation of the Board after obtaining the clinical training certificate, the applicant is not required to take the examination again.

R4-18-202. License by Examination

In addition to the requirements of R4-18-201, an applicant for licensure by examination shall meet the requirements of A.R.S. Title 32, Chapter 14, and provide the Board:

1. A completed application form, provided by the Board that is signed and dated;
2. A copy of the applicant's examination record including the basic science examination, the clinical science examination, and additional clinical test sections of acupuncture, minor surgery, and homeopathy, sent directly to the Board by the North American Board of Naturopathic Examiners or its successor;
3. A complete transcript sent directly to the Board from the approved school of naturopathic medicine from which the applicant graduated. The transcript shall indicate the date of graduation and date of completion of clinical training;
4. A completed and legible fingerprint card; and
5. The fee specified in R4-18-107.

R4-18-203. License by Endorsement

In addition to requirements of R4-18-201, an applicant for a licensure by endorsement shall meet the requirements of A.R.S. Title 32, Chapter 14, and provide the Board:

1. A completed application form, provided by the Board that is signed and dated.

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2. A document submitted directly to the Board by the agency by whom the applicant is licensed that is signed and dated by an official of the agency and contains:
 - a. The applicant's name.
 - b. The date of issuance of the license.
 - c. The current status of the license.
 - d. A statement of whether the applicant has ever been denied a license by the agency, and
 - e. A statement of whether any disciplinary action is pending or has ever been taken against the applicant.

R4-18-204. Specialist Certificate

To obtain a specialist certificate, a physician shall meet the requirements of A.R.S. Title 32, Chapter 14 and provide the Board:

1. A completed application form provided by the Board that is signed and dated.
2. The name and address of the approved specialty college or program at which the licensee completed postdoctoral specialty training and the date of completion, and
3. A letter from the specialty board that conducted the specialty examination verifying that the licensee is certified as a specialist in the specialty for which application is made.

R4-18-205. Continuing Medical Education Requirements

A. Every calendar year, a physician shall complete 30 credit hours of approved continuing medical education activities. Ten credit hours shall be in pharmacology as it relates to the diagnosis, treatment, or prevention of disease. Eight credit hours shall be from programs approved by one or more of the organizations listed in subsection (B)(2). One hour of credit is allowed for every 50 minutes of participation in an approved continuing medical education activity unless otherwise noted in R4-18-205(B).

B. The following are approved continuing medical education activities:

1. Education certified as Category I by an organization accredited by the Accreditation Council on Continuing Medical Education;
2. Continuing medical educational programs in the clinical application of naturopathic medical philosophy that are approved by:
 - a. The American Association of Naturopathic Physicians or any of its constituent organizations.
 - b. The Arizona Naturopathic Medical Association, or
 - c. Any naturopathic licensing authority in the United States or Canada.
3. One credit hour may be claimed for each eight hour day of training in an internship training program, a preceptorship training program, or a postdoctoral training program approved by the Board. A maximum of eight hours per year may be claimed in this manner.
4. One credit hour, not to exceed eight credit hours, may be claimed for each eight hour day of research in subjects listed in A.R.S. § 32-1525(B), if the research is conducted by or sponsored by a school of naturopathic medicine that is accredited or a candidate for accreditation by:
 - a. The Council on Naturopathic Medical Education,
 - b. The Council for Higher Education Accreditation, or
 - c. An accrediting agency recognized by the United States Department of Education.
5. One credit hour may be claimed for each hour serving as an instructor of naturopathic medical students or other physicians in a program approved by one of the organizations listed in subsection (B)(2), or a school approved by the Board. A maximum of eight hours may be claimed in this manner.
6. A maximum of four credit hours may be claimed for preparing or writing for presentation or publication, a medically related paper, report, or book that is presented or published addressing current developments, skills, procedures, or treatment in the practice of naturopathic medicine. Credit may be claimed only for materials presented or published. Credit may be claimed once as of the date of publication or presentation.
7. A maximum of eight credit hours may be earned for the following activities that provide necessary understanding of current developments, skills, procedures, or treatment related to the practice of naturopathic medicine if the physician maintains a record for at least three years that includes the name of the activity, the date of the activity, and the amount of time to complete the activity:
 - a. Self-instruction that utilizes videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
 - b. Independent reading of scientific journals and books;
 - c. Preparation for specialty board certification or re-certification examinations; or
 - d. Participation on a staff committee or quality of care or utilization review committee in a facility or government agency.

C. The Board shall grant an extension of time to complete continuing medical education required in subsection (A) upon written application by a licensee if the licensee fails to meet the requirements due to illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstance. An extension, other than for military service, shall not exceed 90 days.

- D. An applicant for renewal of a license shall certify on the application for renewal, under penalty of perjury, that the applicant has met or will meet, before January 1, the continuing medical education requirements for the calendar year.
- E. Board staff shall annually select a minimum of 10% of the active licensees for an audit of required continuing medical education. Failure to complete the required continuing medical education is considered unprofessional conduct.

R4-18-206. Renewal of a License

- A. To renew a license to practice naturopathic medicine, on or before January 1 of each year, a licensee shall submit a license application renewal form provided by the Board that allows the Board to determine whether the applicant continues to meet the requirements of A.R.S. Title 32, Chapter 14. If an applicant makes a timely and complete application for renewal of the applicant's license, the physician may continue to practice until the application is approved or denied by the Board.
- B. A licensee shall submit the license renewal fee required in R4-18-107 to the Board by mail or in person.

ARTICLE 3. RESERVED

ARTICLE 4. APPROVAL OF SCHOOLS OF NATUROPATHIC MEDICINE

R4-18-401. Approval of a School of Naturopathic Medicine

The Board shall approve a school of naturopathic medicine if, in addition to the requirements of A.R.S. § 32-1501(8):

1. It is accredited or a candidate for accreditation by the Council on Naturopathic Medical Education, or its successor agency, and
2. It has complied with the requirements of the Arizona State Board of Private Post Secondary Education in A.R.S. Title 32, Chapter 30 and A.A.C. R4-39-101 through R4-39-603.

R4-18-402. Annual Renewal of an Approved School of Naturopathic Medicine

An approved school of naturopathic medicine shall be renewed by submitting on or before January 1 of each year, the information required by the Board that allows the Board to determine if the applicant continues to meet the requirements of A.R.S. § 32-1501(8) and of R4-18-401.

ARTICLE 5. NATUROPATHIC CLINICAL TRAINING AND PRECEPTORSHIP TRAINING PROGRAM REQUIREMENTS

R4-18-501. Certificate to Engage in Clinical or Preceptorship Training

- A. To obtain a certificate to engage in clinical or preceptorship training, an applicant shall submit to the Board an application packet that includes a completed application form provided by the Board, that allows the Board to determine if the applicant meets the requirements of A.R.S. § 32-1524, signed and dated by the applicant, and the fee listed in R4-18-107.
- B. In addition to the requirements in subsection (A), a naturopathic medical student who applies for a certificate to engage in clinical training shall comply with the requirements of A.R.S. § 32-1560 and:
 1. Be attending an approved naturopathic medical school;
 2. Arrange to have submitted directly to the Board a letter from the chief medical officer of the medical school verifying that the applicant will be entering clinical training and the anticipated starting and completion dates;
 3. Provide a legible fingerprint card; and
 4. Take and pass the Arizona naturopathic jurisprudence examination with a minimum score of 75%.
- C. In addition to the requirements in subsection (A), an applicant for a certificate to engage in a preceptorship training program shall comply with the requirements of A.R.S. § 32-1561 and arrange to submit or have submitted directly to the Board:
 1. An official transcript from the approved naturopathic medical school from which the applicant graduated;
 2. A Board approved verification form, from the physician who will be responsible for the applicant's supervision and training;
 3. A legible fingerprint card;
 4. If licensed to practice naturopathic medicine in another jurisdiction, a copy of the license; and
 5. Proof of passing the Arizona naturopathic jurisprudence test with a minimum score of 75%.

R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training

A holder of a certificate to engage in a clinical or preceptorship training shall renew the certification by submitting before the anniversary date of the certificate the appropriate fee and:

1. A completed form provided by the Board that allows the Board to determine whether the holder of the certificate continues to meet the requirements of A.R.S. Title 32, Chapter 14 and R4-18-501; and
2. A letter from the chief medical officer stating that the applicant is in good standing in the training program.

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program

A chief medical officer applying on behalf of a school of naturopathic medicine for a certificate to conduct clinical training, or on behalf of a preceptorship training program, shall submit to the Board the fee indicated in R4-18-107 and an application form provided by the Board, signed and dated by the chief medical officer, that contains:

1. The chief medical officer's name, mailing address, and telephone number;

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2. The name and address of the training program and of each facility where training will be conducted;
3. The name, professional degree, license number, and licensing agency for each physician who will be providing supervision in the training program; and
4. A mission statement outlining the goals of the training program.

R4-18-504. Annual Renewal of Certificate to Conduct a Clinical or Preceptorship Training Program

A certificate to conduct clinical or preceptorship training shall be renewed before the anniversary date, by submitting the appropriate fee listed in R4-18-107 and a completed form.

ARTICLE 6. RESERVED

ARTICLE 7. TIME-FRAMES FOR BOARD DECISIONS

R4-18-701. Time-frames for Board Decisions

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of license, certification, or approval granted by the Board is listed in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend a substantive review and overall time-frame by no more than 25% of the overall time-frame listed in Table 1.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license, certification, and approval granted by the Board is listed in Table 1.
1. The administrative completeness review time-frame begins on the day the Board receives the application form and the appropriate fee.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.
 3. The administrative completeness review time-frame and the overall time-frame are suspended from the date on the Board's notice until the date the Board office receives all missing information.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) for each type of license, certification, and approval granted by the Board is listed in Table 1.
1. The substantive review time-frame begins on the date of the Board's notice of administrative completeness.
 2. If the Board determines that additional information or documentation is required, the Board shall send to the applicant a written request for that additional information or documentation.
 3. The time-frame for the substantive review is suspended from the date the request for additional information or documentation is sent to the applicant, until the date on which all of the requested information is received.
 4. The Board shall notify the applicant of the dates of all Board meetings at which the application will be considered.
 5. The Board shall send a written notice of approval or denial to applicants within ten working days of the Board meeting at which the decision is made. An applicant may request a hearing on the decision within 30 days of the Board's action.
- D.** The Board shall consider an application withdrawn if within 360 days from the date of application the applicant fails to:
1. Supply the missing information requested under subsection (B)(2) or (C)(2); or
 2. If applicable, take and obtain a minimum score of 75% on the Arizona Naturopathic Jurisprudence Examination.
- E.** During the administrative review period, an applicant may withdraw an application by requesting withdrawal in writing. During the substantive review period, the Board shall decide whether to grant a request to withdraw.
- F.** An applicant shall send written notice to the Board within 10 days from the date of any change of applicant's address.

Table 1. Time-frames

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Administrative Completeness Time-frame</u>	<u>Substantive Review Time-frame</u>	<u>Overall Time-frame</u>
<u>License by Examination (R4-18-202)</u>	<u>A.R.S. §§ 32-1504(A), 32-1522, 32-1523, 32-1523.01, 32-1524</u>	<u>90 days</u>	<u>90 days</u>	<u>180 days</u>
<u>License by Endorsement (R4-18-203)</u>	<u>A.R.S. §§ 32-1504(A), 32-1523</u>	<u>60 days</u>	<u>60 days</u>	<u>120 days</u>
<u>Specialist Certificate (R4-18-204)</u>	<u>A.R.S. §§ 32-1504(B)(3), 32-1529</u>	<u>60 days</u>	<u>60 days</u>	<u>120 days</u>
<u>Annual Renewal of License (R4-18-206)</u>	<u>A.R.S. §§ 32-1504(A), 32-1526</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Certificate to Dispense</u>	<u>A.R.S. §§ 32-1504(A), 32-1581</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Certificate to Dispense</u>	<u>A.R.S. §§ 32-1504(A), 32-1581</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>

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<u>Certificate to Engage in a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-501)</u>	<u>A.R.S. §§ 32-1504(A), 32-1560, 32-1561</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Certificate to Engage in a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-502)</u>	<u>A.R.S. §§ 32-1504(A), 32-1560, 32-1561</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Certificate to Conduct a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-503)</u>	<u>A.R.S. §§ 32-1501, 32-1504(A)</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Certificate to Conduct a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-504)</u>	<u>A.R.S. § 32-1504(A)</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Medical Assistant Certificate</u>	<u>A.R.S. §§ 32-1504(A), 32-1559</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Medical Assistant Certificate</u>	<u>A.R.S. §§ 32-1504(A), 32-1559</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>

ARTICLE 8. EXPERIMENTAL MEDICINE

R4-18-801. Experimental Medicine

A procedure, medication, or device is experimental if:

1. An Institutional Review Board exists for a particular procedure, medication, or device; or
2. The procedure, medication, or device is not generally considered to be within the accepted practice standards for the naturopathic profession.

R4-18-802. Informed Consent and Duty to Follow Protocols

- A.** A physician, medical student engaged in an approved clinical training program, preceptee, or intern who conducts research involving an experimental procedure, medication, or device, shall ensure that all research subjects give informed consent to participate.
- B.** A physician, medical student engaged in an approved clinical training program, preceptee, or intern, that conducts research on humans involving an experimental procedure, medication, or device shall have a protocol for that research approved by an Institutional Review Board.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

PREAMBLE

1. Sections Affected

Article 4
R9-8-401
R9-8-402
R9-8-403

Rulemaking Action

New Article
New Section
New Section
New Section

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. §§ 36-104(3), 36-132(A)(8), 36-136(A)(7), and 36-136(F)

Implementing statutes: A.R.S. §§ 8-551 through 8-558, 8-560, 8-561, and 8-568

3. The effective date of the rules:

August 9, 2002

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4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 654, February 15, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 892, March 8, 2002
Notice of Supplemental Proposed Rulemaking: 8 A.A.R. 2102, May 10, 2002

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

Name: Will Humble, Office Chief
Address: Arizona Department of Health Services
Office of Environmental Health
3815 N. Black Canyon Highway
Phoenix, AZ 85015
Telephone: (602) 230-5941
Fax: (602) 230-5933
E-mail: whumble@hs.state.us.az

or

Name: Kathleen Phillips, Rules Administrator
Address: 1740 W. Adams, Suite 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.us.az

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

The proposed rulemaking adds three new Sections to a new Article 4 to address the licensing of children's camps required in A.R.S. Title 8, Chapter 6, Article 1. R9-8-401 sets forth the definitions used in the Article. R9-8-402 explains the requirements for an initial or renewal license application and the license application fee structure. R9-8-403 contains time-frames requirements for issuing a license to a children's camp. The rulemaking is necessary to ensure that Department approvals are issued according to A.R.S. §§ 41-1072 through 41-1079.

7. A reference to any study that the agency relied on its authority of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, analysis of the study and other supporting material:

Not applicable

8. A showing of good cause why the rules 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

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

This rulemaking ensures that Department approvals for children's camps are consistent with the requirements in A.R.S. §§ 41-1072 through 41-1079. The rulemaking directly impacts the children's camps that are required to be licensed under A.R.S. Title 8, Chapter 6, Article 1, county health departments, and the Department. The Department will incur costs to write, review, and process the rules through promulgation and amend the current license application form to reflect the new rules. The overall impact of the rulemaking is expected to be minimal, with the benefits of the rulemaking outweighing the costs. The time-frames will benefit children's camps by providing clarity in the application and approval process and assuring that the Department will process applications in a fair, consistent, and timely manner.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

A Notice of Rulemaking Docket Opening was published on February 15, 2002. A Notice of Proposed Rulemaking was published on March 8, 2002. The Department held an oral proceeding on the proposed rules April 8, 2002. No oral comments were received. Written comments were received during the comment period. The Department reviewed the written comments and decided to make the following modifications and published a Notice of Supplemental Rulemaking on May 10, 2002. The Department held an oral proceeding on the supplemental proposed rules June 13, 2002. The Department received no comments in response to the supplemental rules. The Notice of Supplemental Proposed Rulemaking contained the following changes:

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R9-8-401. Definitions

#1 Applicant: The Department received comments expressing the concern that the rules did not clearly explain the role of a county health department if a delegation agreement, as prescribed in A.R.S. § 8-568, exists between the Department and a county. The term “Department” was meant to include both the Department and a county when used in the rules. The Department has added the term “county” where the term “Department” is used to clarify that the county health department does have a role in the licensing of a children’s camp if a delegation agreement exists between the Department and a county.

#5 County: The Department has added a definition for “county” to clarify the role of a county health department if a delegation agreement, as prescribed in A.R.S. § 8-568, exists between the Department and a county.

#6 Delegation agreement: The Department has added a definition for “delegation agreement” to clarify if a delegation agreement does exist between the Department or a county.

R9-8-402. Initial and Renewal License Application Process

The Department received a written comment expressing concern that the rules did not clearly explain the role of a county health department if a delegation agreement, as prescribed in A.R.S. § 8-568, exists between the Department and a county. The Department also received a comment concerning the fees the Department charges for a children’s camp license. Under A.R.S. § 8-553(B), if a county health department has a delegation agreement with the Department, the county “...shall not charge a fee in excess of the cost of providing the service for which the fee is charged.” The Department is modifying subsection (C)(1) and (C)(2) to implement A.R.S. § 8-553(B).

R9-8-403. Time-frames

The Department has modified subsection (B) and deleted “the date the Department or county received the license application, but no sooner than” and replaced the phrase with “May 1 of each year or on the date the application is received if after May 1” to clarify when the administrative completeness review time-frame begins. The Department has modified subsection (C)(2) and deleted “may complete an inspection to determine whether the applicant has fulfilled all the statutory requirements listed in A.R.S. Chapter 6, Article 1” and replaced the phrase with “may conduct an inspection of the children’s camp to determine whether the applicant has complied with all the applicable requirements in subsection (C)(4) or (C)(5)” to clarify the role of a county that has a delegation agreement with the Department. The Department has modified subsection (C)(4) and added subsection (C)(5), to clarify under what circumstances the applicant will be issued a license by the Department or a county.

11. A summary of the principal comments and the agency response to them:

The following table summarizes the comments received by the Department in each comment period and provides the Department’s response to each comment. Other technical and grammatical changes were made at the suggestion of the Governor’s Regulatory Review Council Staff.

A. First Comment Period

Public Comment	ADHS Response
<p>The Department received a letter from the Yavapai County Health Department with comments and concerns about the scope of the rules, delegation agreements, license fees, and denial of a license.</p>	<p>The Department is modifying the rules to address the scope of the rules. Specifically, in R9-8-401, the Department has added definitions for “county” and “delegation agreement” and added “county” where “Department” is used to clarify the role of a county health department if a delegation agreement exists between the Department and a county.</p> <p>The Department is modifying R9-8-402 to allow a county, if a delegation agreement does exist, to charge a fee that will cover the cost of the licensing process as permitted under statute.</p> <p>In adding the definitions for “county” and “delegation agreement”, the Department has addressed the concern over denial of a license. The Department or a county can deny a license under the proposed rules.</p>

B. Second Comment Period

No written or oral comments were received during the comment period.

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

Not applicable

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

None

14. Was the rule previously made an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

ARTICLE 4. ~~RENUMBERED~~ CHILDREN'S CAMPS

Section

R9-8-401. Definitions

R9-8-402. Initial and Renewal License Application Process

R9-8-403. Time-frames

ARTICLE 4. ~~RENUMBERED~~ CHILDREN'S CAMPS

R9-8-401. Definitions

In this Article, unless otherwise requires:

1. "Applicant" means an individual requesting a license from the Department or a county to operate a children's camp.
2. "Bathing place" has the same meaning as in 9 A.A.C. 8, Article 8.
3. "Camp director" means an individual who runs, maintains, or otherwise controls or directs the functions of a children's camp.
4. "Children's camp" has the same meaning as in A.R.S. § 8-551.
5. "County" means a governmental entity that has a delegation agreement with the Department as prescribed in A.R.S. § 8-568.
6. "Delegation agreement" has the same meaning as in A.R.S. § 41-1001.
7. "Department" means the Arizona Department of Health Services.
8. "Food establishment" has the same meaning as in 9 A.A.C. 8, Article 1.

R9-8-402. Initial and Renewal License Application Process

A. An applicant shall submit a completed license application form in subsection (B) to:

1. The county in which the children's camp is located, if the county has a delegation agreement with the Department under A.R.S. § 8-568; or
2. The Department, if there is no delegation agreement.

B. An applicant shall submit a completed license application form provided by the Department or a county that contains:

1. The name, mailing address, and telephone number of the children's camp;
2. The county in which the children's camp is located;
3. The name, telephone number, and mailing address of the applicant;
4. The name, telephone number, and if applicable, e-mail address of the camp director;
5. The dates of operation of the children's camp;
6. The number of individuals the children's camp can accommodate;
7. Whether there is a food establishment in the children's camp;
8. Whether there is a bathing place in the children's camp;
9. The potable water supply source at the children's camp;
10. The type of sewage disposal system;
11. Whether the application is for an initial or a renewal license; and
12. The signature of the applicant.

C. With the completed license application, an applicant shall include a map that specifies the location of the children's camp, and:

1. For an initial license:
 - a. If applying to the Department, a fee of \$100, or
 - b. If applying to a county, a fee established according to A.R.S. § 8-553(B).

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2. For a renewal license:
 - a. If applying to the Department, a fee of \$25 or
 - b. If applying to a county, a fee established according to A.R.S. § 8-553(B).

D. The Department or a county begins reviewing applications on May 1 of each year.

R9-8-403. Time-frames

A. The overall time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or county is 60 days. The applicant and the Department or a county may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive time-frame and the overall time-frame shall not exceed 25% of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or a county is 30 days and begins on May 1 of each year or on the date the application is received if after May 1.

1. The Department or a county shall mail notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
 - a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the license application.
 - b. If the Department or a county issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department or a county receives the missing information from the applicant.
 - c. If the applicant fails to submit to the Department or a county all the information and documents listed in the notice of deficiencies within 60 days of the date the Department or a county mailed the notice of deficiencies, the Department or county deems the license application withdrawn.
2. If the Department or a county issues a license to the applicant during the administrative completeness review time-frame, the Department or a county does not issue a separate written notice of administrative completeness.

C. The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date the notice of administrative completeness is mailed to the applicant.

1. The Department or a county shall mail a children's camp license or a written notification of denial of the license application to the applicant within the substantive review time-frame.
2. As part of the substantive-review time-frame for a children's camp license, the Department or a county may conduct an inspection of the children's camp to determine whether the children's camp has complied with the applicable requirements in subsection (C)(4) or (C)(5).
3. If the Department or a county issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department or a county issues the request until the date the Department or a county receives all of the information.
4. If an applicant applying to the Department meets all the requirements under A.R.S. Title 8, Chapter 6, Article 1, and these rules, the Department shall issue a license to the applicant.
5. If an applicant applying to a county meets all the requirements under A.R.S. Title 8, Chapter 6, Article 1, these rules, and county requirements consistent with A.R.S. Title 8, Chapter 6, Article 1, a county shall issue a license to the applicant.
6. If the Department or a county disapproves a license application, the Department or a county shall send the applicant a written notice of disapproval setting forth the reasons for disapproval and all other information required in A.R.S. § 41-1076.

D. If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department or a county considers the next business day as the time-frame's last day.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSURE

PREAMBLE

1. Sections Affected

Article 12
R9-10-1211
R9-10-1212
R9-10-1213
R9-10-1214
R9-10-1215
R9-10-1216
R9-10-1217
R9-10-1218
R9-10-1219
R9-10-1220
R9-10-1221
R9-10-1222
R9-10-1223
R9-10-1224
R9-10-1226
R9-10-1227
R9-10-1228
R9-10-1230

Rulemaking Action

Repeal
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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. §§ 36-104(3), 36-132(A), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-404, 36-405, 36-406, 36-421, 36-424, and 36-425(D)

3. The effective date of the rules:

August 9, 2002

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 1736, April 5, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 1888, April 19, 2002

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

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

or

Name: Kathy McCanna, Program Manager

Address: Department of Health Services
1647 E. Morten, Suite 160
Phoenix, AZ 85020

Telephone: (602) 674-9750

Fax: (602) 395-8913

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E-mail: kmccann@hs.state.az.us

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

The Department of Health Services (Department) is repealing the infirmary rules, 9 A.A.C. 10, Article 12. These rules became effective in 1981 when Arizona colleges and universities maintained on-campus infirmaries to provide some student and staff inpatient health care. Maintaining a state-of-the-art infirmary now is cost-prohibitive, and hospitals generally provide the inpatient care.

In 2000 the Department reviewed the infirmary rules. On September 12, 2000, the Governor's Regulatory Review Council approved the five-year review report proposing to repeal the infirmary rules.

The Department determined that fewer than five infirmaries currently operate in Arizona, licensed by the Department as unclassified health care institutions under R9-10-115. The Department is repealing the infirmary rules because infirmaries are currently being regulated under 9 A.A.C. 10, Article 1.

7. A reference to any studies that the agency relied 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:

None

8. 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

9. The summary of economic, small business, and consumer impact:

Under A.R.S. § 41-1055(D)(3) this rulemaking is exempt from the economic, small business, and consumer impact statement requirement. Repealing the infirmary rules imposes no costs on the regulated community or the general public. The regulated community, the general public, and the Department benefit from repeal of no-longer-followed rules.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The final rules correct the clerical error in the proposed rules' Table of Contents. The proposed rules' Table of Contents incorrectly listed the headings for R9-10-1211, R9-10-1212, and R9-10-1213 as "Definitions," "Administration," and "Personnel," respectively. The proposed rules' text contained the correct headings. Both the final rules' Table of Contents and the final rules' text correctly list the headings of R9-10-1211, R9-10-1212, and R9-10-1213 as "General," "Definitions," and "Administration," respectively.

11. A summary of the principal comments and the agency response to them:

The record in this rulemaking action closed at 5:00 p.m., May 20, 2002. The Department did not receive any oral proceeding requests or written comments.

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

Not applicable

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

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSURE**

ARTICLE 12. ~~INFIRMARY~~ REPEALED

Section

R9-10-1211. ~~General~~ Repealed

R9-10-1212. ~~Definitions~~ Repealed

R9-10-1213. ~~Administration~~ Repealed

R9-10-1214. ~~Medical staff~~ Repealed

R9-10-1215. ~~Nursing services~~ Repealed

R9-10-1216. ~~Surgical services~~ Repealed

R9-10-1217. ~~Dietetic services~~ Repealed

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- R9-10-1218. ~~Emergency services~~ Repealed
- R9-10-1219. ~~Disaster preparedness~~ Repealed
- R9-10-1220. ~~Environmental services~~ Repealed
- R9-10-1221. ~~Medical records services~~ Repealed
- R9-10-1222. ~~Laboratory services~~ Repealed
- R9-10-1223. ~~Pharmaceutical services~~ Repealed
- R9-10-1224. ~~Rehabilitation services~~ Repealed
- R9-10-1226. ~~Radiology services~~ Repealed
- R9-10-1227. ~~Respiratory care services~~ Repealed
- R9-10-1228. ~~Obstetrical services~~ Repealed
- R9-10-1230. ~~Physical plant construction standards~~ Repealed

ARTICLE 12. INFIRMARY REPEALED

R9-10-1211. General Repealed

- ~~A. Infirmaries to which these requirements apply are subject to inspection as provided in A.R.S. §§ 36-406 and 36-424. Department personnel are prohibited by A.R.S. § 36-404 from disclosing patient records or any information from which a patient or his family might be identified, or sources of information which cause the Department to believe that an inspection is needed to determine whether an institution is in compliance with the provisions of this Chapter and the regulations thereunder.~~
- ~~B. The infirmary's administration shall assure that contract suppliers meet the same standards of quality the infirmary would have to meet if services were provided by the infirmary.~~
- ~~C. Regulations contained in this Article shall not be construed to compel any patient to submit to any examination or treatment provided all requirements for control of communicable disease and sanitation are met.~~

R9-10-1212. Definitions Repealed

Unless the context otherwise requires:

- ~~1. "Attendant population" means the staff and students of a school, the members of an association or the clients or wards of a public agency.~~
- ~~2. "Chief executive officer" means a qualified person appointed by the governing authority to act in its behalf in the overall management of the infirmary.~~
- ~~3. "Food service director" means a person who is a dietitian or a graduate of a dietetic technician, dietetic assistant or food service supervisor training program, correspondence school or classroom, approved by the American Dietetic Association, or who has training and experience in food service supervision and management equivalent to 1 of these programs.~~
- ~~4. "Infirmary" is a class of health care institution having 30 or fewer inpatient beds and providing limited hospital services to the staff and students of a school, the members of an association or the clients or wards of a public agency.~~
- ~~5. "Licensed bed capacity" means the number of beds specified on the infirmary's license.~~

R9-10-1213. Administration Repealed

- ~~A. Governing authority: The governing authority shall adopt policies which identify the purposes of the infirmary and the methods of fulfilling them. The governing authority shall appoint a chief executive officer who shall be appropriately qualified for the management of the facility. The chief executive officer shall have authority and responsibility for the operation of the infirmary.~~
- ~~B. The chief executive officer shall be directly responsible for the management and operation of the infirmary and shall, when there is an organized medical staff, provide liaison between the governing body and the medical staff.~~
 - ~~1. When there is a planned change of the chief executive officer or ownership, the governing authority shall notify the Department at least thirty days prior to the effective date of change. Such changes that cannot be planned in advance shall be reported in writing to the Department immediately.~~
 - ~~2. There shall be written admission and discharge policies which are consistent with the established purposes of the infirmary.~~
 - ~~3. Upon admission inpatients shall be provided a suitable device or method for identification.~~
 - ~~4. The following documents or copies shall be available in the infirmary:
 - ~~a. Policies of the governing authority,~~
 - ~~b. By-laws and rules and regulations of the medical staff,~~
 - ~~e. Policies and procedures for all established infirmary services,~~
 - ~~d. Reports of all inspections and reviews related to licensure for the preceding 5 years together with corrective actions taken.~~
 - ~~e. Contracts related to licensure to which the infirmary is bound,~~
 - ~~f. Appropriate documents evidencing control and ownership,~~~~

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- g. ~~A current copy of Title 9 Health Care Regulations available from the Office of the Secretary of State which includes:~~
 - Chapter 1, Article 4 Codes and Standards Referenced
 - Chapter 8, Article 1 Food and Drink
 - Chapter 9, Articles 1, 2, 3 Health Care Institutions: Establishment and Modification
 - Chapter 10, Article 1 Health Care Institutions: Licensure
 - Chapter 10, Article 12 Health Care Institutions: Infirmary
- 5. ~~The Department recognizes that emergency situations do occur in which the infirmary may temporarily need to exceed its licensed bed capacity. The medical need to admit patients in excess of the licensed bed capacity shall be monitored by a physician, and only a physician shall admit patients until the census is reduced to the licensed bed capacity.~~
- 6. ~~Personnel~~
 - a. ~~Personnel records:~~
 - i. ~~A record of each employee shall be maintained which includes the following:~~
 - (1) ~~Employee's identification, including name, address and next of kin,~~
 - (2) ~~Resume of education and work experience,~~
 - (3) ~~Verification of valid license if required, education and training.~~
 - ii. ~~Payroll and attendance records for the preceding 12 month period shall be available for review by Department personnel.~~
 - iii. ~~Every position shall have a written description of the duties of the position.~~
 - b. ~~New employees shall receive orientation to familiarize them with the facility, its policies, and the responsibilities of the new employee.~~
 - c. ~~An in-service training program shall be conducted on a continuing basis for all nursing personnel and shall be available for others. Records shall be maintained that include at least subject matter, attendance, and date of training.~~
 - d. ~~An employee whose duties during his normal work shift require him to be awake while on the job shall not be scheduled to work consecutive shifts.~~
 - e. ~~Pre-employment and annual medical screenings shall be conducted. These shall include a medical history and an appropriate tuberculosis screening test. A physical examination shall be accomplished of those persons whose medical screening indicates such a need.~~
- 7. ~~Miscellaneous~~
 - a. ~~There shall be no pets allowed in the infirmary. For the purpose of these regulations, seeing eye dogs and hearing ear dogs are not considered pets.~~
 - b. ~~The person on duty and in charge of the infirmary shall have reasonable access to all areas of the infirmary.~~
 - c. ~~Reasonable privacy shall be provided for all patients.~~

R9-10-1214. Medical staff Repealed

- ~~**A.** The infirmary shall not be required to have an organized medical staff. However, if there is an organized medical staff, they shall be responsible to the governing authority for the quality of medical care provided to patients and for the professional and ethical practices of its members.~~
- ~~**B.** Patients may be admitted to the infirmary by the person on duty. In infirmaries with organized medical staff, admittance shall be in accordance with medical staff by laws. In all infirmaries Medical Services to Patients shall be under the direction of a physician. (See R9-10-113 for definitions of "Medical Services" and "Direction".)~~
- ~~**C.** The organized medical staff subject to final approval of the governing authority shall adopt by laws, rules and regulations, and policies for the proper conduct of its activities. The medical staff shall recommend to the governing authority, physicians and other licensed practitioners considered eligible for new and continued membership on the medical staff, as delineated in medical staff by laws. Clinical privileges of each medical staff member shall be delineated in writing.~~
- ~~**D.** In those infirmaries having an organized medical staff, the by laws shall state the type, purpose, composition and organization of standing committees.~~
- ~~**E.** The medical staff shall be responsible to assure the availability of inpatient and outpatient physician services in the event of an emergency.~~

R9-10-1215. Nursing services Repealed

- ~~**A.** Organization~~
- 1. ~~The infirmary shall have an organized nursing service to provide nursing care to meet the needs of each patient, and the attendant population.~~
- 2. ~~Administrative and patient care policies and procedures for all nursing services provided shall be developed, periodically reviewed, and revised as necessary.~~
- B.** Staffing
- 1. ~~The nursing department shall be adequately staffed at all times based upon the number of patients and their acuity.~~

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- a. A registered nurse shall be in charge of the nursing service at all times.
 - b. There shall be at least 1 registered nurse present in the infirmary at all times. When there are 25 or more inpatients, there shall be an additional licensed nurse on duty. In addition, there shall be at least 1 other staff person immediately available to the infirmary within 5 minutes.
2. A staffing schedule shall be maintained.

R9-10-1216. Surgical services Repealed

An infirmary shall not provide surgical services.

R9-10-1217. Dietetic services Repealed

- A.** If the infirmary has a dietetic department, it shall meet the requirements of general hospital dietetic services regulations R9-10-217.
- B.** If the infirmary does not maintain a dietetic department, it shall meet the requirements of food service sanitation in accordance with the Department's regulations contained in 9 A.A.C. 8, Article 1, "Food and Drink".

R9-10-1218. Emergency services Repealed

- A.** An infirmary is not required to staff or equip a full-time emergency department, but necessary emergency medical services shall be provided in a designated area of the infirmary to meet the needs of the attendant population.
- B.** Emergency services shall be provided to any of the attendant population in need of them. If the infirmary offers only a partial range of services and elects to transfer the patient for further care, essential life-saving measures and emergency procedures shall be instituted that will minimize aggravation of the condition during transportation. A patient shall be transferred only to a receiving institution that has consented to accept that patient. A record of the immediate medical problem and treatment provided shall accompany the patient.
- C.** There shall be written policies adopted by the governing authority establishing the extent of treatment to be carried out by the infirmary. These written policies shall provide for transfer to facilities offering more comprehensive care.
- D.** An infirmary that desires to provide full emergency room services shall meet the requirements of R9-10-218.

R9-10-1219. Disaster preparedness Repealed

Disaster plan: There shall be a written plan of operation with procedures to be followed in the event of a disaster.

R9-10-1220. Environmental services Repealed

- A.** Policies and procedures for investigating, controlling and preventing infections in the infirmary shall be adopted which shall include specific isolation procedures. All cases of reportable diseases shall be reported in accordance with applicable rules and regulations adopted by the Department. There shall be a policy requiring sterile supplies to be reprocessed at specified time periods.
- B.** The infirmary shall be kept clean, free of insects, rodents, litter and rubbish. All areas shall be regularly and appropriately cleaned in accordance with administrative policies and procedures.
- C.** The infirmary physical plant, including equipment, shall be periodically inspected and, where appropriate, tested, calibrated, serviced or repaired to assure that all equipment is free of fire and electrical hazards and is functioning properly. Records shall be maintained to assure that appropriate inspections and maintenance of equipment are periodically accomplished by qualified personnel.
- D.** There shall be available at all times clean linen essential to the proper care and comfort of the patients. Linens shall be handled, stored, processed or transported in a manner which will prevent the spread of infection.
- E.** All potentially hazardous wastes such as waste from isolation rooms and disposable materials contaminated with secretions, excretions or blood and patient care wastes, laboratory wastes and the like shall be sterilized by autoclaving and buried in a Department approved sanitary landfill or may be disposed of by incinerating in an incinerator approved by the Air Pollution Control Officer having jurisdiction. If only 1 autoclave is available and an incinerator is not available, the waste shall be double bagged, clearly marked and shall be taken to a Department approved landfill. The operator of the landfill shall be notified and immediate burial assured. Provisions of 9 A.A.C. 8, Article 4 pertaining to disposal of such material shall be observed.
- F.** When oxygen is being used, the following precautions shall be taken:
 - 1. A warning sign shall be placed at each entrance to the room.
 - 2. Ash trays, matches, and other smoking material shall be removed from the room.
 - 3. Oxygen tanks shall be secured at all times. Additional precautions shall be taken in accordance with the Life Safety Code adopted by reference in A.A.C. R9-1-412(B) and the Inhalation Anesthetics Code adopted by reference in A.A.C. R9-1-417(A).
 - 4. Hydrocarbon greases shall not be used.
- G.** Electrical safety
 - 1. Extension cords shall not be used except for maintenance services.
 - 2. Additional precautions shall be taken in accordance with the National Electrical Code adopted by reference in A.A.C. R9-1-412(E).
- H.** There shall be written policies concerning syringe and needle storage, handling and disposal.

- ~~I.~~ Water supply shall be in accordance with the Department's regulations contained in 9 A.A.C. 8, Article 2.
- ~~J.~~ Sewage systems shall be in accordance with the Department's regulations contained in 9 A.A.C. 8, Article 3.

R9-10-1221. Medical records services Repealed

- ~~A.~~ There shall be a medical records department under the direction of a designated person and with adequate staff and facilities to perform all required functions. If the designated person is not qualified in medical records management, consultation or training from a qualified person shall be provided.
- ~~B.~~ A medical record shall be established and maintained for every person receiving treatment as an inpatient, outpatient, or on an emergency basis in any unit of the infirmary. The records shall be available to other units engaged in care and treatment of the patient.
- ~~C.~~ Only authorized personnel shall have access to the records.
- ~~D.~~ Medical records shall be released only with the written consent of the patient, the legal guardian, or in accordance with the law.
- ~~E.~~ For licensing purposes, medical records shall be readily retrievable for a period of not less than 3 years except that A.R.S. § 36-343 requires retention of vital records and statistics for 10 years.
- ~~F.~~ The original or signed copy of all clinical reports shall be filed in the medical record.
- ~~G.~~ Within 48 hours of admission, a current or updated history and physical examination or nursing evaluation shall be in the record.
- ~~H.~~ When a patient is readmitted within 30 days for the same problem, there shall be at least a reference to the previous history by an interval note.
- ~~I.~~ When authorized by the medical staff, physician's assistants and nurse practitioners may write or dictate medical histories and results of physical examinations. Such entries shall be countersigned by the attending physician.
- ~~J.~~ All entries in the record must be dated and signed or initialed by the person making the entry. If initials are used, a method must be established to identify authorship.
- ~~K.~~ Medical records of discharged patients shall be completed within time limits established by policies of the infirmary.
- ~~L.~~ Inpatient medical records shall contain the following information, if applicable:
 - ~~1.~~ Patient's identification sheet, including name, address, date of birth, sex, person to be notified in an emergency, and a unique identifying number.
 - ~~2.~~ History and physical examination or nursing evaluation.
 - ~~3.~~ Physician's orders and progress notes.
 - ~~4.~~ Laboratory and diagnostic reports.
 - ~~5.~~ Nursing notes.
 - ~~6.~~ Medication and treatment records.
 - ~~7.~~ Admitting diagnosis.
 - ~~8.~~ Disposition and discharge diagnosis.
 - ~~9.~~ Record of informed consent.
 - ~~10.~~ Discharge summary.
- ~~M.~~ The outpatient's medical record shall be accessible and contain the following information:
 - ~~1.~~ Patient's identification.
 - ~~2.~~ That information pertaining to the patient's chief complaint including but not limited to physician's orders, treatment or services provided, and disposition.
- ~~N.~~ Emergency service records shall contain the following:
 - ~~1.~~ Patient's identification.
 - ~~2.~~ Record of any treatment patient received prior to arrival.
 - ~~3.~~ History of disease or injury.
 - ~~4.~~ Physical findings.
 - ~~5.~~ Laboratory and x-ray reports, if applicable.
 - ~~6.~~ Diagnosis.
 - ~~7.~~ Record of treatment.
 - ~~8.~~ Disposition.
 - ~~9.~~ Name of physician who ordered the emergency treatment.
- ~~O.~~ All deaths, abortifacient acts, post-mortem procedures and births shall be reported in accordance with 9 A.A.C. 19.
- ~~P.~~ A list of symbols or abbreviations shall be compiled by the staff and approved by the chief executive officer. A current copy shall be maintained at each nursing unit, at each department making entries in the record, and in the medical record department.

R9-10-1222. Laboratory services Repealed

If laboratory services are performed, the laboratory shall be licensed as an independent clinical laboratory.

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R9-10-1223. Pharmaceutical services Repealed

The infirmary shall maintain pharmaceutical services which comply with A.R.S. Title 36, Chapter 9, and A.R.S. Title 32, Chapter 18 and all applicable regulations adopted by the Board of Pharmacy pursuant thereto:

1. Procedures shall be established to assure that drugs are administered only by persons authorized by state statutes and regulations.
2. Procedures shall be established to ensure that drugs are checked against physician's orders, that the patient is identified prior to administration of the drug, that each patient has an individual medication record, and that the dose of a drug administered to that patient is properly recorded therein by the person who administers the drug.
3. Drugs and biologicals shall be administered as soon as possible by a physician or a licensed nurse.

R9-10-1224. Rehabilitation services Repealed

A. For purposes of this Section rehabilitation services include physical therapy, occupational therapy, speech therapy, or audiology services.

B. The following provisions shall be met in infirmaries that provide rehabilitation services:

1. Rehabilitation services shall be provided by a qualified therapist and only when ordered by a physician. Rehabilitation services may be provided by qualified aides and assistants only when there is a qualified therapist on the premises.
2. There shall be written administrative and patient care policies and procedures for each of the rehabilitation services offered.
3. There shall be a written plan for each patient indicating the modality or type of treatment provided and the frequency of treatment. This plan shall be based on the written order or referral of a physician.
4. There shall be written documentation in the patient's medical record of the rehabilitation services provided.

R9-10-1226. Radiology services Repealed

If the infirmary provides radiology services:

1. A physician shall be responsible for the medical direction of the radiology services.
2. There shall be a radiologic procedure manual available to radiology service personnel.
3. X-ray examinations shall be performed only when ordered by a person authorized by law. The request for x-ray shall contain a concise statement of the reason for the examination.
4. The radiology services shall be staffed, equipped and operated in accordance with A.R.S. Title 30, Chapter 4 and regulations adopted thereunder.

R9-10-1227. Respiratory care services Repealed

Infirmaries that provide respiratory care services shall meet the following provisions:

1. Respiratory care services shall include therapeutic procedures and may include diagnostic procedures.
2. Respiratory care services shall be provided in accordance with the written order of a physician. The order shall state the modality to be used, the type, frequency and duration of treatment and type and dose of medication including dilution ratio.
3. Reports of respiratory care services shall be made a part of the patient's medical record.
4. Respiratory therapy shall be administered by qualified personnel.

R9-10-1228. Obstetrical services Repealed

An infirmary shall not provide obstetrical services.

R9-10-1230. Physical plant construction standards Repealed

A. Documentation submittals:

1. The chief executive officer shall provide annually with his license application a certificate of compliance with safety standards as adopted by the fire department having jurisdiction or a plan of corrective action as required.
2. Physical plant drawings shall be submitted to the Department prior to initial licensing. Drawings shall be of such scope and detail as to enable determination of complete compliance of this Article.

B. Minimum safety standards for infirmaries in continuous operation as infirmary on and after May 1, 1980.

1. Exiting:
 - a. Each patient room shall have direct exit access through corridors, stairways, lobbies, or lounges to the exterior. Patients shall not exit through another patient room.
 - b. Exit access passageways shall be kept clear at all times to permit emergency evacuation.
 - c. Patient bedroom shall be equipped with swing type doors which when closed will effectively resist the passage of smoke. Doors shall not be blocked by any object to prevent closing.
 - d. Wheel chair patients shall be housed only in patient bedrooms where 32 inch (81.28 cm) wide doors permit access to exterior exits and to toilet facilities.
 - e. At least 2 remote exterior exits shall be accessible by persons in wheelchairs.
 - f. A written procedure shall be established for the safe relocation or evacuation of the patients when doors to patient rooms and exit doors are required to be locked (e.g., penal institutions).

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- g. Interior stairways shall be enclosed by construction having 1-hour fire-resistive materials.
- 2. Safety:
 - a. A functioning sprinkler head or products of combustion detectors shall be located in patient bedrooms, corridors, and interior stairways.
 - b. An appropriate number of sprinkler heads, products of combustion detectors, or heat detectors shall be located to provide adequate protection in kitchens, furnace or boiler rooms, utility rooms, attic spaces, and storage areas.
 - c. Each floor of a building, with a gross floor area exceeding 22,500 square feet (2090.75 square meters) which houses an infirmary shall have a smoke barrier partition installed in accordance with the standards adopted by regulation A.A.C. R9-1-412(B) (Life Safety Code). The smoke barrier partition shall divide the infirmary into separate compartments to provide areas of refuge on both sides of the barrier.
 - d. Portable fire extinguishers shall be provided in corridors, kitchens, and mechanical unit rooms, and maintained in accordance with the standard adopted by regulation A.A.C. R9-1-412(B).
 - e. The physical plant shall be maintained to ensure a safe and healthful environment for patients and staff.
 - f. An approved fire alarm system shall be provided in each facility. Pull boxes shall be located at the exit doors. The sprinkler system, products of combustion detectors, heat detectors, and magnetic hold open door releases, where provided, shall be electrically interconnected to the fire alarm system.
- 3. Toilet and bath accommodations:
 - a. Access to toilet and bathrooms shall not require a patient to pass through another patient room.
 - b. At least 1 toilet and 1 lavatory shall be provided for each 8 beds or fraction thereof.
 - c. Toilets and lavatories for staff shall be separate from patients' accommodations.
 - d. At least 1 tub or 1 shower shall be provided for each 15 beds or fraction thereof.
 - e. Tubs and showers shall be equipped with grab bars.
- 4. Electrical:
 - a. Electrical systems shall be routinely inspected by a qualified person to ensure maximum safety. No exposed wiring shall be permitted other than appliance electrical cords.
 - b. Exit signs, surface illuminated or illuminated from within, shall be located at each exit and where directional signs are necessary.
 - c. Automatic emergency power, supplied by generator or battery, shall be available to provide lighting in corridors, exits, nurses' station, exit signs, and power to fire alarms and smoke detectors.
- 5. Ventilation:
 - a. All patient bedrooms shall have a window to the exterior. The window shall be screened and operable for ventilation.
 - b. Toilet rooms and bathrooms shall be ventilated by means of mechanical exhaust fans, gravity vents to the exterior, or operable window.
 - c. Heating and cooling shall be adequate to ensure comfort of patient and staff.
 - d. Mechanical units for heating or cooling shall be designed to prevent patient and staff injury.
- 6. Minimum standards for infirmaries commencing operation after May 1, 1980 and for additions and alterations to licensed facilities:
 - 1. Exiting:
 - a. Exit corridors shall be at least 6 feet (1.83 m) in clear width.
 - b. Exit doors and patient bedroom doors shall be at least 36 inches (91 cm) in clear width and be of swing type.
 - c. Patient bedroom doors shall be a minimum of 1 3/4 inch (3.45 cm) solid wood-core construction, or equal.
 - 2. Toilet and bathroom accommodations:
 - a. At least 1 toilet and 1 lavatory shall be provided for each 4 beds, or fraction thereof.
 - b. At least 1 tub or shower shall be provided for each 10 beds, or fraction thereof.
 - 3. Construction:
 - a. Construction shall consist of a minimum of 1-hour fire resistivity as determined by the code adopted by regulation A.A.C. R9-1-412(A) (Uniform Building Code).
 - b. Smoke barrier partitions shall be installed in accordance with the standard adopted by regulation A.A.C. R9-1-412(B).
 - c. Provisions for handicapped persons shall be provided in accordance with the standard adopted by regulation A.A.C. R9-1-412(I) (Handicapped Standards ANSI A117.1).
 - 4. Electrical:
 - a. Electrical systems shall conform to the standard adopted by regulation A.A.C. R9-1-412(E) (National Electrical Code).
 - b. Smoke detectors shall be installed in accordance with the standard adopted by regulation A.A.C. R9-1-412(B).
 - 5. An automatic fire extinguishing system shall be provided throughout the facility in accordance with the standards adopted by regulation A.A.C. R9-1-412(G) (National Fire Protection Association, Standard 13).

NOTICE OF FINAL RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION – SECURITIES

PREAMBLE

1. Sections Affected

R14-4-301
R14-4-302
R14-4-303
R14-4-303
R14-4-304
R14-4-304
R14-4-304
R14-4-305
R14-4-305
R14-4-306
R14-4-307
R14-4-308

Rulemaking Action

Amend
Amend
Repeal
New Section
Repeal
Renumber
Amend
Renumber
New Section
Amend
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 44-1821, 44-1972, and 44-2032

Implementing statutes: A.R.S. §§ 44-1822, 44-1823, 44-1971, 44-1972, 44-1973, 44-1974, and 44-2032

Constitutional authority: Arizona Constitution, Article XV, §§ 4, 6, and 13

3. The effective dates of the rule:

August 6, 2002

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 4123, October 27, 2000

Notice of Proposed Rulemaking: 7 A.A.R. 4952, October 26, 2001

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

Name: Cheryl T. Farson

Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, 3rd Floor
Phoenix, AZ 85007-2996

Telephone: (602) 542-4242

Fax: (602) 594-7470

E-mail: cf@ccsd.cc.state.az.us

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

A.A.C. R14-4-301 through R14-4-308 ("Article 3") govern the administrative process under the Arizona Securities Act and the Arizona Investment Management Act (collectively the "Acts"). The Arizona Corporation Commission (the "Commission") repeals and remakes Article 3 to reflect recent statutory changes and to facilitate the administrative process. Article 3 includes the following Sections:

A.A.C. R14-4-301 describes the scope of Article 3. When not in conflict with Article 3, the provisions of A.A.C. R14-3-101 through R14-3-113 also apply to administrative processes under the Acts.

A.A.C. R14-4-302 contains definitions relevant to Article 3.

A.A.C. R14-4-303 prescribes methods of service, including service by publication under specified conditions.

A.A.C. R14-4-304 enumerates the rights of witnesses and the procedures for formal interviews.

A.A.C. R14-4-305 requires that a respondent who has requested a hearing file an answer within 30 calendar days after the date of service of a notice of opportunity.

A.A.C. R14-4-306 contains the process regarding a notice of opportunity for a hearing and a notice of hearing. The time-frame for setting a hearing is within 60 days, but not earlier than 20 days, after the written request for hearing has been made.

A.A.C. R14-4-307 provides the process regarding a temporary cease-and-desist order. The effective term of a temporary cease-and-desist is 180 days. The time-frame for setting a hearing is within 30 but no earlier than ten days after a written request for a hearing is filed.

A.A.C. R14-4-308 contains the requirements that must be met when a rescission or restitution is ordered by the Commission, unless otherwise ordered.

7. A reference to any study that the agency relied 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

8. 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:

The rules do not diminish a previous grant of authority of a political subdivision of this state.

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

The economic, small business, and consumer impact statement for Article 3 analyzes the costs and benefits that accrue to the Commission, the office of the attorney general, the regulated public, and the general public.

The benefits provided by Article 3 are nonquantifiable. Article 3 should benefit the Commission's relations with the regulated public because of increased clarity regarding administrative processes and procedures. The public will benefit from the cost and time savings inherent in clear, concise, and consistent practices. Article 3 will not increase monitoring, recordkeeping, or reporting burdens on businesses or persons. The making of Article 3 does not materially increase the costs of implementation or enforcement.

10. A description of the changes between the proposed rule, including supplemental notices, and the final rule (if applicable):

None

11. A summary of the principal comments and the agency response to them:

The Commission did not receive written comments to the rules.

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

None

13. Incorporations by reference and their location in the rule:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION – SECURITIES

**ARTICLE 3. PROVISIONS RELATING TO ENFORCEMENT RULES OF PROCEDURE FOR
INVESTIGATIONS, EXAMINATIONS, AND ADMINISTRATIVE PROCEEDINGS**

Section

R14-4-301. ~~Scope of Article~~ Scope

R14-4-302. ~~Definitions~~ Article 3 Definitions

R14-4-303. ~~Confidentiality~~ Service

~~R14-4-304. Methods of Service of Subpoenas, Notices, Orders, and Other Administrative Documents~~

~~R14-4-305. R14-4-304. Rights of Witnesses; Formal Interview; Procedures~~

~~R14-4-305. Answers~~

R14-4-306. ~~Notice of an Opportunity for a Hearing and Notice of a Hearing~~ Notices Regarding Hearings

R14-4-307. ~~Temporary Cease-and-desist Orders~~ Temporary Orders

R14-4-308. Rescission and Restitution

**ARTICLE 3. PROVISIONS RELATING TO ENFORCEMENT RULES OF PROCEDURE FOR
INVESTIGATIONS, EXAMINATIONS, AND ADMINISTRATIVE PROCEEDINGS**

R14-4-301. Scope of Article Scope

This Article applies to investigations and examinations conducted pursuant to the provisions of the Securities Act and the IM Act, and to any orders issued under such acts. When not in conflict with this Article, the applicable provisions of A.A.C. R14-3-101 through R14-3-113 also shall apply.

This Article applies to investigations, examinations, and administrative proceedings under the Securities Act and the IM Act. When not in conflict with this Article, the provisions of A.A.C. R14-3-101 through R14-3-113 apply.

R14-4-302. Definitions Article 3 Definitions

The following definitions shall apply to this Article 3 unless the context otherwise requires:

1. "Attorney General" means the duly qualified and acting Attorney General of Arizona or the Attorney General's duly appointed assistant.
2. "Division" means the Securities Division of the Arizona Corporation Commission.
3. "Formal interview" means the examination under oath of an individual compelled or requested to testify as part of an investigation or examination.
4. "Hague Convention" means the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, November 15, 1965, 20 U.S. Treaties and Other International Agreements 361, which is incorporated by reference, does not contain any later amendments or editions, and is on file in the Office of the Secretary of State. Copies of the Hague Convention are available from the Securities Division of the Arizona Corporation Commission and from the Treaty Affairs Section, Office of the Legal Adviser, Department of State, Washington, D.C. 20520.
5. "IM Act" means the Arizona Investment Management Act, A.R.S. § 44-3101 et seq.
6. "Respondent" means any person who has been captioned in or served a notice or order of the Commission.
7. "Securities Act" means the Securities Act of Arizona, A.R.S. § 44-1801 et seq.
8. "Unincorporated organization" includes a limited liability company for purposes of the definition of "person", as defined in A.R.S. § 44-1801 (13).

The definitions set forth in A.R.S. §§ 44-1801 and 44-3101 and the following definitions apply to this Article 3.

1. "Formal interview" means the examination under oath of an individual compelled or requested to testify as part of an investigation or examination.
2. "IM Act" means the Arizona Investment Management Act, A.R.S. § 44-3101 et seq.
3. "Respondent" means any person against whom the Division files a complaint, notice, petition, or order.
4. "Securities Act" means the Securities Act of Arizona, A.R.S. § 44-1801 et seq.

R14-4-303. Confidentiality Service

~~All information or documents obtained by officers, employees, or agents of the Commission, including, but not limited to, the shorthand reporter or stenographer transcribing the reporter's notes, in the course of any examination or investigation shall, unless made a matter of public record, be deemed confidential. Officers, employees, and agents are prohibited from making such confidential information available to anyone other than a member, officer or employee of the Commission, agents designated by the Commission or Director, the Attorney General, and law enforcement or regulatory officials, except in accordance with any rule of the Commission or unless the Commission or the Director authorizes the disclosure of such information or documents as not contrary to the public interest.~~

- A.** Documents required to be served in an administrative proceeding. All pleadings, motions, appearances, orders, and similar papers filed in the record shall be served upon the Division and each respondent to the administrative proceeding by the filing party. Service shall be made by a person at least 18 years of age.
- B.** Service on the Division. Service upon the Division may be made by mailing a copy to the Division addressed to the attorney of record for the Division or by delivering a copy to the Division addressed to the attorney of record for the Division.
- C.** Service on a respondent represented by an attorney. Whenever service is required or permitted to be made upon a respondent represented by an attorney, the service shall be made by mailing a copy to the last known business or mailing address of the attorney or by any method authorized under subsections (D) and (E).
- D.** Service upon individuals. Service upon an individual may be made by any of the following:
 1. By personal service.
 2. By leaving a copy at the individual's dwelling, or usual place of abode, with an individual of suitable age and discretion residing therein.
 3. By leaving a copy at the individual's usual place of business or employment with an employee, express or implied agent, supervisor, owner, officer, partner, or other similar individual of suitable age and discretion.
 4. By leaving a copy with an agent authorized by express or implied appointment or by law to receive service of process for the individual upon whom service is being made.
 5. By mailing a copy to the last known dwelling, usual place of abode, business address, or mailing address. Subpoenas, notices, and temporary cease-and-desist orders served by mail shall be sent, return receipt requested, by certified

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mail, express mail, registered mail, or commercial courier or delivery service. The signed return receipt shall constitute proof of service, but shall not be the exclusive method of proving service.

- E.** Service upon a corporation or other entity. Service upon a corporation, partnership, trust, limited liability company, association, sole proprietorship, or any other entity, may be made by any of the following:
1. By leaving a copy with an employee, of suitable age and discretion, at any place of business of the corporation, partnership, trust, limited liability company, association, sole proprietorship, or other entity.
 2. By leaving a copy with any officer or director of a corporation, managing or general partner of a partnership, trustee of a trust, member of a member-managed limited liability company or manager of a manager-managed limited liability company, or any representative of an association or other entity.
 3. By leaving a copy with any agent authorized by express or implied appointment or by law to receive service of process for the entity upon whom service is being made.
 4. By mailing a copy to the last known business or mailing address. Subpoenas, notices, and temporary cease-and-desist orders served by mail shall be sent, return receipt requested, by certified mail, express mail, registered mail, or commercial courier or delivery service. The signed return receipt shall constitute proof of service, but shall not be the exclusive method of proving service.
- F.** Service in a foreign country. When serving a subpoena, notice, or temporary cease-and-desist order in a foreign country, service shall be by any internationally agreed means. If service is not accomplished within 120 calendar days from the date service was undertaken under the internationally agreed means or if no internationally agreed means of service has been established or the international agreement does not prohibit the use of other means of service, then service of any document may be made by any of the following:
1. In the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction.
 2. As directed by the foreign authority in response to a letter of request.
 3. By any of the following if not prohibited by the law of the foreign country:
 - a. Any method of service authorized by subsections (D) or (E).
 - b. Diplomatic or consular officers when authorized by the United States Department of State.
 - c. By any other lawful method that is reasonably calculated to give notice as directed by the Commission.
- G.** When service is complete. Service by mail is complete upon mailing. All other service is complete upon delivery.
- H.** Service by Publication.
1. The Division may serve a person by publication under either of the following circumstances:
 - a. The Division does not know the current address or residence of a person to be served.
 - b. The person has avoided service and service by publication is the best means practicable under the circumstances for providing notice of the administrative proceedings.
 2. Service by publication shall be made as follows:
 - a. The Division shall publish a statement regarding the administrative proceedings at least once a week for four successive weeks in a newspaper published in Maricopa county. If the person's last known residence or place of business was in a different county in Arizona or another state, the Division shall also simultaneously publish the statement in a newspaper published in the different county. If no newspaper is published in the person's last known county of residence or place of business, then the publications shall be made in a newspaper published in an adjoining county.
 - b. The published statement shall include the following information:
 - i. The name of the person.
 - ii. The statutes or rules that the Division alleges the person has violated or is violating.
 - iii. The location and the manner in which the person may obtain a copy of the notice or temporary cease-and-desist order being served.
 - iv. The requirement and deadline for filing a request for hearing and the ability of the Commission to enter a default order if the person fails to timely request a hearing.
 3. The service shall be complete 30 days after the first publication.

~~R14-4-304. Methods of Service of Subpoenas, Notices, Orders, and Other Administrative Documents~~

~~R14-4-305. R14-4-304, Rights of Witnesses; Formal Interview; Procedures~~

- ~~A.~~** ~~Subpoenas, notices, and orders issued pursuant to the Securities Act or the IM Act, and any other documents filed in an administrative proceeding under the Securities Act or the IM Act, may be served by a sheriff, by the sheriff's deputy, by an employee of the Commission, or by any other person who is not less than 18 years of age and who is authorized by the Division or the Commission to serve the Commission's subpoena, notice, order, or other documents filed in the administrative proceeding.~~
- ~~B.~~** ~~Subpoenas, notices, orders, and other documents filed in an administrative proceeding may be served upon a natural person including, but not limited to, a dealer, salesman, investment adviser, or investment adviser representative, as follows:~~
1. ~~By personal service.~~

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2. ~~By leaving a copy at the person's dwelling house, or usual place of abode, with a person of suitable age and discretion, but not less than 16 years of age, then residing therein.~~
 3. ~~By leaving a copy at the person's usual place of business or employment with an employee, express or implied agent, supervisor, owner, officer, partner, or other similar person of suitable age and discretion, but not less than 16 years of age.~~
 4. ~~By leaving a copy with an agent authorized by express or implied appointment or by law to receive service of process for the person to whom the subpoena, notice, or order is addressed.~~
 5. ~~By mailing a copy of the subpoena, notice, or order in an envelope addressed to the last known dwelling house or usual place of abode or last known business address. Subpoenas, notices, and temporary cease and desist orders shall be sent postage prepaid, by certified mail, with return receipt requested. The signed return receipt shall constitute proof of service of subpoenas, notices, and temporary cease and desist orders but shall not be the exclusive method of proving service. Service of all other orders or other documents filed in the administrative proceeding shall be deemed complete when a copy in an envelope, addressed to the last known dwelling house or usual place of abode or last known business address, is deposited in the United States mail with 1st class postage prepaid.~~
- C.** ~~A subpoena, notice, order, or other document filed in an administrative proceeding may be served upon a corporation, partnership, trust, limited liability company, association, or other business entity, including, but not limited to, a dealer or an investment adviser, as follows:~~
1. ~~By leaving a copy with an employee, of suitable age and discretion, but not less than 16 years of age, at any place of business of the corporation, partnership, trust, limited liability company, association, or other business entity;~~
 2. ~~By leaving a copy with any officer or director of a corporation, managing or general partner of a partnership, trustee of a trust, member of a member-managed limited liability company or manager of a manager-managed limited liability company, or any authorized representative of an association or other business entity;~~
 3. ~~By leaving a copy with any agent authorized by express or implied appointment or by law to receive service of process for the entity to whom the subpoena, notice, or order is addressed; or~~
 4. ~~By mailing a copy to the last known business address. Subpoenas, notices, and temporary cease and desist orders shall be sent postage prepaid, by certified mail, with return receipt requested. The signed return receipt shall constitute proof of service of subpoenas, notices, and temporary cease and desist orders but shall not be the exclusive method of proving service. Service of all other orders or other documents filed in the administrative proceeding shall be deemed complete when a copy in an envelope, addressed to the last known business address, is deposited in the United States mail with 1st class postage prepaid.~~
- D.** ~~Unless otherwise ordered by the Commission, when a respondent has been served with a notice or a temporary cease and desist order and the respondent is represented by an attorney in the administrative proceeding relating to the notice or the temporary cease and desist order, service upon the respondent shall be made by making service upon the attorney. Service upon the attorney shall be deemed complete when a copy of any amended notice, order, or other documents filed in the administrative proceeding, addressed to the last known business address of the attorney, is deposited in the United States mail with 1st class postage prepaid.~~
- E.** ~~Unless otherwise provided by law, service may be effected in a foreign country:~~
1. ~~By any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention, provided, however, that if service is not effected within 6 months from the date on which the assistance of the government of the foreign country was requested pursuant to the applicable treaty or convention, service may be effected as directed by the Commission; or~~
 2. ~~If internationally agreed means of service are unavailable, provided that service is reasonably calculated to give notice:~~
 - a. ~~In the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or~~
 - b. ~~As directed by the foreign authority in response to a letter rogatory or letter of request; or~~
 - c. ~~Unless prohibited by the law of the foreign country, by~~
 - i. ~~Delivery of copies of the subpoena, notice, order, or other document filed in the administrative proceeding to the party to be served personally; or~~
 - ii. ~~Any form of mail requiring a signed receipt, to be addressed and dispatched by the Commission to the party to be served; or~~
 - iii. ~~Diplomatic or consular officers when authorized by the United States Department of State; or~~
 - d. ~~If there is no lawful means by which service can be effected in the foreign country, such means as the Commission shall direct.~~
- A.** Any person required or requested to appear as a witness at a formal interview may be represented by a lawyer. The lawyer's role during the formal interview shall be limited to the following activities:
1. Giving legal advice to the witness before, during, and after the formal interview.
 2. Questioning the witness briefly at the conclusion of the formal interview for the purpose of clarifying any testimony the witness has given.

3. Making summary notes during the formal interview solely for the use of the witness and the lawyer.
- B.** Notwithstanding subsection (A), the following lawyers may not represent witnesses at a formal interview:
 1. Any lawyer who has represented another witness who has testified at a formal interview in the examination or investigation.
 2. Any lawyer who has represented another person who is a subject of the examination or investigation.
 3. Any lawyer who may be a material witness in the examination or investigation.
 4. Any lawyer who is a subject of the examination or investigation.
- C.** The Director may permit a lawyer to represent a witness in those situations described in subsections (B)(1) through (B)(4) upon a showing that such representation should be permitted in the interest of justice and will not obstruct the examination or investigation. If a lawyer is not permitted to represent a witness under subsection (B), that lawyer's partners or associates of the lawyer's law firm are also precluded from representing the witness.
- D.** All formal interviews may be recorded by the Division either mechanically or by a shorthand reporter employed by the Division. No other recording of the formal interview will be permitted, except summary note taking by the attendees.
- E.** In addition to the persons identified in subsections (A), (C), and (D), the following individuals may attend a formal interview:
 1. Individuals employed by the Commission or the office of the attorney general.
 2. Members of law enforcement or other state, federal, or self-regulatory agencies authorized by the Division.
 3. Translators authorized by the Division.
- F.** The Division may exclude from a formal interview any person previously permitted to attend the formal interview, including a lawyer, whose conduct is dilatory, obstructionist, or contumacious. In addition, the members of the staff of the Division conducting the formal interview may report the conduct to the Director for appropriate action. The Director may thereupon take such further action as circumstances may warrant, including, but not limited to, exclusion from further participation in the examination or investigation.
- G.** A person who has submitted documentary evidence or testimony in connection with a formal interview shall be entitled, upon written request, and upon proper identification, to inspect the witness' own testimony on a date to be set by the Director. The Director may delay the inspection of the record until the conclusion of the examination or investigation if the Director determines that earlier inspection may obstruct or delay the examination or investigation.
- H.** In connection with an examination or investigation, the Director may delegate authority to members of the staff to administer oaths and affirmations, sign subpoenas, take evidence, and receive books, papers, contracts, agreements or other documents, records, or information, whether filed or kept in original or copied form or electronically stored or recorded.
- I.** During a formal interview, a witness shall not knowingly make any untrue statements of material fact or omit to state any material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

R14-4-305. Answers

- A.** Any person required or requested to appear as a witness at a formal interview may be accompanied, represented, and advised by a lawyer. The lawyer's role during the formal interview shall be limited to the following activities:
 1. Giving legal advice to the witness before, during, and after the formal interview;
 2. Questioning the witness briefly at the conclusion of the formal interview for the purpose of clarifying any testimony the witness has given; and
 3. Making summary notes during the formal interview solely for the use of the witness and the lawyer.
- B.** Notwithstanding subsection (A), the following lawyers may not represent witnesses:
 1. Any lawyer who has represented another witness who has testified at a formal interview in the examination or investigation;
 2. Any lawyer who has represented another person who is a subject of the examination or investigation;
 3. Any lawyer who may be a material witness in the examination or investigation;
 4. Any lawyer who is a subject of the examination or investigation.
- C.** The Director may permit a lawyer to represent a witness in those situations described in subsections (B)(1) through (B)(4) upon a showing that such representation should be permitted in the interest of justice and will not obstruct the examination or investigation. If a lawyer is not permitted to represent a witness under subsection (B), that lawyer's partners or associates of the lawyer's law firm are also precluded from representing the witness.
- D.** All formal interviews may be recorded by the Division either mechanically or by a shorthand reporter employed by the Division. No other recording of the formal interview will be permitted, except summary note taking.
- E.** Unless permitted in the discretion of the Division, no witness or lawyer accompanying such witness shall be permitted to be present during the formal interview of any other witness testifying in a nonpublic examination or investigation. No person not employed by the Commission or the Attorney General shall be present during a formal interview except that the Division may authorize members of law enforcement or other state, federal, or self-regulatory agencies to be present during such formal interview.
- F.** The Division may exclude from a formal interview any person previously permitted to attend the formal interview, including a lawyer, whose conduct is dilatory, obstructionist, or contumacious. In addition, the members of the staff of the Division

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sion conducting the formal interview may report the conduct to the Director for appropriate action. The Director may thereupon take such further action as circumstances may warrant, including, but not limited to, exclusion from further participation in the examination or investigation.

- ~~G.~~ A person who has submitted documentary evidence or testimony in connection with a formal interview shall be entitled, upon written request, and upon proper identification, to inspect the witness' own testimony on a date to be set by the Director. The Director may delay the inspection of the record until the conclusion of the examination or investigation if, in the Director's discretion, the Director determines that earlier inspection may obstruct or delay the examination or investigation.
- ~~H.~~ In connection with an examination or investigation, the Director may delegate authority to members of the staff to administer oaths and affirmations, sign subpoenas, take evidence, and receive books, papers, contracts, agreements or other documents, records, or information, whether filed or kept in original or copied form or electronically stored or recorded.
- ~~I.~~ During a formal interview, a witness shall not knowingly make any untrue statements of material fact or omit to state any material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
- A. Within 30 calendar days after the date of service of a notice of an opportunity for a hearing, a respondent who has requested a hearing shall file in the record and serve on the Division an answer to the notice.
- B. The answer shall contain the following:
 - 1. An admission or denial of each allegation in the notice.
 - 2. The original signature of the respondent or the respondent's attorney.
- C. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation.
- D. An allegation not denied shall be considered admitted.
- E. When a respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder.
- F. The respondent waives any affirmative defense not raised in the answer.
- G. The officer presiding over the hearing may grant relief from the requirements of this Section for good cause shown.
- H. The notice of an opportunity for a hearing shall state the requirements with which the person served must comply under this rule.

R14-4-306. ~~Notice of an Opportunity for a Hearing and Notice of a Hearing~~ Notices Regarding Hearings

- ~~A.~~ The Commission may issue a notice of an opportunity for a hearing or a notice of a hearing to determine whether to issue a cease and desist order, order of rescission, restitution, or penalties, or other order authorized pursuant to the provisions of the Securities Act or the IM Act.
- ~~B.~~ A notice of an opportunity for a hearing and a notice of a hearing shall be served by any method permitted in R14-4-304. A notice of an opportunity for a hearing shall set forth that the respondent will be afforded a hearing upon request to docket control of the Commission if the request is made in writing within 10 days after receipt of the notice by the respondent.
- ~~C.~~ When a respondent requests a hearing pursuant to a notice of an opportunity for a hearing in accordance with the provisions of this rule, the Commission shall set a date, time, and place for the hearing and shall forthwith notify the respondent. The date set for the hearing shall be within 30 days, but not earlier than 15 days, after the written request for hearing has been made, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission.
- A. The Commission may issue a notice of an opportunity for a hearing or a notice of a hearing to determine whether to issue a cease-and-desist order, order of rescission, restitution, or penalties, or other order authorized pursuant to the provisions of the Securities Act or the IM Act.
- B. A notice of an opportunity for a hearing and a notice of a hearing shall be served by any method permitted in R14-4-303. A notice of an opportunity for a hearing shall set forth that the respondent will be afforded a hearing upon request to docket control of the Commission if the request is made in writing within ten days after receipt of the notice by the respondent.
- C. When a respondent requests a hearing pursuant to a notice of an opportunity for a hearing in accordance with the provisions of this rule, the Commission shall set a date, time, and place for the hearing and shall forthwith notify the respondent. The date set for the hearing shall be within 60 days, but not earlier than 20 days, after the written request for hearing has been made, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission.

R14-4-307. ~~Temporary Cease and desist Orders~~ Temporary Orders

- ~~A.~~ When the Division determines that the public interest will be harmed by delay in issuing an order to cease and desist, the Division may, with the consent of the Commission, issue a temporary cease and desist order which will be in effect for 120 days or until vacated, modified, or made permanent in accordance with this rule, whichever comes 1st.
- ~~B.~~ Temporary cease and desist orders shall be served pursuant to the provisions of R14-4-304.
- ~~C.~~ The temporary cease and desist order shall set forth that the respondent will be afforded a hearing upon request to docket control of the Commission if the request is filed in writing within 20 days of service of the temporary cease and desist

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order. If a request for a hearing is not filed within 20 days, the Commission may, by written findings of fact and conclusions of law, vacate, modify, or make permanent the temporary cease-and-desist order.

- ~~D.~~ When a respondent requests a hearing in accordance with the provisions of this rule, the Commission shall set a date, time, and place for the hearing and shall forthwith notify the respondent. The date set for the hearing shall be within 15 days, but not earlier than 5 days, after the written request for hearing has been filed, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. The Commission may, after such hearing, by written findings of fact and conclusions of law, vacate, modify, or make permanent the temporary cease-and-desist order.
- ~~A.~~ When the Commission determines that the public welfare requires immediate action, the Commission may issue a temporary cease-and-desist order, which will be in effect for 180 days or until vacated, modified, or made permanent in accordance with this rule, whichever comes first. The Commission may delegate this authority to the Director.
- ~~B.~~ Temporary cease-and-desist orders shall be served pursuant to the provisions of R14-4-303.
- ~~C.~~ The temporary cease-and-desist order shall set forth that the respondent will be afforded a hearing upon request to docket control of the Commission if the request is filed in writing within 20 days of service of the temporary cease-and-desist order. If a request for a hearing is not filed within 20 days, the Commission may, by written findings of fact and conclusions of law, vacate, modify, or make permanent the temporary cease-and-desist order.
- ~~D.~~ When a respondent requests a hearing in accordance with the provisions of this rule, the Commission shall set a date, time, and place for the hearing and shall forthwith notify the respondent. The date set for the hearing shall be within 30 days, but not earlier than ten days, after the written request for hearing has been filed, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. The Commission may, after such hearing, by written findings of fact and conclusions of law, vacate, modify, or make permanent the temporary cease-and-desist order.
- ~~E.~~ The effective date stated in subsection (A) shall be tolled from the date a hearing is requested until a decision is entered, unless otherwise ordered by the Commission.

R14-4-308. Rescission and Restitution

- ~~A.~~ Where there has been a violation of the Securities Act or the IM Act, or any rule or order of the Commission, the person or persons responsible for the violation may be required, pursuant to the Securities Act or the IM Act, to make rescission and/or restitution as provided herein.
- ~~B.~~ Where a rescission offer is ordered by the Commission,
 - ~~1.~~ The following materials must be filed with and receive prior approval from the Director before distribution to the purchasers:
 - ~~a.~~ A written offer to repurchase stating in reasonable detail the facts out of which liability arose and, in the event of a violation of A.R.S. §§ 44-1991, 44-1992, or 44-3241, the correct, true, or omitted facts.
 - ~~b.~~ An offer to repurchase the security shall include an offer of:
 - ~~i.~~ Cash (or, if the Commission determines it is in the public interest, other property) equal to the fair market value of the consideration paid (determined as of the date such payment was originally paid by the buyer) or such lesser amount as shall be ordered by the Commission (if it determines that it is in the public interest to order such lesser amount); together with
 - ~~ii.~~ Such amount or rate of interest as shall be ordered by the Commission for the period from the date of purchase payment to the date of repayment; less
 - ~~iii.~~ The amount of any principal, interest, or other distributions received on the security for the period from the date of purchase payment to the date of repayment.
 - ~~e.~~ The offer to repurchase shall be accompanied by a prospectus and other documents making full written disclosure about the financial and business condition of the issuer and the financial and business risks associated with the retention of the securities and contain any such further information as the Commission may require.
 - ~~d.~~ The offer to repurchase shall state that such offer may be accepted by the purchaser at any time within a specified period of not less than 30 days after the date of receipt thereof unless a shorter period of time is ordered by the Commission.
 - ~~2.~~ The offer and any other materials required to be presented to the purchaser shall be made within a period specified by the Commission.
 - ~~3.~~ Financial statements prepared in accordance with R14-4-120, A.R.S. § 44-3159, or other appropriate documentation as requested by the Director or the Commission, shall be provided to the Director. The financial statements or documentation shall demonstrate that the person or persons funding the rescission offer has or have adequate funds to pay the amount ordered pursuant to subsection (B)(1)(b) to all purchasers of the securities who are eligible to accept the rescission offer. The funding of the rescission offer may be provided by the seller, issuer, or other 3rd party.
 - ~~4.~~ The Commission may order that funds be deposited in escrow as the Commission deems necessary.
 - ~~5.~~ When the rescission offer has been completed and the appropriate funds paid, the person funding the rescission offer must verify to the Director that the rescission offer was made in accordance with this rule. The verification may be performed by an independent 3rd party, such as an accountant or escrow agent, and by providing the pertinent records documenting the rescission offer to the Director. The following information must be included unless otherwise ordered by the Commission:

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- a. ~~Names, addresses, and telephone numbers of all securities holders of the issuer who had a right to receive the rescission offer, the amount and purchase dates of securities held by such securities holders, and the amount of principal, interest, or other distributions on all securities held by such securities holders;~~
 - b. ~~Names, addresses, and telephone numbers of all securities holders of the issuer who did not receive the rescission offer and the reason why they did not receive the rescission offer, the amount and purchase dates of securities held by such securities holders, and the amount of principal, interest, or other distributions on all securities held by such securities holders;~~
 - e. ~~Verification of receipt of the rescission offer by all securities holders who had a right to and did receive the rescission offer;~~
 - d. ~~A list of securities holders who accepted the rescission offer and those who did not accept;~~
 - e. ~~Verification of payment of principal and interest ordered to be paid to all such securities holders who accepted the rescission offer.~~
- C.** ~~Where restitution is ordered by the Commission,~~
- 1. ~~The amount payable as damages to each purchaser shall include the amount computed under subsection (B)(1)(b) less the amount of any sale proceeds received on disposal of the security if it was sold at any time by the purchaser.~~
 - 2. ~~Financial statements prepared in accordance with R14-4-120, A.R.S. § 44-3159, or other appropriate documentation as requested by the Director or the Commission, shall be provided to the Director. The financial statements or documentation shall demonstrate that the person paying restitution has adequate funds to pay all purchasers the amount computed in subsection (C)(1).~~
 - 3. ~~The Commission may order that funds be deposited in escrow as the Commission deems necessary.~~
 - 4. ~~The Commission may order the respondent to provide the following information to the Division:~~
 - a. ~~Names, addresses, and telephone numbers of all securities purchasers who had a right to receive restitution under the Commission's order; amount and purchase dates of securities purchased by such purchasers; fair market value of any non-cash consideration received by respondent from each purchaser of such securities; and any payment of principal, interest, or any other distribution on such security.~~
 - b. ~~Verification of payment of principal and interest ordered to be paid to all such purchasers.~~
- A.** When a person or persons have violated the Securities Act or the IM Act, or any rule or order of the Commission, the Commission may require the person or persons to make rescission and/or restitution as provided herein.
- B.** If a rescission offer is ordered by the Commission,
- 1. The respondent shall submit the following materials to the Division and, upon approval from the Director, distribute the materials to the purchasers:
 - a. A written offer to repurchase stating in reasonable detail the facts out of which liability arose and, in the event of a violation of A.R.S. §§ 44-1991, 44-1992, or 44-3241, the correct, true, or omitted facts. An offer to repurchase the security shall include an offer of:
 - i. Cash equal to the fair market value of the consideration paid, determined as of the date such payment was originally paid by the buyer; together with
 - ii. Interest at a rate pursuant to A.R.S. § 44-1201 for the period from the date of the purchase payment to the date of repayment; less
 - iii. The amount of any principal, interest, or other distributions received on the security for the period from the date of purchase payment to the date of repayment.
 - b. The offer to repurchase shall be accompanied by a prospectus and other documents making full written disclosure about the financial and business condition of the issuer and the financial and business risks associated with the retention of the securities.
 - c. The offer to repurchase shall state that such offer may be accepted by the purchaser at any time within a specified period of not less than 30 days after the date of receipt thereof.
 - 2. The offer and any other materials required to be presented to the purchaser shall be made within a period specified by the Commission.
 - 3. Financial statements prepared in accordance with R14-4-120, A.R.S. § 44-3159, or other documents relating to the business of the respondent as requested by the Director or the Commission, shall be provided to the Director. If a respondent demonstrates that it cannot obtain audited financial statements without unreasonable effort or expense, then the respondent shall provide to the Director a notarized statement of financial condition. The financial statements or documentation shall demonstrate that the person or persons funding the rescission offer has or have adequate funds to pay the amount ordered pursuant to subsection (B)(1)(a) to all purchasers of the securities who are eligible to accept the rescission offer. The seller, issuer, or other third party may fund the rescission offer.
 - 4. The Commission may order that funds be deposited in escrow.
 - 5. When the rescission offer has been completed and the appropriate funds paid, the person funding the rescission offer shall verify to the Director that the rescission offer was made in accordance with this rule. The verification may be performed by an independent third party, such as an accountant or escrow agent, by providing the pertinent records documenting the rescission offer to the Director. All of the following information must be included:

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- a. Names, addresses, and telephone numbers of all securities holders of the issuer who had a right to receive the rescission offer, the amount and purchase dates of securities held by such securities holders, and the amount of principal, interest, or other distributions on all securities held by such securities holders.
 - b. Names, addresses, and telephone numbers of all securities holders of the issuer who did not receive the rescission offer and the reason why they did not receive the rescission offer, the amount and purchase dates of securities held by such securities holders, and the amount of principal, interest, or other distributions on all securities held by such securities holders.
 - c. Verification of receipt of the rescission offer by all securities holders who had a right to and did receive the rescission offer.
 - d. A list of securities holders who accepted the rescission offer and those who did not accept.
 - e. Verification of payment of principal and interest ordered to be paid to all such securities holders who accepted the rescission offer.
6. Based on the circumstances of the respondent and the purchasers, if necessary or appropriate to the public interest and consistent with the protection of the investors, the Commission may prescribe by order alternative rescission offer terms, including:
- a. The offer of other identified assets in lieu of cash if the respondent lacks sufficient cash to offer the amount required under subsection (B)(1)(a).
 - b. The offer of a specified lesser amount than the amount required under subsection (B)(1)(a) if the respondent lacks sufficient assets to offer the amount required under subsection (B)(1)(a).
 - c. The inclusion in the repurchase offer of information material to an understanding of the issuer, in addition to that required by subsection (B)(1)(b), if such information would be required if the securities were being registered.
 - d. A shorter period of time during which the offer to repurchase may be accepted.
 - e. Waiver of specified information required by subsection (B)(5) if the Commission determines that producing such information will be unduly burdensome.

C. If restitution is ordered by the Commission,

1. The amount payable as damages to each purchaser shall include:
 - a. Cash equal to the fair market value of the consideration paid, determined as of the date such payment was originally paid by the buyer; together with
 - b. Interest at a rate pursuant to A.R.S. § 44-1201 for the period from the date of the purchase payment to the date of repayment; less
 - c. The amount of any principal, interest, or other distributions received on the security for the period from the date of purchase payment to the date of repayment.
2. Financial statements prepared in accordance with R14-4-120, A.R.S. § 44-3159, or other documents relating to the business of the respondent as requested by the Director or the Commission, shall be provided to the Director. If a respondent demonstrates that it cannot obtain audited financial statements without unreasonable effort or expense, then the respondent shall provide to the Director a notarized statement of financial condition. The financial statements or documentation shall demonstrate that the person paying restitution has adequate funds to pay all purchasers the amount computed in subsection (C)(1).
3. The Commission may order that funds be deposited in escrow.
4. The Commission may order the respondent to provide the following information to the Division:
 - a. Names, addresses, and telephone numbers of all securities purchasers who had a right to receive restitution under the Commission's order; amount and purchase dates of securities purchased by such purchasers; fair market value of any non-cash consideration received by respondent from each purchaser of such securities; and any payment of principal, interest, or any other distribution on such security.
 - b. Verification of payment of principal and interest ordered to be paid to all such purchasers.
5. Based on the circumstances of the respondent and the purchasers, if necessary or appropriate to the public interest and consistent with the protection of the investors, the Commission may prescribe by order alternative restitution terms, including:
 - a. The payment of other identified assets in lieu of cash if the respondent lacks sufficient cash to pay the amount required under subsection (C)(1).
 - b. The payment of a specified lesser amount than required under subsection (C)(1) if the respondent lacks sufficient assets to meet the subsection (C)(1) requirement.