

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 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

R4-23-110
R4-23-205
R4-23-402
R4-23-403
R4-23-407
R4-23-653
R4-23-654
R4-23-657
R4-23-658
R4-23-659
R4-23-673
R4-23-674
Article 11
R4-23-1101
R4-23-1102
R4-23-1103
R4-23-1104
R4-23-1105

Rulemaking Action

Amend
Amend
Amend
Repeal
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
New Article
New Section
New Section
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 statute: A.R.S. § 32-1904(A)(1) and (B)(7)

Implementing statutes: A.R.S. §§ 32-1901(63) and (64), 32-1923.01, 32-1924, 32-1925, 32-1926, and 32-1927.01

3. The effective date of the rules:

May 1, 2004

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 1471, May 16, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 5196, December 5, 2003

Notice of Public Information: 9 A.A.R. 5479, December 19, 2003

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

Name: Dean Wright, Compliance Officer

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4425 W. Olive Ave., Suite 140
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6. An explanation of the rules, including the agency's reasons for initiating the rules:

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The 46th Arizona Legislature passed S.B. 1301 (Laws 2003, Chapter 78). Senate Bill 1301 was signed by the governor and became effective April 17, 2003. S.B. 1301 prescribes the requirements for licensure of pharmacy technicians and pharmacy technician trainees by the Board, including licensing fees. The proposed rules implement the pharmacy technician and pharmacy technician trainee licensure requirements of S.B. 1301, and through the Board's general rulemaking authority in A.R.S. § 32-1904 prescribe the pharmacy technician and pharmacy technician trainee practice standards. The existing practice standards in R4-23-403 are repealed in the proposed rulemaking. The proposed rules place the licensure and practice standards in a new Article 11, Pharmacy Technicians. Section R4-22-110, Definitions is amended to include necessary new and amended definitions. Section R4-23-205, Fees is amended to include new fees for pharmacy technician and pharmacy technician trainee licenses, and a new pharmacy intern fee structure and fee that were included in S.B. 1301. Sections R4-23-402, R4-23-407, R4-23-653, R4-23-654, R4-23-657, R4-23-658, R4-23-659, R4-23-673, and R4-23-674 are amended based on the new statutory definitions of pharmacy technician and pharmacy technician trainee and the proposed rules in Article 11. The proposed rules include necessary style, format, grammar, and punctuation changes to comply with the rules of the Secretary of State and the Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the licensure and practice standards for pharmacy technicians and pharmacy technician trainees who are becoming an integral part of modern pharmacy practice.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:

The proposed rules will impact the Board, pharmacists, pharmacy technicians, and pharmacies. The proposed rules will have a substantial economic impact on the Board's office expenses through the immediate issuing of approximately 10,000 new licenses. These expenses will be partially offset by licensure fees collected from the new applicants. The estimated costs could exceed the estimated revenue by over \$300,000 between May 2003 and November 2005. The Board believes the benefits outweigh the costs. The public, the Board, pharmacists, and pharmacies benefit because the Board will have direct oversight of pharmacy technician activities involving the dispensing of prescriptions to the public. The Board will hold pharmacy technicians accountable for inappropriate activity, such as, dispensing errors, drug diversion, drug theft, and working under the influence of drugs. Without licensure of pharmacy technicians the Board has no authority to discipline pharmacy technicians for dispensing errors, drug diversion, drug theft, or working under the influence of drugs. The employer could take action for such offenses, but in most cases, the employer only seeks restitution. In many cases, the offending pharmacy technician simply pays restitution and moves on to another pharmacy to continue the inappropriate activity. The Board's mandate to protect public health is served by licensure of pharmacy technicians and far outweighs the costs of licensure.

The public, Board, pharmacists, pharmacy technicians, and pharmacies benefit from rules that are clear, concise, understandable, and reflect current practice standards. The proposed rules will meet the Board's mandate to protect the public health and safety through licensure and oversight of pharmacy technician activities in Arizona pharmacies.

The proposed rules will have no economic impact on pharmacists.

The proposed rules will require the use of licensed pharmacy technicians or licensed pharmacy technician trainees in all Arizona pharmacies. The proposed rules may have some economic impact on pharmacies because of the natural tendency for wages to increase as a result of the licensure requirement. The amount of the possible wage increase, if any, is unknown. Over the last few years, the majority of pharmacy employers in Arizona have been reimbursing the cost of the examination to their pharmacy technicians who passed the Board-approved national pharmacy technician examination (PTCB) and become certified pharmacy technicians. The Board believes this trend will continue with pharmacy technician licensure, and pharmacy employers will continue to reimburse pharmacy technicians who pass the PTCB and become licensed pharmacy technicians. This could reduce an individual technician's cost of licensure.

The proposed rules will have a minimal economic impact on individual pharmacy technicians. The possible costs include: the Board-approved pharmacy technician examination \$120, an examination study book \$50, a pharmacy technician study course \$250, pharmacy technician biennial licensure fee \$50, a wall certificate fee \$10, and a pharmacy technician trainee licensure fee \$25. Some of these costs are optional, and because the some fees are prorated, the actual cost will vary. The minimum costs necessary for a pharmacy technician to be licensed are: the Board-approved pharmacy technician examination, the pharmacy technician licensure fee, and the wall certificate fee. The minimum costs necessary for a pharmacy technician trainee to be licensed are: the pharmacy technician trainee licensure fee and the wall certificate fee. The total cost of licensure for a pharmacy technician including the examination could range from \$142.50 to \$480. The total cost of licensure for a pharmacy technician trainee could range from \$6.25 to \$35. A licensed pharmacy technician will have an ongoing license renewal cost of \$50 every two years. A

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pharmacy technician's or pharmacy technician trainee's employer may reimburse the pharmacy technician or pharmacy technician trainee for some or all of the technician's licensure costs.

The Board, the public, and the pharmacy community benefit from rules that clearly establish the requirements for pharmacy technician training, licensure, and practice. The Board, the public, and the pharmacy community further benefit from rules that give the Board control through licensure of a pharmacy's ancillary personnel (technicians) who have access to drugs and affect patient care.

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

There are no substantive changes in the final rules from the proposed rules. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

11. A summary of the comments made regarding the rules and the agency response to them:

The comments received by the Board addressed one issue: the removal of the pharmacist-to-technician ratio from the rules. The final rules repeal R4-23-403, Pharmacy Technicians and Certified Pharmacy Technicians that includes in subsection (C) a specific pharmacist-to-technician ratio for community pharmacies. The new Sections of rule that replace R4-23-403 do not contain a pharmacist-to-technician ratio. Most of the comments received expressed concern that the Board was removing the required ratio. Those commentors felt that it was a mistake to remove the ratio, and that the employers would take advantage of a situation and increase the number of technicians per pharmacist to an unsafe level. Speaking to the safety issue, the licensure of pharmacy technicians will allow the Board to hold pharmacy technicians accountable for their dispensing errors along with the permittee and pharmacist. This fact could take some pressure off the pharmacist and place pressure on the pharmacy technician to improve the technician's performance. A majority of the Board believes that a ratio is not necessary, and that employers will not increase the number of technicians per pharmacist to an unsafe level. The number of technicians and other personnel allowed in a pharmacy is already limited by R4-23-609(A) and (B). These subsections specify the minimum area of a community pharmacy and the minimum compounding and dispensing counter area in the community pharmacy. According to R4-23-609(A), an Arizona pharmacy's size must be at least 300 square feet, which allows up to three pharmacy personnel to work in the pharmacy area simultaneously. To have more than three pharmacy personnel work simultaneously in the pharmacy area, the pharmacy must add 60 square feet of area to the pharmacy's size for each additional person added to the work force. According to R4-23-609(B), an Arizona pharmacy must provide a compounding and dispensing counter that provides a minimum of three square feet of pharmacy counter working area for the practice of one pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee. The requirements for pharmacy area and pharmacy working counter area limit the total number of pharmacy personnel who may work in the pharmacy. For example, three pharmacy personnel are allowed in a pharmacy that meets the minimum area requirements, and the pharmacy must have a minimum of nine square feet of pharmacy working counter area for those three persons. In the previous example, there must be one pharmacist in the pharmacy, and there could be up to two pharmacy technicians working simultaneously with the pharmacist, a 2:1 ratio. Some commentors believe the employers will push the ratio up to 6:1 or more. To use a 6:1 ratio, the pharmacy would have to be at least 540 square feet in size and have at least 21 total square feet of pharmacy working counter area in three square foot increments. If this pharmacy were to add an intern to the staff, the number of pharmacy technicians working would be decreased by one. If this pharmacy were to add a clerk to run a cash register, the number of pharmacy technicians working would again decrease by one. At that point, the ratio of pharmacy technicians to pharmacists in the 540 square foot pharmacy is only 4:1. The Board believes that the rule limiting the number of pharmacy personnel in a pharmacy will be sufficient to prevent abuse of the removal of the technician to pharmacist ratio from the rules. Some commentors, including the Board of Directors of the Arizona Pharmacy Association and the Arizona Retailers Association, are in favor of removing the pharmacist-to-technician ratio. The Board understands the concerns of the commentors, but the Board believes that it is time to do away with the ratio and allow the individual pharmacist and pharmacy permittee to determine the proper ratio of pharmacist-to-technician necessary in their particular pharmacy. The Board has and will continue to hold the pharmacy permittee and pharmacist accountable for any unsafe conditions created in a pharmacy.

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. Were these rules previously approved as emergency rules?

No

15. The full text of the rules follows:

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 2. PHARMACIST LICENSURE

Section
R4-23-205. Fees

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern
R4-23-403. ~~Pharmacy Technicians and Certified Pharmacy Technicians~~ Repealed
R4-23-407. Prescription Requirements

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section
R4-23-653. Personnel: Professional or Technician
R4-23-654. Absence of Pharmacist
R4-23-657. Security
R4-23-658. Drug Distribution and Control
R4-23-659. Administration of Drugs
R4-23-673. Limited-service Mail-order Pharmacy
R4-23-674. Limited-service Long-term Care Pharmacy

ARTICLE 11. PHARMACY TECHNICIANS

Section
R4-23-1101. Licensure and Eligibility
R4-23-1102. Pharmacy Technician Licensure
R4-23-1103. Pharmacy Technician Trainee Licensure
R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees
R4-23-1105. Pharmacy Technician Training Program

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to 4 A.A.C. 23:

- “Active ingredient” No change
- “Alternate physician” No change
- “Approved course in pharmacy law” No change
- “Approved Provider” No change
- “Authentication of product history” No change
- “AZPLEX” No change
- “Batch” No change
- “Beyond-use date” No change
- “Biological safety cabinet” No change

“Certified pharmacy technician” means:

An individual who receives a passing grade on a certification examination for pharmacy technicians recognized by the Arizona State Board of Pharmacy and meets the requirements of a pharmacy technician as defined in A.A.C. R4-23-110; or

An individual employed in a hospital pharmacy who meets the requirements in R4-23-653(F)(1) and performs, under the supervision of a pharmacist, activities related to the preparation, dispensing, or distribution of prescription medication consistent with the policies and procedures required in R4-23-653(G).

- “Class 100 environment” No change
- “Community pharmacy” No change
- “Component” No change
- “Computer system” No change

- “Computer system audit” No change
- “Contact hour” No change
- “Container” No change
- “Continuing education” No change
- “Continuing education activity” No change
- “Continuing education unit” or “CEU” No change
- “Correctional facility” No change
- “CRT” No change
- “Current good compounding practices” No change
- “Current good manufacturing practice” No change
- “Cytotoxic” No change
- “Day” No change
- “DEA” No change
- “Delinquent license” No change
- “Dietary supplement” No change
- “Dispensing pharmacist” No change
- “Drug sample” No change
- “Drug therapy management” No change
- “Drug therapy management agreement” No change
- “Extreme emergency” No change
- “FDA” No change
- “Immediate notice” No change
- “Inactive ingredient” No change
- “Internal test assessment” No change
- “Limited-service correctional pharmacy” No change
- “Limited-service long-term care pharmacy” No change
- “Limited-service mail-order pharmacy” No change
- “Limited-service nuclear pharmacy” No change
- “Limited-service pharmacy permittee” No change
- “Long-term care consultant pharmacist” No change
- “Long-term care facility” or “LTCF” No change
- “Lot” No change
- “Lot number” or “control number” No change
- “Materials approval unit” No change
- “Mediated instruction” No change
- “MPJE” No change
- “NABP” No change
- “NABPLEX” No change
- “NAPLEX” No change
- “Other designated personnel” No change
- “Outpatient” No change
- “Outpatient setting” No change
- “Patient profile” No change
- ~~“Pharmaceutical care” means the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.~~
- ~~“Pharmaceutical patient care services” means the provision of drug selection, drug utilization review, drug administration, drug therapy monitoring, and other drug-related patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.~~
- “Pharmacy law continuing education” No change
- ~~“Pharmacy technician” means an individual, qualified under R4-23-403(A)(1) and (2), who, during and after completing the training required in R4-23-403(A)(3), performs, under the supervision of a pharmacist, activities related to the preparation and distribution of prescription medications consistent with policies and procedures required in R4-23-403(J) and state and federal law.~~
- “Prepackaged drug” No change
- “Provider pharmacy” No change
- “Radiopharmaceutical” No change
- “Radiopharmaceutical quality assurance” No change

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- “Radiopharmaceutical services” No change
- “Red C stamp” No change
- “Remodel” No change
- “Remote drug storage area” No change
- “Resident” No change
- “Responsible person” No change
- “Score transfer” No change
- “Sight-readable” No change
- “Single-drug audit” No change
- “Single-drug usage report” No change
- “Sterile pharmaceutical product” No change
- “Strength” No change
- “Supervision” No change
- “Supervisory physician” No change
- “Supplying” No change
- “Support personnel” No change
- “Transfill” No change
- “Wholesale distribution” No change
- “Wholesale distributor” No change

ARTICLE 2. PHARMACIST LICENSURE

R4-23-205. Fees

- A. Licensure fees:
 - 1. Pharmacist:
 - a. Initial licensure [Prorated according to A.R.S. § 32-1925(B)]: \$145.
 - b. Licensure renewal: \$145.
 - 2. Pharmacy or graduate intern:
 - a. Initial licensure [~~prorated according to A.R.S. § 32-1925(B)~~]: ~~\$2050~~.
 - b. Licensure renewal: ~~\$2050~~.
 - 3. Pharmacy technician:
 - a. Initial licensure [prorated according to A.R.S. § 32-1925(B)]: \$50.
 - b. Licensure renewal: \$50.
 - 4. Pharmacy technician trainee: \$25.
- B. Reciprocity fee: \$300.
- C. ~~Examination~~ Application fee: \$50.
- D. Vendor permit fees (Resident and nonresident):
 - 1. Pharmacy: \$400 biennially (Including hospital, and limited service).
 - 2. Drug wholesaler or manufacturer:
 - a. Manufacturer: \$1000 biennially.
 - b. Full-service drug wholesaler: \$1000 biennially.
 - c. Nonprescription drug wholesaler: \$500 biennially.
 - 3. Drug packager or repackager: \$1000 biennially.
 - 4. Nonprescription drug, retail:
 - a. Category I (30 or fewer items): \$100 biennially
 - b. Category II (more than 30 items): \$200 biennially
 - 5. Compressed medical gas distributor: \$200 biennially
 - 6. Compressed medical gas supplier: \$100 biennially
- E. Other Fees:
 - 1. ~~Wall certificate license.~~
 - a. Pharmacist: \$20.
 - b. ~~Relief pharmacist~~ Pharmacy or graduate intern: \$10.
 - c. Pharmacy technician: \$10.
 - d. Pharmacy technician trainee: \$10.
 - 2. Duplicate of any Board-issued license, registration, certificate, or permit: \$10.
 - 3. Duplicate current renewal license: \$10.
- F. Fees are not refunded under any circumstances except for the Board’s failure to comply with its established licensure or permit time-frames under R4-23-202 or R4-23-602.
- G. Penalty fee. Renewal applications submitted after the expiration date are subject to penalty fees as provided in A.R.S. §§ 32-1925 and 32-1931.

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1. Licensees: A fee equal to half the licensee's biennial licensure renewal fee under subsection (A) and not to exceed \$350.
2. Permittees: A fee equal to half the permittee's biennial permit fee under subsection (D) and not to exceed \$350.

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

- A. A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:
1. Receive, reduce to written form, and manually initial oral prescription orders;
 2. Obtain and record the name of an individual who communicates an oral prescription order;
 3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
 - a. Name, address, telephone number, date of birth (or age), and gender;
 - b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
 4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the ~~individual's~~ patient's drug therapy, including other information specific to the patient or drug;
 5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. A patient's allergies,
 - b. Incompatibilities with a patient's currently-taken medications,
 - c. A patient's use of unusual quantities of dangerous drugs or narcotics,
 - d. A medical practitioner's signature, and
 - e. The frequency of refills;
 6. Verify that a dosage is within proper limits;
 7. Interpret the prescription order, which includes exercising professional ~~judgement~~ judgment in determining whether to dispense a particular prescription;
 8. Compound, mix, combine, or otherwise prepare and package the prescription medication needed to dispense individual prescription orders;
 9. Repackage or supervise the prepackaging of drugs by ~~supportive personnel~~ a pharmacy technician or pharmacy technician trainee under ~~R4-23-403~~ R4-23-1104. For drugs prepackaged by ~~supportive personnel~~ a pharmacy technician or pharmacy technician trainee, a pharmacist shall:
 - a. Verify the drug to be prepackaged;
 - b. ~~Decide the wording and requirements placed on the label,~~ Verify that the label meets the official compendium's standards; and
 - c. Check the completed prepackaging procedure and product; and
 - d. Manually initial the completed label; or
 - e. For automated packaging systems, manually initial the completed label or a written log or initial a computer-stored log;
 10. Check a prescription label to ensure that it communicates the prescriber's directions precisely;
 11. Make a final accuracy check on the completed prescription medication and manually initial the finished label. Manual initialing of a finished label is not required if the pharmacy's computer system complies with the computer documentation requirements of R4-23-408(B)(4);
 12. Record, or assume responsibility to record, a prescription serial number and date dispensed on the original prescription order;
 13. Obtain, or assume responsibility to obtain, permission to refill a prescription ~~orders~~ order and record, or assume responsibility to record on the original prescription order:
 - a. Date dispensed,
 - b. Quantity dispensed, and
 - c. Name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;
 14. Reduce to written or printed form, or assume responsibility to reduce to written or printed form, a new prescription order received by:
 - a. Facsimile,
 - b. Computer modem, or
 - c. Other means of communication;
 15. Verify and manually initial a new prescription order received by:
 - a. Facsimile,
 - b. Computer modem, or

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- c. Other means of communication;
- 16. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the prescription order; and
- 17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.
- B. Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's agent in ~~an~~ an outpatient ~~settings~~ setting, including a patient discharged from a hospital. The oral consultation is required whenever the following occurs:
 - 1. The prescription medication has not been previously dispensed to the patient;
 - 2. A new prescription number is assigned to a previously dispensed prescription medication;
 - 3. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
 - 4. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
 - 5. The patient or patient's agent requests oral consultation.
- C. Oral consultation shall include:
 - 1. The name, strength, and dosage form of a prescription medication or prescription-only device;
 - 2. The directions for use;
 - 3. The route of administration; and
 - 4. Special instructions, precautions, or storage requirements.
- D. The pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
 - 1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
 - 2. Techniques of self-monitoring drug therapy;
 - 3. The duration of the drug therapy;
 - 4. Prescription refill information; and
 - 5. Action to be taken if a dose is missed.
- E. Nothing in subsection (B) shall be construed as requiring a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's agent refuses the consultation.
 - 1. Only a pharmacist, graduate intern, or pharmacy intern shall accept a refusal for consultation.
 - 2. A pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, a refusal for consultation on the original prescription order or document by alternative methods approved by the Board or its designee.
- F. When a prescription is delivered to the patient or patient's agent outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
 - 1. Approved use for the prescription medication;
 - 2. Possible adverse reactions;
 - 3. Drug-drug, food-drug, or disease-drug interactions;
 - 4. Missed dose information; and
 - 5. Telephone number of the dispensing pharmacy.
- G. A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering ~~a~~ the prescription medication to ~~a~~ the patient, is exempt from the requirement of subsection (C).
- H. A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.
- I. Nothing in this Section ~~shall prevent~~ prevents a hospital ~~pharmacists~~ pharmacist from accepting a prescription ~~orders in~~ accordance with order according to rules pertaining specifically to hospital pharmacies.

R4-23-403. Pharmacy Technicians and Certified Pharmacy Technicians Repealed

- ~~A. Before working as a pharmacy technician or certified pharmacy technician, an individual shall:~~
 - ~~1. Be 18 years of age or older;~~
 - ~~2. Have a high school diploma or equivalent;~~
 - ~~3. Complete a training program, as specified in subsection (J), at the pharmacy of employment;~~
 - ~~4. Read and discuss with the pharmacist in charge of the pharmacy where employed, the Board of Pharmacy rules concerning pharmacy technicians or certified pharmacy technicians, the pharmacy technician or certified pharmacy technician job description, and the policy and procedure manual of that pharmacy; and~~
 - ~~5. Date and sign a statement affirming understanding of the Board rules for pharmacy technicians or certified pharmacy technicians, the job description, and the policy and procedure manual.~~
- ~~B. Nothing in subsection (A) shall prevent additional offsite training of a pharmacy technician or certified pharmacy technician. Any pharmacy technician or certified pharmacy technician employed before the effective date of this rule shall be exempt from R4-23-403(A)(1) and (2).~~

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- C.** In accordance with the space requirement listed at R4-23-609(A), the pharmacist in charge shall ensure that no more than two technicians are in the pharmacy area per pharmacist except three technicians per pharmacist may be in the pharmacy area if the third technician is a certified pharmacy technician.
- D.** Permissible activities of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician may assist a graduate intern, pharmacy intern, or pharmacist with the following:

 - 1. Receive a request from a patient or patient's agent to refill the patient's prescription medication;
 - 2. Record on the original prescription order the prescription serial number and date dispensed;
 - 3. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
 - 4. Record information in the refill record or patient profile;
 - 5. Type and affix labels for a prescription medication or enter information for new or refill prescription medication into a computer, provided a pharmacist verifies the accuracy and personally initials in handwriting the finished label prepared by the technician before the prescription medication is dispensed to the patient;
 - 6. Reconstitute prescription medications, provided a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
 - 7. Retrieve, count, or pour prescription medications, provided a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee; and
 - 8. Prepackage drugs in accordance with R4-23-402(A).
- E.** Permissible activities of a certified pharmacy technician. Acting in compliance with all applicable statutes and rules, after completing a training program developed by the pharmacy permittee or pharmacist in charge under subsections (A)(3) and (J), and under the supervision of a pharmacist, a certified pharmacy technician may, in addition to the activities listed in subsection (D), assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications in accordance with written policies and procedures if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing.
- F.** Prohibited activities. Pharmacy technicians and certified pharmacy technicians shall not perform functions reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402.
- G.** A pharmacy technician or certified pharmacy technician shall wear a badge indicating name and title while on duty.
- H.** Before employing a pharmacy technician or certified pharmacy technician, a pharmacy permittee or pharmacist in charge shall:

 - 1. Develop policies and procedures specifying permissible activities a pharmacy technician or certified pharmacy technician may perform as specified in R4-23-403(D) and (E);
 - 2. Implement the policies and procedures;
 - 3. Review and revise the policies and procedures biennially;
 - 4. Assemble the policy and procedures as a written manual or by another method approved by the Board or its designee; and
 - 5. Make the policies and procedures available within the pharmacy for reference by a pharmacy technician or certified pharmacy technician and inspection by the Board or its designee.
- I.** The policies and procedures shall include the following:

 - 1. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
 - 2. Employment performance expectations for a pharmacy technician and certified pharmacy technician;
 - 3. Prescription dispensing procedures for:
 - a. Accepting a new written prescription;
 - b. Accepting a refill request;
 - c. Drug product selection;
 - d. Counting and pouring;
 - e. Labeling; and
 - f. Refill authorization;
 - 4. Computer data entry procedures for:
 - a. New and refill prescriptions;
 - b. Patient's drug allergies;
 - c. Drug-drug interactions;
 - d. Drug-food interactions;
 - e. Drug-disease state contraindications;
 - f. Refill frequency;
 - g. Patient's disease and medical condition;

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- h. Patient's age or date of birth and gender, and
- i. Patient profile maintenance;
- 5. Compounding procedures for a certified pharmacy technician;
- 6. Pharmacist and patient communication;
- 7. Quality management procedures for:
 - a. Competency review and evaluation;
 - b. Continuing education;
 - e. Drug recall;
 - d. Drug storage;
 - e. Expired and beyond-use-date drugs, and
 - f. Medication errors;
- 8. Security procedures for:
 - a. Confidentiality of patient prescription records, and
 - b. The pharmacy area;
- 9. Automated medication distribution system;
- 10. Sanitation, and
- 11. Brief overview of state and federal pharmacy statutes and rules.
- ~~J.~~ Pharmacy technician and certified pharmacy technician training program.
 - 1. A pharmacy permittee or pharmacist in charge shall:
 - a. Develop a pharmacy technician and certified pharmacy technician training program based on the needs of the individual pharmacy;
 - b. Implement the pharmacy technician and certified pharmacy technician training program;
 - e. Include written guidelines that:
 - i. Define the specific tasks the technician is expected to perform; and
 - ii. Specify how the technician's competency will be assessed; and
 - d. Provide a copy of the training program and guidelines within the pharmacy for reference by a pharmacy technician or certified pharmacy technician and inspection by the Board or its designee.
 - 2. A pharmacist in charge shall certify that a technician has successfully completed the training program.
 - 3. A pharmacy technician or certified pharmacy technician shall perform only those tasks, listed in subsections (D) and (E), for which training and competency has been demonstrated.
- ~~K.~~ Hospital pharmacies. Nothing in this rule prohibits a hospital pharmacy from using a pharmacy technician or certified pharmacy technician in accordance with state or federal law specifically for a hospital pharmacy.

R4-23-407. Prescription Requirements

- A. Prescription orders. A pharmacist shall ensure that:
 - 1. A prescription order dispensed by the pharmacist includes the following information:
 - a. Date of issuance;
 - b. Name and address of the patient for whom or the owner of the animal for which the drug or device is dispensed;
 - c. Drug name, strength, and dosage form or device name;
 - d. Name of the drug's or device's manufacturer or distributor if the prescription order is written generically or a substitution is made;
 - e. Prescribing medical practitioner's directions for use;
 - f. Date of dispensing;
 - g. Quantity prescribed and if different, quantity dispensed;
 - h. For a prescription order for a controlled substance, the medical practitioner's address and DEA number;
 - i. For a written prescription order, the medical practitioner's signature;
 - j. For an oral prescription order, the medical practitioner's name and telephone number; and
 - k. Name or initials of the dispensing pharmacist;
 - 2. A prescription order is kept by the pharmacist or pharmacy permittee as a record of the dispensing of a drug or device for ~~three~~ seven years from the date the drug or device is dispensed, except for a drug or device personally administered by a medical practitioner to the medical practitioner's patient; and
 - 3. The dispensing of a drug or device complies with the packaging requirements of the official compendium and state and federal law.
- B. Prescription refills. A pharmacist shall ensure that the following information is recorded on the back of a prescription order when it is refilled:
 - 1. Date refilled,
 - 2. Quantity dispensed,
 - 3. Name or approved abbreviation of the manufacturer or distributor if the prescription order is written generically or a substitution is made, and
 - 4. The name or initials of the dispensing pharmacist.

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- C. A pharmacist may furnish a copy of a prescription order to the patient for whom it is prescribed or to the authorized representative of the patient if the copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY:" or other similar statement. A copy of a prescription order is not a valid prescription order and a pharmacist shall not dispense a drug or device from the information on a copy.
- D. Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permittee or pharmacist-in-charge shall ensure that:
1. Both the original and the transferred prescription order are maintained for ~~three~~ seven years after the last dispensing date.
 2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25, published April 1, 2001, and no future amendments or editions, incorporated by reference and on file with the Board ~~and the Office of the Secretary of State~~.
 3. The original prescription order information for a non-controlled substance drug is transferred without limitation only up to the number of originally authorized refills.
 4. Transfer within Arizona.
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transfer of information is communicated directly between:
 - (1) Two licensed pharmacists,
 - (2) A licensed pharmacist and a licensed pharmacy or graduate intern, or
 - (3) Two licensed pharmacy or graduate interns;
 - ii. The following information is recorded by the transferring pharmacist or pharmacy or graduate intern:
 - (1) The word "void" is written on the face of the invalidated original prescription unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name and identification code, number, or address and telephone number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist or pharmacy or graduate intern, the date of transfer, and the name of the transferring pharmacist or pharmacy or graduate intern is written on the back of the prescription or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist or pharmacy or graduate intern on the transferred prescription order:
 - (1) The word "transfer:";
 - (2) Date of issuance of the original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name, and identification code, number, or address, telephone number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist or pharmacy or graduate intern; and
 - (8) Name of the receiving pharmacist or pharmacy or graduate intern.
 - b. The transfer of original prescription order information for a Schedule III, IV, or controlled substance meets the following conditions:
 - i. The transfer of information is communicated directly between two licensed pharmacists;
 - ii. The following information is recorded by the transferring pharmacist:
 - (1) The word "void" is written on the face of the invalidated original prescription order unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name, address, and DEA number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist, the date of transfer, and the name of the transferring pharmacist is written on the back of the prescription order or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist on the transferred prescription order:
 - (1) The word "transfer:";
 - (2) Date of issuance of original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist; and
 - (8) Name of the receiving pharmacist.

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5. Transfer from out-of-state.
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the conditions in subsections (D)(4)(a)(i) and (D)(4)(a)(iii).
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the conditions in subsections (D)(4)(b)(i) and (D)(4)(b)(iii).
6. Electronic transfer. The electronic transfer of original prescription order information meets the following conditions:
 - a. The electronic transfer is between pharmacies owned by the same company using a common or shared database;
 - b. The electronic transfer of original prescription order information for a non-controlled substance drug is performed by a pharmacist or a pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician under the supervision of a pharmacist;
 - c. The electronic transfer of original prescription order information for a controlled substance is performed between two licensed pharmacists;
 - d. The electronic transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist, pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician; and
 - (4) Records the date of transfer; and
 - (5) ~~Records the name or identification code of the transferring pharmacist, pharmacy or graduate intern, or pharmacy technician; and~~
 - ii. ~~The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(4)(a)(iii)~~ receiving pharmacy's computer system;
 - (1) Records that a prescription transfer occurred;
 - (2) Records the date of issuance of the original prescription order;
 - (3) Records the original number of refills authorized on the original prescription order;
 - (4) Records the date of original dispensing;
 - (5) Records the number of valid refills remaining and the date of the last refill;
 - (6) Records the identification code, number, or address and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Records the name or identification code of the receiving pharmacist or pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician; and
 - (8) Records the date of transfer.
 - e. The electronic transfer of original prescription order information for a controlled substance meets the following conditions:
 - i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address, and DEA number of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist;
 - (4) Records the date of transfer; and
 - (5) Records the name or identification code of the transferring pharmacist; and
 - ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(4)(b)(iii); and
 - f. In addition to electronic documentation of a transferred prescription order in the computer system, an original prescription order containing the requirements of this Section is filed in compliance with A.R.S. § 32-1964.

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-653. Personnel: Professional or Technician

- A. Each hospital pharmacy shall be directed by a pharmacist who is licensed to engage in the practice of pharmacy in Arizona and is referred to as the Director of Pharmacy. The Director of Pharmacy shall be the pharmacist-in-charge, as defined in A.R.S. § 32-1901 or shall appoint a pharmacist-in-charge. The Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall:
 1. ~~be~~ Be responsible for all the activities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules;
 2. Ensure that the policies and procedures required by these rules are prepared and implemented;
 3. Review biennially and, if necessary, revise the policies and procedures required under these rules;

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4. Document the review required under subsection (A)(3);
 5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 6. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its designee.
- B. In all hospitals, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services, except for an extreme emergency as defined in R4-23-110. Pharmacy services shall be provided for a minimum of 40 hours per week, unless an exception for less than the minimum hours is made upon written request by the hospital and with express permission of the Board or its designee.
- C. In a hospital where the pharmacy is not open 24 hours per day for pharmacy services, a pharmacist shall be “on-call” as defined in R4-23-651 when the pharmacy is closed.
- D. The Director of Pharmacy may be assisted by other personnel approved by the Director of Pharmacy in order to operate the pharmacy competently, safely, and adequately to meet the needs of the hospital’s patients.
- E. Pharmacists. A pharmacist or a pharmacy intern or graduate intern under the supervision of a pharmacist shall perform the following professional practices:
1. Verify a patient’s medication order before administration of a drug to the patient, except:
 - a. In an emergency medical situation; or
 - b. In a hospital where the pharmacy is open less than 24 hours a day for pharmacy services, a pharmacist shall verify a patient’s medication order within four hours of the time the pharmacy opens for pharmacy services;
 2. Verify a medication order’s pharmaceutical and therapeutic feasibility based upon:
 - a. The patient’s medical condition,
 - b. The patient’s allergies,
 - c. The pharmaceutical and therapeutic incompatibilities, and
 - d. The recommended dosage limits;
 3. Measure, count, pour, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician or pharmacy technician trainee may measure, count, pour, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 - ~~3-4.~~ Compound, admix, combine, ~~measure, count,~~ or otherwise prepare and package ~~the a~~ drug needed for dispensing, except a ~~certified~~ pharmacy technician may compound, admix, combine, ~~measure, count,~~ or otherwise prepare and package ~~the a~~ drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 - ~~4-5.~~ Verify the accuracy, correct procedure, compounding, admixing, combining, measuring, counting, ~~pouring,~~ preparing, packaging, and safety of a drug prepared and packaged by a ~~certified~~ pharmacy technician or pharmacy technician trainee according to subsections (E)(3) and (4) and according to the policies and procedures in subsection (G);
 - ~~5-6.~~ Supervise drug repackaging and check the completed repackaged product as specified in R4-23-402(A);
 - ~~6-7.~~ Supervise training and education in aseptic technique and drug incompatibilities for all personnel involved in the admixture of parenteral products within the hospital pharmacy;
 - ~~7-8.~~ Consult with the medical practitioner regarding the patient’s drug therapy or medical condition;
 - ~~8-9.~~ When requested by a medical practitioner, patient, patient’s agent, or when the pharmacist deems it necessary, provide consultation with a patient regarding the medication order, patient’s profile, or overall drug therapy;
 - ~~9-10.~~ Monitor a patient’s drug therapy for safety and effectiveness;
 - ~~10-11.~~ Provide drug information to patients and health care professionals;
 - ~~11-12.~~ Manage the activities of ~~certified~~ pharmacy technicians, pharmacy technician trainees, other personnel, and systems to ensure that all activities are performed accurately, safely, and without risk of harm to patients;
 - ~~12-13.~~ Verify the accuracy of all aspects of the original, completed medication order; and
 - ~~13-14.~~ Ensure compliance by pharmacy personnel with a quality assurance program developed by the hospital.
- F. ~~Certified pharmacy~~ Pharmacy technicians and pharmacy technician trainees.
- ~~1-~~ Before working as a ~~certified~~ pharmacy technician or pharmacy technician trainee, an individual shall:
 - a. ~~Be at least 18 years of age;~~
 - b. ~~Have a high school diploma or equivalent;~~
 - c. ~~Have a current pharmacy technician certificate recognized by the Arizona State Board of Pharmacy;~~
 - d. ~~Complete a training program, as specified in subsection (H), at the pharmacy of employment;~~
 - e. ~~Read and discuss with the pharmacist in charge of the pharmacy where employed, the Board rules concerning certified pharmacy technicians, the certified pharmacy technician job description, and the policy and procedure manual of that pharmacy; and~~
 - f. ~~Date and sign a statement affirming understanding of the Board rules for certified pharmacy technicians, the job description, and the policy and procedure manual.~~
 - ~~2-~~ ~~Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a certified phar-~~

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maey technician may assist a pharmacist in activities not defined as professional practices as outlined in R4-23-653(E).

3. Subsection (F)(1) does not prevent additional off site training of a certified pharmacy technician. Any currently employed hospital pharmacy technician who does not meet the requirement in subsection (F)(1)(e) before the effective date of this rule shall complete the requirement in subsection (F)(1)(e) within one year from the effective date of this rule meet the eligibility and licensure requirements prescribed in 4 A.A.C. 23, Article 11.

G. ~~Technician~~ Pharmacy technician policies and procedures. Before employing a ~~certified~~ pharmacy technician or pharmacy technician trainee, a Director of Pharmacy or pharmacist-in-charge shall:

1. ~~Develop the policies and procedures that specify:~~ required under R4-23-1104.
 - a. ~~The activities a certified pharmacy technician may perform, and~~
 - b. ~~The quality assurance methods used to ensure the accuracy and safety of a certified pharmacy technician's activities,~~
2. ~~Implement the policies and procedures,~~
3. ~~Review and revise the policies and procedures biennially,~~
4. ~~Document the review and revision process;~~
5. ~~Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and~~
6. ~~Make the policies and procedures available within the hospital pharmacy for reference by a certified pharmacy technician and inspection by the Board or its designee.~~

H. ~~Certified pharmacy~~ Pharmacy technician training program.

1. A Director of Pharmacy or pharmacist-in-charge shall:
 - a. ~~Develop a~~ Comply with the training program for ~~certified pharmacy technicians~~ requirements of R4-23-1105 based on the needs of the hospital pharmacy;
 - b. ~~Implement the certified pharmacy technician training program;~~
 - c. ~~Include written training guidelines that-~~
 - i. ~~Define the specific tasks the certified pharmacy technician may perform;~~
 - ii. ~~Specify how the certified pharmacy technician's competency will be assessed; and~~
 - iii. ~~Provide a copy of the training program and guidelines in the hospital pharmacy for reference by a certified pharmacy technician and inspection by the Board or its designee; and~~
 - d. ~~Attest that a certified pharmacy technician successfully completes the training program.~~
2. A ~~certified~~ pharmacy technician or pharmacy technician trainee shall:
 - a. Perform only those tasks for which training and competency ~~has~~ have been demonstrated; and
 - b. Not perform professional practices reserved for a pharmacist, graduate intern, or pharmacy intern in subsection (E), except as specified in ~~subsection~~ subsections (E)(3) and (4).

I. Supervision. A hospital pharmacy's Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall supervise all of the activities and operations of a hospital pharmacy. A pharmacist shall supervise all functions and activities of ~~certified~~ pharmacy technicians, pharmacy technician trainees, and other hospital pharmacy personnel to ensure that all functions and activities are performed competently, safely, and without risk of harm to patients.

R4-23-654. Absence of Pharmacist

- A. If a pharmacist will not be on duty in the hospital, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have access to drugs in the remote drug storage area defined in R4-23-110 or in the hospital pharmacy if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient. A pharmacist shall be on-call during all absences.
- B. If a pharmacist will not be on duty in the hospital pharmacy, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have telephone access to an on-call pharmacist.
- C. The hospital pharmacy permittee shall ensure that the hospital pharmacy is not without a pharmacist on duty in the hospital for more than 72 consecutive hours.
- D. Remote drug storage area. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital:
 1. Develop and maintain an inventory listing of the drugs to be included in a remote drug storage area; and
 2. Develop and implement policies and procedures in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A) that ensure proper storage, access, and accountability for drugs in a remote drug storage area.
- E. Access to hospital pharmacy. If a drug is not available from a remote drug storage area and the drug is required to treat the immediate needs of a patient whose health may be compromised, the drug may be obtained from the hospital pharmacy according to the requirements of this subsection.
 1. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital, develop and implement policies and procedures in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A) to ensure that access to the hospital pharmacy during the pharmacist's absence conforms to the following requirements:

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- a. Access is delegated to only one supervisory nurse in each shift;
 - b. The policy and name of supervisory nurse is communicated in writing to the medical staff of the hospital;
 - c. Access is delegated only to a nurse who has received training from the Director of Pharmacy, pharmacist-in-charge, or Director's designee in the procedures required for proper access, drug removal, and recordkeeping; and
 - d. Access is delegated by the supervisory nurse to another nurse only in an emergency.
2. If a nurse to whom authority is delegated to access the hospital pharmacy removes a drug from the hospital pharmacy, the nurse shall:
- a. Record the following information on a form or by another method approved by the Board or its designee:
 - i. Patient's name;
 - ii. Drug name, strength, and dosage form;
 - iii. Quantity of drug removed; and
 - iv. Date and time of removal;
 - b. Sign or initial, if a corresponding signature is on file in the hospital pharmacy, the form recording the drug removal;
 - c. Attach the original or a direct copy of the medication order for the drug to the form recording the drug removal; and
 - d. Place the form recording the drug removal conspicuously in the hospital pharmacy.
3. Within four hours after a pharmacist's ~~pharmacist~~ pharmacist returns from an absence, ~~a~~ the pharmacist shall verify all records of drug removal that occurred during the pharmacist's absence according to R4-23-653(E).

R4-23-657. Security

- A. Personnel security standards. A Director of Pharmacy shall ensure that:
1. No one is permitted in the pharmacy unless a pharmacist is present except as provided in this Section and R4-23-654. If only one pharmacist is on duty in the pharmacy and that pharmacist must leave the pharmacy for an emergency or patient care duties, nonpharmacist personnel may remain in the pharmacy to perform duties as outlined in R4-23-653, provided that all C-II controlled substances are secured to prohibit access by other than a pharmacist, and that the pharmacist ~~remain~~ remains available in the hospital;
 2. All hospital pharmacy areas are kept locked by key or programmable lock to prevent access by unauthorized personnel; and
 3. Pharmacists, pharmacy or graduate interns, ~~certified~~ pharmacy technicians, pharmacy technician trainees, and other personnel working in the pharmacy wear identification badges, including name and position, whenever on duty.
- B. Prescription blank security. The Director of Pharmacy shall develop and implement policies and procedures in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A) for the safe distribution and control of prescription blanks bearing identification of the hospital.

R4-23-658. Drug Distribution and Control

- A. General. The Director of Pharmacy or pharmacist-in-charge shall:
- ~~1. In consultation with the medical staff, develop and implement written policies and procedures in the same manner described in R4-23-653(A) for the effective operation of a drug distribution system that optimizes patient safety;~~
 - ~~2. Make the policies and procedures available in the pharmacy for reference by pharmacy employees and inspection by the Board or its designee;~~
 - ~~3. Review and revise the policies and procedures biennially;~~
 - ~~4. Document the review and revision process; and~~
 - ~~5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee.~~
- B. Responsibility. The Director of Pharmacy is responsible for the safe and efficient procurement, dispensing, distribution, administration, and control of drugs, including the following:
1. In consultation with the appropriate department personnel and medical staff committee, develop a medication formulary for the hospital;
 2. Proper handling, distribution, and recordkeeping of investigational drugs; and
 3. Regular inspections of drug storage and preparation areas within the hospital.
- C. Physician orders. A Director of Pharmacy or pharmacist-in-charge shall ensure that:
1. Drugs are dispensed from the hospital pharmacy only upon a written order, direct copy or facsimile of a written order, or verbal order of an authorized medical practitioner; and
 2. A pharmacist reviews the original, direct or facsimile copy, or verbal order before an initial dose of medication is administered, except as specified in R4-23-653(E)(1).
- D. Labeling. A Director of Pharmacy or pharmacist-in-charge shall ensure that all drugs distributed or dispensed by a hospital pharmacy are packaged in appropriate containers and labeled as follows:
1. For use inside the hospital;

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- a. Labels for all single unit packages contain at a minimum, the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date; and
 - iii. Appropriate auxiliary labels;
 - b. Labels for repackaged preparations contain at a minimum the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date;
 - iii. Appropriate auxiliary labels; and
 - iv. Mechanism to identify pharmacist ~~accountability~~ accountable for repackaging;
 - c. Labels for all intravenous admixture preparations contain at a minimum the following information:
 - i. Patient's name and location;
 - ii. Name and quantity of the basic parenteral solution;
 - iii. Name and amount of drug added;
 - iv. Date of preparation;
 - v. Beyond-use-date and time;
 - vi. Guidelines for administration;
 - vii. Appropriate auxiliary label or precautionary statement; and
 - viii. Initials of pharmacist responsible for admixture preparation; and
2. For use outside the hospital; Any drug dispensed to a patient by a hospital pharmacy that is intended for self-administration outside of the hospital is labeled as specified in A.R.S. §§ 32-1963.01(C) and 32-1968(D) and A.A.C. R4-23-402.
- E.** Controlled substance accountability. A Director of Pharmacy or pharmacist-in-charge shall ensure that effective policies and procedures are developed and implemented in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A) regarding the use, accountability, and recordkeeping of controlled substances in the hospital, including the use of locked storage areas when controlled substances are stored in patient care areas.
- F.** Emergency services dispensing. If a hospital permits dispensing of drugs from the emergency services department when the pharmacy is unable to provide this service, the Director of Pharmacy, in consultation with the appropriate department personnel and medical staff committee shall develop and implement written policies and procedures in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A) for dispensing drugs for outpatient use from the hospital's emergency services department. The policies and procedures shall include the following requirements:
1. Drugs are ~~only~~ dispensed only to patients who have been admitted to the emergency services department;
 2. Drugs are ~~only~~ dispensed only by an authorized medical practitioner, not a designee or agent;
 3. The nature and type of drugs available for dispensing are designed to meet the immediate needs of the patients treated within the hospital;
 4. Drugs are ~~only~~ dispensed only in quantities sufficient to meet patient needs until outpatient pharmacy services are available;
 5. Drugs are prepackaged by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist in suitable containers and appropriately prelabeled with the drug name, strength, dosage form, quantity, manufacturer, lot number, beyond-use-date, and any appropriate auxiliary labels;
 6. Upon dispensing, the authorized medical practitioner completes the label on the prescription container that complies with the requirements of R4-23-658(D); and
 7. The hospital pharmacy maintains a dispensing log, hard-copy prescription, or electronic record, approved by the Board or its designee and includes the patient name and address, drug name, strength, dosage form, quantity, directions for use, medical practitioner's signature or identification code, and DEA registration number, if applicable.

R4-23-659. Administration of Drugs

- A.** Self-administration. A hospital shall not allow self-administration of medications by a patient unless the Director of Pharmacy or pharmacist-in-charge, in consultation with the appropriate department personnel and medical staff committee, develops and implements policies and procedures for self-administration of medications by a patient in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A). The policies and procedures shall specify that self-administration of medications, if allowed, occurs only when:
1. Specifically ordered by a medical practitioner; and
 2. ~~A~~ The patient is educated and trained in the proper manner of self-administration.
- B.** Drugs brought in by a patient. If a hospital allows a patient to bring a drug into the hospital and before a patient brings a drug into the hospital, the Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate department personnel and medical staff committee, develop and implement policies and procedures for a patient-owned drug brought into the hospital in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A). The policies and procedures shall specify the following criteria for a patient-owned drug brought into the hospital:
1. When policy allows the administration of a patient-owned drug, the drug is not administered to the patient unless:

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- a. A pharmacist or medical practitioner identifies the drug;
 - b. A medical practitioner writes a medication order specifying administration of the identified patient-owned drug; and
2. If a patient-owned drug will not be used during the patient's hospitalization, the hospital pharmacy's personnel shall:
- a. Package, seal, and give the drug to the patient's agent for removal from the hospital; or
 - b. Package, seal, and store the drug for return to the patient at the time of discharge from the hospital.
- C. Drug samples. The Director of Pharmacy or pharmacist-in-charge is responsible for the receipt, storage, distribution, and accountability of drug samples within the hospital, including developing and implementing specific policies and procedures in the same manner described in ~~R4-23-653(G)~~ R4-23-653(A) regarding drug samples.

R4-23-673. Limited-service Mail-order Pharmacy

- A. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
 2. A dispensing area of at least 300 square feet if three or fewer persons work in the dispensing area simultaneously;
 3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the dispensing area simultaneously;
 4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
 5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
 6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or
- B. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
 2. A contiguous area of at least 300 square feet if three or fewer persons work in the area simultaneously;
 3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the area simultaneously; and
 4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.
- ~~C. The limited-service pharmacy permittee shall allow no more than four supportive personnel per pharmacist to be in the limited-service mail-order pharmacy.~~
- ~~D.~~ C. The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards for area, personnel, security, sanitation, and equipment set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610 (A) and (C) through (F), ~~R4-23-611(A) through (D)~~, and R4-23-612.
- E. The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, drug inspectors, peace officers acting in their official capacities, ~~supportive support~~ personnel, and other designated personnel to be in the limited-service mail-order pharmacy.
- F. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- G. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than ~~six~~ five days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.
- H. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
1. Prescription orders;
 2. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient-outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 3. Duties and qualifications of professional and support staff;
 4. Controlled substances;
 5. Drug product procurement;
 6. Drug compounding, dispensing, and storage;
 7. Patient profiles;

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8. Quality management procedures for:
 - a. Adverse drug reactions,
 - b. Drug recalls,
 - c. Expired and beyond-use-date drugs,
 - d. Medication or dispensing errors, and
 - e. Education of professional and support staff;
9. Recordkeeping;
10. Sanitation;
11. Security;
12. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Temperature and other environmental controls,
 - d. Emergency provisions, and
13. Patient education.

R4-23-674. Limited-service Long-term Care Pharmacy

- A. A limited-service pharmacy permittee shall ensure that the limited-service long-term care pharmacy complies with:
 1. The general requirements of R4-23-671;
 2. The professional practice standards of Article 4, ~~except R4-23-403(C)~~ and Article 11; and
 3. The permits and drug distribution standards of R4-23-606 through R4-23-612, R4-23-670, and this Section.
- B. If a limited-service long-term care pharmacy permittee contracts with a long-term care facility as a Provider Pharmacy, as defined in R4-23-110, the limited-service long-term care pharmacy permittee shall ensure that:
 1. The limited-service long-term care pharmacy employs or contracts with a long-term care consultant pharmacist; and
 2. The long-term care consultant pharmacist and the pharmacist-in-charge of the limited-service long-term care pharmacy comply with R4-23-701, R4-23-701.01, R4-23-701.02, and R4-23-701.03, and this Section.
- C. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that prescription medication is delivered to the patient's long-term care facility or locked in the dispensing area of the pharmacy when a pharmacist is not present in the pharmacy.
- D. The pharmacist-in-charge of a limited-service long-term care pharmacy shall:
 1. ~~Authorize~~ authorize only those individuals listed in R4-23-610(B) to be in the limited-service long-term care pharmacy; ~~and~~
 2. ~~Allow no more than four pharmacy technicians or certified pharmacy technicians per pharmacist to be in the limited-service long-term care pharmacy.~~
- E. In consultation with the long-term care facility's medical director and director of nursing, the long-term care consultant pharmacist and pharmacist-in-charge of the long-term care facility's provider pharmacy may develop, if necessary, a medication formulary for the long-term care facility that ensures the safe and efficient procurement, dispensing, distribution, administration, and control of drugs in the long-term care facility.
- F. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that the written policies and procedures required in R4-23-671(E) include the following:
 1. Clinical services and drug utilization management for:
 - a. Drug utilization reviews;₂
 - b. Inventory audits;₂
 - c. Patient outcome monitoring;₂
 - d. Drug information;₂ and
 - e. Education of pharmacy and other health professionals;
 2. Controlled substances;
 3. Drug compounding, dispensing, and storage;
 4. Drug delivery requirements for:
 - a. Transportation;₂
 - b. Security;₂
 - c. Temperature and other environmental controls;₂ and
 - d. Emergency provisions;
 5. Drug product procurement;
 6. Duties and qualifications of professional and support staff;
 7. Emergency drug supply unit procedures;
 8. Formulary, including development, review, modification, use, and documentation, if applicable;
 9. Patient profiles;
 10. Patient education;
 11. Prescription orders;

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12. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors; and
 - e. Education of professional and support staff;
13. Recordkeeping;
14. Sanitation; and
15. Security.

ARTICLE 11. PHARMACY TECHNICIANS

R4-23-1101. Licensure and Eligibility

A. License required. A person shall not work as a pharmacy technician or pharmacy technician trainee in Arizona, unless the person:

1. Possesses a pharmacy technician or pharmacy technician trainee license issued by the Board;
2. Reads and discusses with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy; and
3. Dates and signs a statement that the person has complied with subsection (A)(2).

B. Eligibility.

1. To be eligible for licensure as a pharmacy technician trainee, a person shall:
 - a. Be of good moral character.
 - b. Be at least 18 years of age, and
 - c. Have a high school diploma or the equivalent of a high school diploma.
2. To be eligible for licensure as a pharmacy technician, a person shall:
 - a. Meet the requirements of subsection (B)(1).
 - b. Complete a pharmacy technician training program that meets the standards prescribed in R4-23-1105, and
 - c. Pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination.

C. A pharmacy technician delinquent license. Before an Arizona pharmacy technician license will be reinstated, a pharmacy technician whose Arizona pharmacy technician license is delinquent for five or more consecutive years shall furnish to the Board satisfactory proof of fitness to be licensed as a pharmacy technician and pay all past due biennial renewal fees and penalty fees. Satisfactory proof includes:

1. For a person with a delinquent license who is practicing as a pharmacy technician out-of-state with a pharmacy technician license issued by another jurisdiction:
 - a. Proof of current, unrestricted pharmacy technician licensure in another jurisdiction; and
 - b. Proof of employment as a pharmacy technician during the last 12 months; or
2. For a person with a delinquent license who did not practice as a pharmacy technician within the last 12 months:
 - a. Take and pass a Board-approved pharmacy technician examination, and
 - b. Complete 120 hours of pharmacy technician training as a pharmacy technician trainee licensed under R4-23-1103, or
 - c. Complete 480 hours of pharmacy technician training as a pharmacy technician trainee licensed under R4-23-1103.

R4-23-1102. Pharmacy Technician Licensure

A. Application. An applicant for licensure as a pharmacy technician shall:

1. Provide the Board proof that the applicant is eligible under R4-23-1101(B)(2), including documentation that the applicant:
 - a. Completed a pharmacy technician training program that meets the standards prescribed in R4-23-1105; and
 - b. Passed the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination;
2. File an application on a form furnished by the Board, that includes:
 - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;
 - b. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charge, and if so, indicate charge, charge date, conviction date, and jurisdiction;
 - c. Whether the applicant has ever had a pharmacy technician license revoked, suspended, or has a pending revocation or suspension action, or denied in this state or any other jurisdiction, and if so, indicate where and when;
 - d. Pharmacy name and address where the pharmacy technician will practice;
 - e. Date signed and applicant's verified signature; and

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- f. The wall license and initial licensure fees specified in R4-23-205.
- B.** Licensure. Within seven business days of receipt of a completed application, fees, and other information specified in subsection (A), the Board office shall determine whether the application is complete. If the application is complete, the Board shall assess whether the applicant is qualified under statute and rule. If the applicant is qualified, the Board office shall issue a license number and mail a license to the applicant. An applicant who is issued a license number may begin practice as a pharmacy technician. The Board office shall mail a wall license to the licensee within 14 days of issuing the license number.
- C.** License renewal. To renew a license, a pharmacy technician shall submit a license renewal form supplied by the Board with the biennial renewal fee specified in R4-23-205. The Board office will process the application for renewal in the same manner described in subsection (B).
- D.** If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

R4-23-1103. Pharmacy Technician Trainee Licensure

- A.** Application. An applicant for licensure as a pharmacy technician trainee shall:
 - 1. Provide the Board proof that the applicant is eligible under R4-23-1101(B)(1); and
 - 2. File an application on a form furnished by the Board, that includes:
 - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;
 - b. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charge, and if so, indicate charge, charge date, conviction date, and jurisdiction;
 - c. Whether the applicant has ever had a pharmacy technician or pharmacy technician trainee license revoked, suspended, or has a pending revocation or suspension action, or denied in this state or any other jurisdiction, and if so, indicate where and when;
 - d. Pharmacy name and address where the pharmacy technician trainee will complete the pharmacy technician training program;
 - e. Date signed and applicant's verified signature; and
 - f. The wall license and initial licensure fees specified in R4-23-205.
- B.** Licensure.
 - 1. Within seven business days of receipt of a completed application, fees, and other information specified in subsection (A), the Board office shall determine whether the application is complete. If the application is complete, the Board shall assess whether the applicant is qualified under statute and rule. If the applicant is qualified, the Board office shall issue a license number and mail a license to the applicant. An applicant who is issued a license number may begin practice as a pharmacy technician trainee. The Board office shall mail a wall license to the licensee within 14 days of issuing the license number. A pharmacy technician trainee license is valid for 24 months from the date issued.
 - 2. A pharmacy technician trainee who does not complete the prescribed training program and pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee.
- C.** The Board may allow a pharmacy technician trainee whose license expires before the pharmacy technician trainee completes the prescribed training program and passes the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination to reapply for licensure not more than one time. A pharmacy technician trainee whose license has expired may make a special request to the Board under R4-23-401 for approval to reapply for licensure.
- D.** The Board shall base its decision to grant or deny a special request to reapply for licensure on an assessment of:
 - 1. The reasons the pharmacy technician trainee did not complete a pharmacy technician training program and the likelihood that the pharmacy technician trainee will complete a pharmacy technician training program within the next 24 months;
 - 2. The reasons the pharmacy technician trainee failed the pharmacy technician examination and the likelihood that the pharmacy technician trainee will pass the pharmacy technician examination within the next 24 months, and
 - 3. Other extenuating circumstances.

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

- A.** Permissible activities of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee may assist a graduate intern, pharmacy intern, or pharmacist with the following when applicable to the pharmacy practice site:
 - 1. Record on the original prescription order the prescription serial number and date dispensed;
 - 2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the

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- medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
3. Record information in the refill record or patient profile;
 4. Type and affix a label for a prescription medication or enter information for a new or refill prescription medication into a computer, if a pharmacist verifies the accuracy and initials in handwriting or by another method approved by the Board or its designee the finished label prepared by the technician before the prescription medication is dispensed to the patient;
 5. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
 6. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
 7. Prepackage drugs in accordance with R4-23-402(A); and
 8. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.
- B.** Permissible activities of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician may:
1. Perform the activities listed in subsection (A); and
 2. After completing a drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105, assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing.
- C.** Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a function reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402 or R4-23-653.
- D.** A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- E.** Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop and implement policies and procedures in the same manner described in R4-23-653(A) for pharmacy technician and pharmacy technician trainee activities as specified in subsection (F).
- F.** The policies and procedures shall include the following:
1. For all practice sites:
 - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
 - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
 - c. The activities a pharmacy technician or pharmacy technician trainee may perform as specified in R4-23-1104(A) and (B);
 - d. Pharmacist and patient communication;
 - e. Reporting, correcting, and avoiding medication and dispensing errors;
 - f. Security procedures for:
 - i. Confidentiality of patient prescription records, and
 - ii. The pharmacy area;
 - g. Automated medication distribution system;
 - h. Compounding procedures for pharmacy technicians; and
 - i. Brief overview of state and federal pharmacy statutes and rules;
 2. For community and limited-service pharmacy practice sites:
 - a. Prescription dispensing procedures for:
 - i. Accepting a new written prescription,
 - ii. Accepting a refill request,
 - iii. Selecting a drug product,
 - iv. Counting and pouring,
 - v. Labeling, and
 - vi. Obtaining refill authorization;
 - b. Computer data entry procedures for:
 - i. New and refill prescriptions,
 - ii. Patient's drug allergies,
 - iii. Drug-drug interactions,
 - iv. Drug-food interactions,
 - v. Drug-disease state contraindications,
 - vi. Refill frequency,
 - vii. Patient's disease and medical condition,

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 3. DEPARTMENT OF HEALTH SERVICES
CHILD CARE GROUP HOMES

PREAMBLE

1. Sections Affected

Rulemaking Action

Chapter 3	New Chapter
Article 1	New Article
R9-3-101	New Section
R9-3-102	New Section
Table 1	New Table
R9-3-103	New Section
Article 2	New Article
R9-3-201	New Section
R9-3-202	New Section
R9-3-203	New Section
R9-3-204	New Section
R9-3-205	New Section
R9-3-206	New Section
Article 3	New Article
R9-3-301	New Section
R9-3-302	New Section
R9-3-303	New Section
R9-3-304	New Section
R9-3-305	New Section
R9-3-306	New Section
R9-3-307	New Section
R9-3-308	New Section
R9-3-309	New Section
R9-3-310	New Section
R9-3-311	New Section
Table 2	New Table
R9-3-312	New Section
R9-3-313	New Section
R9-3-314	New Section
R9-3-315	New Section
Article 4	New Article
R9-3-401	New Section
R9-3-402	New Section
R9-3-403	New Section
R9-3-404	New Section
R9-3-405	New Section
R9-3-406	New Section
R9-3-407	New Section
R9-3-408	New Section
R9-3-409	New Section
R9-3-410	New Section
Table 3	New Table
Table 4	New Table
R9-3-411	New Section
R9-3-412	New Section
R9-3-413	New Section
Article 5	New Article
R9-3-501	New Section
R9-3-502	New Section
R9-3-503	New Section
R9-3-504	New Section
R9-3-505	New Section
R9-3-506	New Section

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R9-3-507
R9-3-508

New Section
New Section

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

Authorizing statutes: A.R.S. §§ 36-136(F), 36-897.01(F), 36-897.01(G), 36-897.02(A), and 36-897.03(D)

Implementing statutes: A.R.S. §§ 36-897.01 through 36-897.05

3. The effective date of the rules:

The Department is making these rules with a delayed effective date of September 1, 2004. The Department has determined that good cause exists for this delayed effective date. It will provide the Department time to create new forms, train staff on the requirements of the rules, and adjust operations to conform to the new requirements. In addition, it will provide stakeholders time to learn the new rules and to come into compliance with them. The Department has determined that the public interest will not be harmed by the delayed effective date because the current rules for regulation of child care group homes will remain in effect until September 1, 2004.

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 1817, June 6, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 3558, August 15, 2003

Notice of Supplemental Proposed Rulemaking: 9 A.A.R. 4952, November 21, 2003

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

Name: Lourdes B. Ochoa, State Licensing (Program) Manager

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Child Care Licensing
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2539

Fax: (602) 364-4768

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

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 W. Adams, Suite 202
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

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

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

The current rules for child care group homes are located in 9 A.A.C. 5, Articles 1 and 7 through 10. Chapter 5 also includes the rules for child care facilities. Having the rules for child care facilities and child care group homes in the same Chapter has resulted in confusion among stakeholders regarding the standards that apply to each. To alleviate this confusion, the Department, in a separate rulemaking, is repealing the rules for child care group homes in Chapter 5, Articles 7 through 10 and is amending Article 1 as necessary to remove language specific to child care group homes. In this rulemaking, the Department is adopting new rules for child care group homes in a new Chapter 3 titled "Child Care Group Homes."

In addition to separating the rules for child care group homes from the rules for child care facilities, this rulemaking updates the standards for child care group homes, reorganizes the rules, clarifies the rules, and brings the rules into compliance with current rulemaking format and style requirements.

The Department is making these rules with a delayed effective date of September 1, 2004. The Department has determined that good cause exists for this delayed effective date. It will provide the Department time to create new forms, train staff on the requirements of the rules, and adjust operations to conform to the new requirements. In addition, it will provide stakeholders time to learn the new rules and to come into compliance with them. The Department has determined that the public interest will not be harmed by the delayed effective date because the current rules for regulation of child care group homes will remain in effect until September 1, 2004.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department has read the following report highlighting the findings of a study conducted by the U.S. Consumer Product Safety Commission: U.S. Consumer Product Safety Commission, "Home Playground Equipment-Related Deaths and Injuries" (July 2001), available from the U.S. Consumer Product Safety Commission web site at <http://www.cpsc.gov> or by calling 1-800-638-2772. The Department is relying on information in the report as justification for the requirement for resilient surfacing material under and around certain playground equipment.

The Department has read the following publication of the National Safe Kids Campaign: National Safe Kids Campaign, "Injury Facts: Playground Injury," available at <http://www.safekids.org> or by calling 1-202-662-0600. Although it is not a study, it includes statistics related to playground injury, and the Department is relying on information in the publication as justification for the requirement for resilient surfacing material under and around certain playground equipment.

The Department has also read the following publications of the National Program for Playground Safety: "Playground-Related Statistics," "Child Care Alert: Testing Results Released About Surfacing Used Under Indoor Playground Equipment," "Fall Surfacing Guidelines for Playgrounds," and "The Higher They Are, the Harder They Will Fall!" all of which are available at <http://www.uni.edu/playground/home.html> or by calling 1-800-554-PLAY. Although these are not studies, they include statistics related to playground equipment injury, and the Department is relying on information in the publications as justification for the requirement for resilient surfacing material under and around certain playground equipment.

The Department has read and is relying on information in the following publications related to Salmonella infection from reptiles:

J. Mermin et al., "Salmonella Infections from Reptiles in FoodNet Sites: The Resurgence of a Preventable Illness" (November 1998), available at http://www.cdc.gov/foodnet/pub/idsa/1998/mermin_j.htm;

Centers for Disease Control and Prevention, "Reptile-Associated Salmonellosis – Selected States, 1996-1998," published in 48 Morbidity and Mortality Weekly Report 1009-1013 (November 12, 1999), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4844a1.htm>; and

Carol Lewis, "The Fright of the Iguana: Pet Reptiles Pose Risk of Salmonella Infection for their Owners," published in FDA Consumer magazine (November-December 1997), available at <http://www.kidsource.com/kidsource/content4/iguana.fda.html>.

The Department has read portions of and is relying on portions of the following publications related to communicable diseases:

American Public Health Association, *Control of Communicable Diseases Manual* (17th ed. 2000), available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710; and

American Academy of Pediatrics, *Red Book 2000: Report of the Committee on Infectious Diseases* (25th ed. 2000), available from the American Academy of Pediatrics, P.O. Box 927, 141 Northwest Point Blvd., Elk Grove Village, IL 60009-0927.

The Department has read portions of and is relying on portions of the following publication related to baby walkers:

American Academy of Pediatrics, *The Complete and Authoritative Guide: Caring for Your Baby and Young Child Birth to Age 5* (rev. ed. June 1998), available from the American Academy of Pediatrics, P.O. Box 927, 141 Northwest Point Blvd., Elk Grove Village, IL 60009-0927.

Finally, the Department has read and is relying on portions of the following publication:

American Academy of Pediatrics et al., *Caring for Our Children: National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs* (2nd ed. 2002), available at <http://nrc.uchsc.edu/CFOC/index.html> or by calling 1-800-598-5437.

The Department does not believe that any of the documents listed in this section of the Preamble are actually studies as that term is used in the Administrative Procedure Act, but is providing this information to notify stakeholders of these resources that the Department has reviewed and on which the Department is relying in whole or in part.

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:

The Department currently certifies approximately 355 child care group homes across the state. In addition, the Department receives approximately 112 applications for initial certification of child care group homes each year. The Department estimates that 100% of the certified and prospective child care group homes are small businesses as defined in A.R.S. § 41-1001.

The costs of the rule changes will be borne by the Department, certificate holders or providers (who are generally the same individual), child care group home staff members, and applicants for certification. The benefits of the rule changes will be realized by the Department, certificate holders or providers, child care group home staff members, applicants for certification, children cared for in child care group homes, and the parents of children cared for in child care group homes. The Department does not anticipate that the rules will benefit or burden other persons.

As used in this summary, minimal means less than \$100, moderate means \$100 to \$999, and substantial means \$1000 or more. This summary describes only those rule changes that will result in the most significant economic impacts.

The rules require the Department to create new application forms. The Department will incur a moderate-to-substantial cost from producing new application forms, training Department staff on the new forms, and amending Department-provided training to reflect the new forms. The Department will also incur a moderate-to-substantial benefit from the new application forms because applicants should find it easier to apply and thus should have fewer questions and make fewer mistakes that require Department attention.

The rules require an applicant for certification to have and to submit to the Department a copy of a high school diploma, high school equivalency diploma, associate degree, or bachelor degree. An applicant who has achieved one of these but needs to obtain a copy will incur a minimal cost as a result of this change. An applicant who has not achieved one of these will incur a minimal-to-substantial cost from this change, depending on which of these the applicant chooses to obtain and how long it takes the applicant to obtain it.

The rules require a provider to use the residential building at the child care group home as the provider's principal place of habitation. Effective June 1, 2003, the Department adopted a policy to require this, based on the definition of "child care group home" in A.R.S. § 36-897. Thus, any costs resulting from this requirement should have been borne already. This requirement results in a significant benefit to the Department, parents of enrolled children, and enrolled children because the requirement ensures that a child care group home is truly a residential setting instead of a facility operated in an otherwise-unoccupied house.

The rules also require a provider to have completed three credit hours at a college or university or 60 clock hours of training in certain areas or to be registered as a Level II-B with S*CCEEDS. The rules provide a five-year grace period for existing providers to come into compliance, but require immediate compliance for new providers. However, the delayed effective date for the rules gives prospective providers some time to obtain the training. This change will result in a potentially moderate-to-substantial cost to an individual who wants to become a provider, because obtaining the credit hours or clock hours of training will take time and may cost money, although numerous free training seminars are available routinely throughout the state. This change will result in a significant benefit to the Department, enrolled children, and the parents of enrolled children because raising the level of education or training needed to be a provider should result in better quality child care services.

The rules require a provider to designate in writing an assistant provider who is at least 18 years of age; who has a high school diploma, high school equivalency diploma, associate degree, or bachelor degree or who is registered as a Level II-A with S*CCEEDS; and who has completed at least two credit hours at a college or university or 30 clock hours of training in certain areas. Requiring that an assistant provider have a minimum number of college credit hours or training hours will not result in a cost to an existing staff member who wants to become an assistant provider because the Department is not requiring compliance with this requirement until September 1, 2007, three years after the effective date of the rules. A staff member will be required to obtain 12 hours of training annually in the meantime. An individual who is not currently a staff member, however, may incur a minimal-to-substantial cost to obtain the required credit hours or training hours by September 1, 2007. However, these changes will result in a significant benefit to the Department, certificate holders, enrolled children, and parents of enrolled children because the rule is clearer, and the increased level of education or training should result in better quality child care services. The Department has found that rule violations are more common when the provider is not present at the child care group home and less qualified staff are left in charge.

The rules prohibit a provider from engaging in outside employment during hours of operation. This change will result in a potentially substantial cost to a provider who wants to engage in outside employment, but also will result in a significant benefit to the Department, certificate holders, parents of enrolled children, and enrolled children. The Department has found that compliance with the rules is enhanced by the presence of a provider, and this rule change helps to ensure that the provider will be present the majority of the time and will provide better quality child care services.

The rules require that tuberculosis testing be done using the Mantoux skin test or another tuberculosis test approved by the Centers for Disease Control and Prevention or the tuberculosis control officer. This represents a minimal cost to certificate holders or staff members because some may still be using the Tine test, which is less expensive and also less accurate than the Mantoux test. The rules also change the tuberculosis testing requirement to eliminate the requirement for testing residents younger than 12 years of age. This should minimally benefit certificate holders, who will need to pay for fewer tuberculosis tests.

The rules expand the staff member annual training requirement to include at least two subject areas and to include 12 rather than nine clock hours of training, which may result in a minimal cost to certificate holders because staff members may need to attend additional seminars to meet the new requirement. A number of training seminars are available free of charge throughout the state, but a certificate holder may need to pay an extra staff member to ensure coverage while another staff member attends training. This change will result in a significant benefit to the Depart-

ment, certificate holders, parents of enrolled children, and enrolled children because the increased level of training should result in better quality child care services.

The rules require that the provider or the assistant provider be present at all times when an enrolled child is at the child care group home. This change will result in no cost to a substantial cost to certificate holders because a provider or assistant provider can no longer leave a less qualified staff member in charge. (However, it is important to note that R9-5-802(A) already prohibits a staff member who is younger than 18 years of age or who does not have a high school diploma or high school equivalency diploma from working with enrolled children without direct supervision from the provider, so a provider who leaves such a staff member alone is in violation of the current rules.) The change should also result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because it should enhance compliance. The Department has found that rule violations are more common when the provider is not present at the child care group home and less qualified staff are left in charge.

The rules eliminate the requirement for a third staff member when more than 10 children are in care. This change represents a potentially substantial benefit to certificate holders because fewer staff members are required. It is important to note, however, that the Department will still require certificate holders to ensure that enrolled children are adequately supervised.

The rules adopt specific standards for exclusion of an enrolled child, resident, or staff member from the child care group home for illness or infestation. This change will result in a minimal cost to certificate holders from the time spent training staff on the standards. This change will also result in a potentially minimal cost to parents of enrolled children because some children who might not otherwise have been taken to a health care provider may be taken to a health care provider to obtain instructions regarding the children's return to child care. This change will also result in a potentially minimal cost for staff members because some staff members who might not otherwise have gone to a health care provider may go to obtain instructions regarding the staff member's return to work. This change should also significantly benefit parents of enrolled children, staff members, and certificate holders because fewer children will be excluded unnecessarily, some secondary transmission of communicable disease should be prevented, and those children and staff members who seek medical attention might experience fewer complications from illness than if they had not sought medical attention.

The rules allow a prescription medication to be administered from a manufacturer's sample, if the sample is accompanied by written administration instructions from a physician, physician assistant, or registered nurse practitioner. This change will result in a minimal-to-moderate benefit to parents of enrolled children, because they will be able to take advantage of the manufacturer samples commonly provided by physicians, physician assistants, and registered nurse practitioners, particularly for expensive prescription medications.

The rules require that a child care group home have a weekly schedule and base its program on the weekly schedule. This change will result in a minimal cost to certificate holders from the time spent planning and creating a weekly schedule. This change will result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because certificate holders will better plan activities, and the Department and parents of enrolled children will be better informed of the activities offered at a child care group home.

The rules require that a staff member with current certification in a nationally recognized health and safety training program such as American Red Cross Basic Water Rescue or American Safety and Health Institute Safety Training and Aquatic Rescue be stationed at a swimming pool during swimming activities at the child care group home. This change will result in a minimal cost to certificate holders; American Red Cross Basic Water Rescue training costs approximately \$30, takes five hours to complete, and results in a three-year certification. This change will also result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because the risk of an enrolled child's drowning will be reduced.

The rules add provisions to enhance sudden infant death syndrome prevention, such as prohibiting the use of bumper pads, pillows, quilts, comforters, sheepskins, stuffed toys, or other soft products in a crib with an infant and requiring that an infant be placed to sleep on the infant's back unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing. These changes will result in a minimal cost to certificate holders from the time spent training staff on the requirements, instructing parents on the requirements, and obtaining written instructions from some parents. These changes also will result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because the risk of a child's being suffocated or succumbing to sudden infant death syndrome will be reduced.

The rules change the square footage requirement for an outdoor activity area from at least 80 square feet per enrolled child to a total of at least 375 square feet, regardless of the number of enrolled children. This change will result in a potentially substantial benefit to applicants or certificate holders because it allows for a greater certified capacity and may enable some applicants to obtain certification who otherwise would not have been eligible to obtain certification because of the size of their outdoor activity areas.

The rules also require that an outdoor activity area directly border the residential building at the child care group home. This change will result in a potentially significant cost to certificate holders who use outdoor activity areas that do not directly border residential buildings, because they will have to relocate their outdoor activity areas. However, this change will result in a potentially significant benefit to the Department, enrolled children, and parents of enrolled

children because the requirement makes it less likely that an enrolled child will suffer injury or be lost en route to the residential building or because of a lack of supervision in an outdoor activity area.

The rules eliminate grass as a resilient surfacing material for placement under and around climbing structures and slides from which a child could fall 48 or more inches to the ground below and instead require use of at least six inches of fine loose sand or wood fiber product or the equivalent. This change will result in a moderate cost to certificate holders from obtaining and maintaining the resilient surfacing material, but a current certificate holder will be provided a one-year grace period to come into compliance, which should mitigate the burden. This change will also result in a potentially significant benefit to the Department, enrolled children, and the parents of enrolled children because the requirement will make it less likely that an enrolled child will suffer serious injury from a fall from playground equipment.

The rules require that only enrolled children, staff members, the provider's children, and child friends of the provider's children be permitted in an outdoor activity area during outdoor activities. This change will result in a potentially significant cost to certificate holders who do not have exclusive use of outdoor activity areas, from having to arrange use in compliance with the rules. This change will also result in a potentially significant benefit to the Department, enrolled children, and the parents of enrolled children because an enrolled child will be less likely to be harmed by a stranger or an unsupervised non-enrolled child in an outdoor activity area.

The rules require that special needs children who cannot walk or who use wheelchairs and children younger than 5 years of age be cared for only on the ground floor of a child care group home's residential building. Previously, the rules allowed children younger than 7 years of age to be cared for on a floor above or below the ground floor if the floor level on which care was provided had an exit directly to the outside. This change will result in a potentially substantial cost to certificate holders currently caring for these children on a floor other than the ground floor because they will need to change space utilization to comply with the standard and may have a reduced certified capacity if the available indoor activity area is reduced. This change will also result in a potentially significant benefit to the Department, certificate holders, staff members, enrolled children, and parents of enrolled children because it makes it less likely that an enrolled child or staff member will be harmed in a fire due to inability to evacuate efficiently.

The rules prohibit a provider from providing care to children 5 years of age or older on a floor above or below the ground level unless the floor on which care is provided has an exit that provides access to the ground floor outside. The rules previously allowed a provider to care for children older than 7 years of age on any floor. This change will result in a potentially substantial cost to certificate holders currently caring for children 7 years of age or older on a floor other than the ground floor and from which there is no exit that provides access to the ground floor outside. Such certificate holders will need to change space utilization or install exits to comply with the standard and may have reduced certified capacities if the available indoor activity area square footage is reduced. This change will also result in a potentially significant benefit to the Department, staff members, enrolled children, and parents of enrolled children because the requirement makes it less likely that an enrolled child or staff member will be harmed in a fire due to inability to evacuate.

The rules require a staff member doing diaper changing to wear single-use disposable medical-grade gloves. This change will result in a moderate-to-substantial cost to certificate holders from purchasing disposable gloves. This change also will result in a potentially significant benefit to the Department, enrolled children, parents of enrolled children, and staff members because the requirement enhances infection control practices and makes it less likely that disease-causing agents transmitted via the fecal-oral route or via bodily fluids will be transmitted from child to child or from child to staff member.

Finally, the rules prohibit new reptiles at a child care group home and allow existing reptiles only if the reptiles are kept out of certified areas and are kept either outside in a segregated area or in a glass or acrylic tank. This change will result in a potentially moderate-to-substantial cost to certificate holders with pet reptiles at the child care group home because the pet reptiles may need to be moved to a new habitat, which may need to be purchased. This change will also result in a significant benefit to the Department, enrolled children, and parents of enrolled children because reptiles carry Salmonella, and the requirement can help to prevent disease.

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

ADHS has made the following changes to the rules since the supplemental proposed rules:

Throughout the rules, ADHS has changed references to A.R.S. § 41-619.55(H) by removing the subsection designation. ADHS did this to be consistent with recent legislative changes to A.R.S. § 41-619.55 and to prevent problems from future changes.

In response to public comment and to eliminate a redundancy in laws, ADHS has removed all references to compliance with local jurisdictions' zoning requirements that were in the proposed R9-3-201, R9-3-203, and R9-3-302. ADHS does not have jurisdiction over local zoning laws and thus should not appear to enforce local zoning laws by verifying compliance with local zoning laws as a prerequisite to obtaining certification. Regardless of whether ADHS verifies compliance with local zoning laws, persons who operate child care group homes are legally obligated to comply with the zoning laws of their local jurisdictions. Thus, ADHS's involvement in determining compliance with local zoning laws would create a redundancy. Zoning is a local issue and not an ADHS issue. This change is not considered to be a substantial change because it eliminates a redundancy in laws and does not truly change the circumstances for

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persons who operate child care group homes; these persons are still obligated to comply with the zoning laws of their local jurisdictions and are still subject to potential closure for noncompliance with those laws, regardless of whether ADHS verifies that compliance. ADHS has also revised a cross-reference to R9-3-201 to be consistent with the removal of R9-3-201(B)(15).

In response to public comment and to clarify the rule and be consistent with R9-3-302's allowing college credit hours and training clock hours to serve as alternatives, ADHS has revised R9-3-303(10) to allow one credit hour in early education, child development, or a closely related field from an accredited college or university to be used as an alternative means of satisfying the annual training requirement.

In response to public comment and to clarify the rule and be consistent with current ADHS policy, ADHS has revised R9-3-314 to state that the first-aid kit needs to contain a sufficient quantity of each listed item to meet the needs of the enrolled children at the child care group home.

In response to public comment and to eliminate any potential appearance of bias, ADHS has revised R9-3-305 and R9-3-401 to refer to current certification in basic water rescue training completed through a nationally recognized health and safety training program such as American Red Cross Basic Water Rescue or American Safety and Health Institute Safety Training and Aquatic Rescue instead of referring to current certification in American Red Cross Basic Water Rescue training.

At the request of G.R.R.C. staff and to be consistent with the Privacy Act of 1974 and A.R.S. §§ 25-320 and 25-502, ADHS has eliminated all requirements related to social security numbers other than the requirement for an applicant to provide the applicant's social security number on an application.

At the request of G.R.R.C. staff, ADHS has made numerous changes throughout the rules for stylistic reasons and to make the rules more clear, concise, and understandable.

11. A summary of the comments made regarding the rule and the agency response to them:

I. FIRST PUBLIC COMMENT PERIOD

Rulemaking Process	
Public Comment	ADHS Response
The Association for Supportive Child Care-Phoenix (ASCC-P) and two providers expressed concern that the oral proceedings were scheduled during the business day. ASCC-P suggested that the oral proceedings should have been in the early evening or on the weekend.	ADHS scheduled the oral proceedings for the Notice of Supplemental Proposed Rulemaking to begin at 5:00 p.m.
A provider expressed concern that she and a number of other providers with whom she had talked had no notice of the proposed rules. Another provider expressed concern because she had only heard about the oral proceedings at a workshop.	ADHS solicited informal comment on the draft rules by sending out notice of the draft rules in November 2002 and sent out notice of the proposed rules in August 2003. Both mailings were sent to all current and pending certificate holders and various other interested parties.
A provider suggested that ADHS notify certificate holders before renewal about the new requirements so that they have time to come into compliance with requirements such as the zoning requirement.	ADHS will send out another mailing to all current and pending certificate holders once the rules are approved. The delayed effective date of September 1, 2004, should ease the transition for certificate holders. In addition, ADHS has removed all references to compliance with local jurisdiction's zoning requirements.
Children's Action Alliance (CAA) stated that the proposed rules are improved in many ways from earlier drafts and that CAA appreciates the effort and dialogue that have gone into their development.	ADHS appreciates the support.

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<p>The mother of a child cared for in an uncertified child care business asked whether commenters would be getting notification of when ADHS discusses the issues raised at the oral proceedings and whether that will be done in another oral proceeding.</p>	<p>ADHS explained that the internal discussions by ADHS staff would not be done in an oral proceeding and that no notice of those internal discussions would be provided. However, ADHS explained that if ADHS were required to do a Notice of Supplemental Proposed Rulemaking, ADHS would hold another public comment period, which would include at least one oral proceeding. ADHS explained that if the commenter wanted to be contacted about that, she would need to supply an address. The commenter declined to provide an address. ADHS scheduled two oral proceedings for the Notice of Supplemental Proposed Rulemaking, one in Phoenix and one in Tucson.</p>
<p>A provider asked when the rules would go into effect.</p>	<p>ADHS explained that it was not yet possible to say, because ADHS might have to do one or two Notices of Supplemental Proposed Rulemaking, which would mean holding additional public comment periods; there are numerous delays built into the rulemaking process; and rules take effect approximately 60 days after approval by G.R.R.C., if there has not been a request for and approval of an immediate effective date or a delayed effective date specified. ADHS has designated a delayed effective date of September 1, 2004.</p>
<p>Proposed Rules Generally</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>ASCC-P generally commended ADHS for the new rules, stating that they are well written and that the greater majority of the changes are for the better of children.</p>	<p>ADHS appreciates the support.</p>
<p>CAA stated that the proposed rule changes overall include a variety of positive improvements to strengthen safety requirements and to encourage professional training for child care providers to facilitate high quality services.</p>	<p>ADHS appreciates the support.</p>
<p>A provider expressed concern that the proposed rules would turn her home into a commercial daycare center, would place financial burdens on many providers, and would create a major exodus from state licensing.</p>	<p>ADHS has eliminated some of the provisions that might cause a certificate holder or provider to believe that the rules are overly burdensome.</p>
<p>A provider commented that a lot of the proposed rules are hard to follow.</p>	<p>ADHS has changed some of the rule language to make the rules clearer and easier to use.</p>
<p>Two providers expressed concern about having to comply with the federal food program, ADHS's rules, and city rules, because they do not always match. One provider expressed confusion about which requirements are supposed to be followed when they don't match.</p>	<p>ADHS explained during the oral proceeding that the provider should always follow the most stringent requirement. ADHS is adopting meal standards that are consistent with the requirements of the federal food program, but cannot adopt standards to be consistent with all local jurisdictions because of the variance among jurisdictions. ADHS has not made any changes in response to this comment.</p>
<p>A provider stated that the state should provide medical insurance for child care group home providers, because the child care group home providers contract with the state, but do not receive benefits from the state like other state workers.</p>	<p>ADHS explained that this issue is completely outside the scope of its jurisdiction. ADHS has not made any changes in response to this comment.</p>
<p>The mother of a child cared for in an uncertified child care business asked whether a provider is required to start a child care group home with 10 children in care (rather than fewer children).</p>	<p>ADHS explained that there is no such requirement. A certificate is required if there are at least five children in care, but can be obtained even with fewer than five children in care if the intention is to increase capacity to at least five. ADHS had not made any changes in response to this comment.</p>

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<p>The mother of a child cared for in an uncertified child care business asked whether it is possible to operate a child care business taking care of 10 or more children if the provider does not take DES kids.</p>	<p>ADHS explained that statute requires certification as a child care group home through ADHS in order to care for more than four children. ADHS further explained that licensure as a child care facility is required in order to care for more than 10 children for compensation. ADHS has not made any changes in response to this comment.</p>
<p>Section: R9-3-101. Definitions</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>CAA expressed concern about the new definition of “enrolled child,” which excludes the provider’s own children. CAA acknowledged that the proposed rule language complies with A.R.S. § 36-897.02, but stated that, combined with the elimination of the third staff member, the changes are unsafe and do not meet the state’s minimum responsibility. ASCC-P also expressed concern about the definition of “enrolled child” because it does not include providers’ children. ASCC-P stated that, combined with the elimination of the third staff member, it is setting the stage for an unsafe situation. The Association for Supportive Child Care—Flagstaff (ASCC-F) also expressed concern about the definition of “enrolled child” because it does not include providers’ children, and thus those children are not counted in ratios or supervision.</p>	<p>Under A.R.S. § 36-897.04(A)(1), ADHS does not have statutory authority to regulate the care provided to children in their parents’ homes. Under A.R.S. § 36-897.02(C), ADHS does not have statutory authority to regulate a provider’s own children. Thus, ADHS is adopting a definition of “enrolled child” that is consistent with its statutory authority. The definition excludes resident children and a provider’s own children from “enrolled child.” In addition, under A.R.S. § 36-897.02, ADHS does not have statutory authority to require a third staff member. ADHS has not made any changes in response to these comments.</p>
<p>A provider stated that she thinks it would be appropriate for providers’ children to be counted in ratio and capacity if they are younger than 7 or 8 years old and require more care than older children.</p>	<p>Under A.R.S. § 36-897.04, ADHS does not have statutory authority to regulate the care provided to children in their own homes. Under A.R.S. § 36-897.02, ADHS does not have statutory authority to regulate a provider’s own children. Thus, ADHS is adopting a definition of “enrolled child” that is consistent with its statutory authority. ADHS has not made any changes in response to this comment.</p>
<p>A provider expressed concern that mats are required to be waterproof and covered in plastic because this causes children to sweat. The provider wanted to know if she could put a sheet over a mat to alleviate this, even though the sheet is not waterproof.</p>	<p>ADHS explained that the definition of “mat” in the proposed rules allows either a foam pad with a waterproof cover or a foam pad that has a fabric cover and is machine-washable. ADHS also explained that the proposed rules require that a waterproof mat be covered with a sheet while in use. ADHS has not made any changes in response to this comment.</p>
<p>Section: R9-3-102. Time-frames</p>	
<p>Public Comment</p>	<p>ADHS Response</p>

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<p>CAA expressed concern about the lengthening of the overall time-frames for initial applications and renewal applications. CAA stated that the proposed time-frames are too long and will limit the number of providers who apply for and achieve certification. Also, CAA stated that five months is too long for problems at renewal to go unresolved because these problems affect the children in care. CAA suggested that ADHS seek increased funding for additional staff from the Governor and legislature rather than lengthening the time-frames. ASCC-P also expressed concern about the lengthening of the overall time-frames for initial and renewal certification. ASCC stated that this represents a hardship to providers and to agencies that work with providers.</p>	<p>ADHS is lengthening the time-frames to provide the public with a more realistic projection of how long it takes to obtain a certificate and to enable ADHS to be in compliance with the time-frames, not because ADHS intends to lengthen the time spent processing an application. Because of limited resources, ADHS has not been able to comply with some of its time-frames, which leads to refunding of fees and payment of penalties, further exacerbating the state budget situation. ADHS's Office of Child Care Licensing (OCCL) currently has 29 surveyors who are responsible to regulate approximately 2,141 child care facilities and approximately 355 child care group homes. OCCL also has three frozen surveyor vacancies and five frozen support staff vacancies. ADHS has tried for years to obtain funding to hire additional OCCL staff. Each OCCL surveyor currently has a caseload of approximately 86, 36 more than the National Association for the Education of Young Children's recommendation of 50. ADHS is required to inspect each child care group home before initial certification, before renewal, and at least twice annually. ADHS is also required to inspect each child care facility before initial licensure, before each renewal, and at least once annually. ADHS surveyors also investigate complaints at child care facilities and child care group homes and often need to inspect when there is a request for a change affecting a license or certificate. To best protect the health, safety, and welfare of children in child care settings, OCCL's top priorities are complaint investigations and enforcement actions. Thus, the processing of initial and renewal certificate applications sometimes takes longer than the current overall time-frames allow. ADHS addresses compliance problems during the renewal process as soon as ADHS becomes aware of them. ADHS has not made any changes in response to these comments.</p>
<p>Section: R9-3-201. Application for a Certificate</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider expressed confusion about what would be needed from zoning and whether this applies to new homes only or also to currently certified group homes.</p>	<p>ADHS has removed all references to compliance with local jurisdiction's zoning requirements.</p>
<p>A provider who is the certificate holder for two group homes asked if the new rules would require that she have the provider at her second home apply for a certificate for that home.</p>	<p>ADHS explained that local jurisdictions generally require that the certificate holder be the provider who lives in the home. Thus, to be compliant with local requirements, the provider who lives in the second home probably would need to apply to be the certificate holder for that home. However, ADHS has since removed from the rules all references to compliance with local jurisdiction's zoning requirements, and the rules do not prohibit one certificate holder from having two group homes.</p>

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<p>A provider asked whether there was going to be a grace period for current certificate holders to come into compliance with zoning and whether certificate holders in the process of coming into compliance were going to be able to renew. The provider stated that it takes six months to two years to obtain a conditional use permit to operate a child care group home in Glendale. The provider suggested that renewal should be allowed as long as the certificate holder can prove that the certificate holder is in the process of coming into compliance with zoning.</p>	<p>ADHS has removed from the rules all references to compliance with local jurisdictions' zoning requirements.</p>
<p>Section: R9-3-206. Inspections; Investigations</p>	
<p>A provider stated that the provider has on more than one occasion found that ADHS inspectors have misstated rules while at her home.</p>	<p>ADHS has changed some of the rule language to make the rules clearer and easier to use. ADHS has also designated a delayed effective date of September 1, 2004, which will enable ADHS staff to become familiar with the new rule requirements before they take effect.</p>
<p>Two providers stated that ADHS should announce its inspections instead of making surprise inspections. One of the providers stated that having ADHS surveyors present results in a lack of supervision of children in care.</p>	<p>A.R.S. § 36-897.05(B) requires ADHS to make at least one unannounced visit each year. ADHS has not made any changes in response to this comment.</p>
<p>Section: R9-3-302. Provider Qualifications and Responsibilities</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>Three providers commented that requiring an assistant provider to have at least three credit hours at a college or university or 60 clock hours of training or to be registered as a Level II-B with S*CCEEDS would make it extremely difficult for providers to find assistants. One commented that it is excessive and redundant. The two others expressed concern about the ability to find and to pay an individual who is equally qualified.</p>	<p>ADHS has reduced the qualifications for an assistant provider to require that an assistant provider:</p> <ol style="list-style-type: none"> 1. Have a high school diploma, high school equivalency diploma, associate degree or bachelor degree or be registered as a Level II-A with S*CCEEDS; and 2. Have completed at least two credit hours at a college or university or 30 clock hours of training in early education, child development, or a closely related field.
<p>A provider commented that the rules were not clear about whether an assistant provider would be required to complete the qualifying training before hiring and that, if the training were required before hiring, a provider would have to wait much longer to obtain certification. The provider suggested instead allowing hiring of an assistant with only basic first aid and CPR training and providing the assistant six months to one year to obtain further training, while requiring proof of ongoing training.</p>	<p>ADHS has changed the proposed rule to require an assistant provider to have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree or be registered as a Level II-A with S*CCEEDS when the rules go into effect on September 1, 2004, but not to require an assistant provider to have completed two credit hours at a college or university or 30 clock hours of training until September 1, 2007.</p>
<p>A provider commented that the requirement to have a provider who is not the certificate holder already have a valid fingerprint clearance card when the individual becomes a provider would severely limit a certificate holder's options in hiring because it takes almost four months to obtain a fingerprint clearance card, and it could result in a certificate holder's hiring less qualified employees just because they have fingerprint clearance cards.</p>	<p>ADHS has eliminated the requirement.</p>
<p>A provider commented that an assistant provider should not be required to be at least 21 years of age. The provider stated that a younger employee may be better suited for and more capable of working in a child care group home than an older employee. The provider commented that having an age requirement is discriminatory, but if there is going to be one, it should be 18, to coincide with the requirement for a high school diploma or high school equivalency diploma.</p>	<p>ADHS has reduced the minimum age requirement for an assistant provider to 18 years of age.</p>

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<p>A provider commented that providers who have been doing child care for more than five years should be grandfathered in and not required to meet the provider qualifications in the proposed rules, just to meet the current requirement for nine hours of annual training.</p>	<p>ADHS has changed the rule to give current providers until September 1, 2009, to come into compliance with the requirement for a provider to have three credit hours from a college or university or 60 clock hours of training in early education, child development, or a closely related field or to be registered as a Level II-B with S*CCEEDS.</p>
<p>A provider expressed confusion about what S*CCEEDS is and why it is included in the rules.</p>	<p>ADHS has added definitions for the different S*CCEEDS levels mentioned in the rules. The proposed rules already included a definition of "S*CCEEDS."</p>
<p>A provider questioned what proof is required for individuals who are home schooled, because they will not have high school diplomas or GEDs.</p>	<p>ADHS will require submission of a high school equivalency diploma for an individual who was home-schooled.</p>
<p>A provider commented that the amount of training for an assistant provider is too much and suggested that only half of the training in the proposed rules be required.</p>	<p>ADHS has reduced the qualifications for an assistant provider to require that an assistant provider:</p> <ol style="list-style-type: none"> 1. Have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree or be registered as a Level II-A with S*CCEEDS; and 2. Have completed at least two credit hours at a college or university or 30 clock hours of training in early education, child development, or a closely related field. <p>The requirements in (2) above will not be enforced until September 1, 2007.</p>
<p>An individual who, with her sister, has been operating an uncertified child care business for years expressed concern about the requirement that a provider have a high school diploma or high school equivalency diploma. The current requirement for a high school diploma or high school equivalency diploma prevents this individual and her sister from becoming certified. The commenter stated that the high school diploma or high school equivalency diploma is not necessary for an individual to change a diaper or love and care for a child. The commenter suggested that an annual 12-hour course be allowed as an alternative to a high school diploma or high school equivalency diploma.</p> <p>The mother of a child cared for in the sisters' uncertified child care business expressed her opinion that a high school diploma or GED should not be required for a provider who is older than a certain age, such as a grandmother or someone 20 or 30 years out of high school, because such an individual has years of child care experience, life experience, parent recommendations, and other qualifications more important than a high school diploma or GED. A high school diploma or GED is almost irrelevant at that point. The mother suggested that ADHS create an alternate qualification for such individuals, such as a grandfather clause or a training requirement.</p> <p>The mother of another child cared for in the sisters' uncertified child care business stated that a high school diploma is not necessary to care for a child under the age of 4. The mother suggested that the rules require training instead of a high school diploma when a provider is over a certain age, such as a grandparent.</p> <p>A provider stated that a high school diploma does not mean that an individual has a proper education to take care of a child. The provider was concerned that some good people would be unable to care for children because they do not have high school diplomas.</p>	<p>This is not a new requirement. The rules in 9 A.A.C. 5, Articles 7 through 10 already require that a provider have a high school diploma or a high school equivalency diploma. The change is that the proposed rules require proof of the high school diploma or high school equivalency diploma.</p> <p>The requirement is based on ADHS's decision that there needs to be a baseline, minimum educational requirement for the provider in a certified child care group home. A high school education helps to ensure that a provider will be able to succeed in operating a child care group home.</p> <p>To accommodate individuals who do not have high school diplomas or high school equivalency diplomas, but who have completed an associate degree or bachelor degree, ADHS has changed the rule to allow proof of an associate degree or bachelor degree instead.</p>

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<p>The mother of a child cared for in the sisters' uncertified child care business expressed concern about a provider's ability to obtain a copy of a high school diploma from 30 or 40 years ago.</p>	<p>ADHS explained that, thus far, ADHS has not had difficulty obtaining a copy of a high school diploma when a high school diploma exists and does not anticipate that a provider would have difficulty. ADHS has not made any changes in response to this comment.</p>
<p>Two providers commented that a back-up person should not be required to be 21 years old and to have 60 hours of training before being hired. The provider stated that the capability and responsibility of a back-up person is not determined by age and that this is just one more reason for someone to operate uncertified.</p>	<p>The proposed rules do not require a back-up provider. ADHS believes that these providers were referring to the qualifications for an assistant provider. ADHS has reduced the qualifications for an assistant provider to require that an assistant provider: 1. Have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree or be registered as a Level II-A with S*CCEEDS; and 2. Have completed at least two credit hours at a college or university or 30 clock hours of training in early education, child development, or a closely related field.</p>
<p>CAA stated its enthusiastic support for the changes in provider training requirements in R9-3-302. Specifically, CAA supports the redefined requirements for initial qualifications for providers and staff members and the inclusion of S*CCEEDS.</p>	<p>ADHS appreciates the support.</p>
<p>A provider expressed concern about the number of training hours required for a provider to obtain before opening a child care group home. The provider stated that workshops are not available in Flagstaff as often as they are in Phoenix. The provider stated that it could take someone 12 months to obtain the 60 hours necessary to become a provider. The provider suggested offering a two-day workshop in different communities twice a year to interested applicants.</p>	<p>ADHS has not made any changes to the provider training requirements in response to this comment. However, ADHS has changed the definition of "training" to allow computerized conferences, seminars, lectures, workshops, classes, or courses and to allow video training if an ADHS-provided form is completed as a record of the video training. ADHS believes that this should make the requirement less burdensome.</p>
<p>A provider expressed concern about the number of training hours or college credit hours required for an assistant provider. The provider suggested counting on-the-job training and video training instead of just workshop or classroom training.</p>	<p>ADHS has not made any changes to the provider training requirements in response to this comment. However, ADHS has changed the definition of "training" to allow computerized conferences, seminars, lectures, workshops, classes, or courses and to allow video training if a Department-provided form is completed as a record of the video training. ADHS believes that this should make the requirement less burdensome.</p>
<p>CAA stated its strong support for the requirement that a provider name a qualified assistant provider, that either the provider or the assistant provider be directly involved with child care during hours of operation, and that the provider not engage in outside employment.</p>	<p>ADHS appreciates the support.</p>
<p>ASCC-P expressed support for the enhanced training requirements and the inclusion of S*CCEEDS.</p>	<p>ADHS appreciates the support.</p>
<p>ASCC-F expressed support for the increased training requirements for a director and assistant director.</p>	<p>ADHS interpreted this as support for the increased training requirements for a provider or assistant provider. ADHS appreciates the support.</p>
<p>A provider expressed confusion about the qualifications for providers and assistant providers. The provider seemed to believe that each was required to have three credit hours from a college, did not know what S*CCEEDS is, and thought that the 60 hours of training might be required annually.</p>	<p>ADHS explained the qualification requirements for a provider or assistant provider in the proposed rules. ADHS also explained that S*CCEEDS has both age requirements and training requirements. ADHS has reduced the qualifications for an assistant provider so that they are now different from and lower than the qualifications for a provider.</p>

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<p>A provider asked how much time the provider would have to find another individual to replace the provider's back-up provider, who might not be qualified under the proposed rules. The back-up provider also operates a child care group home.</p>	<p>ADHS explained that the proposed rules would not prohibit the provider from having an assistant provider who meets all of the qualifications and who only comes into the home for a portion of the day. ADHS also explained that a provider who cares for only five children could have an assistant provider who only comes in as needed, not every day, just when the provider needs to do something else. ADHS has designated a delayed effective date of September 1, 2004, which should provide a provider adequate time to replace a staff member if necessary to comply with the new rules.</p>
<p>A provider asked whether an individual who has a certificate of completion of a Child Development Associate (CDA) program from a community college would qualify as a provider or assistant provider.</p>	<p>ADHS explained that if the CDA program requires completion of at least three credit hours related to child care at a college or university, that would qualify an individual to be a provider or assistant provider. ADHS has since reduced the qualifications for an assistant provider so that an assistant provider is now only required to have completed at least two credit hours at a college or university or 30 hours of training.</p>
<p>A provider expressed confusion about language in the economic impact summary of the preamble indicating that a provider who does not live in the residential building at a child care group home will need to move in or the certificate holder will need to find a provider who will move in. The provider requested an explanation of this statement.</p>	<p>ADHS explained that in the past, some certificate holders had multiple certified child care group homes and employed providers who did not actually reside in those homes. ADHS recently adopted a substantive policy requiring that the provider for a child care group home actually use the residential building at the child care group home as the provider's principal place of habitation. This is also reflected in the new R9-3-302(A)(3). ADHS has not made any changes in response to this comment.</p>
<p>CAA expressed its support for the requirement for submission of valid fingerprint clearance cards for staff.</p>	<p>ADHS appreciates the support.</p>
<p>A provider commented that requiring the posting of a sign when a child care group home is closed would invite car theft and burglary. The provider suggested requiring advance notification to ADHS instead when vacation results in closure of a child care group home.</p>	<p>ADHS has eliminated the posting requirement and is instead requiring advance notice to ADHS when a child care group home will be closed.</p>
<p>A provider requested clarification of the prohibition on a provider's engaging in outside employment regularly during hours of operation. Specifically, the provider asked whether charging rent to the residents of the provider's second child care group home (who include the provider's son) and allowing the son to operate a computer business out of the second child care group home are violations of this rule.</p>	<p>To clarify the requirements related to other businesses, ADHS has added a definition of "business" and language prohibiting operation of a business at or out of the residence during hours of operation unless the operation of the business does not involve persons coming into the residence because of the business.</p>
<p>Section: R9-3-303. Staff Member Qualifications</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider suggested increasing the number of training hours needed by an assistant from nine to 12 and requiring an additional number of hours of training each year.</p>	<p>ADHS interprets this as support for the increase in annual training hours from nine to 12 and appreciates the support.</p>
<p>ASCC-P expressed support for the enhanced training requirements and the inclusion of S*CCEEDS.</p>	<p>ADHS appreciates the support.</p>
<p>ASCC-F expressed support for the increased training requirement for staff members.</p>	<p>ADHS appreciates the support.</p>

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<p>A provider expressed concern that a staff member was required to have a valid fingerprint clearance card before being hired because this would severely limit the pool of individuals who could be hired.</p>	<p>ADHS explained that the proposed requirement pertained to providers and assistant providers, but not to other staff members. Other staff members were required to have a fingerprint clearance card or to apply for a fingerprint clearance card within seven days after employment. ADHS has changed the requirement so that providers and assistant providers are treated like other staff members.</p>
<p>CAA stated its enthusiastic support for the changes in training requirements in R9-3-303. Specifically, CAA supports the increase in annual training to 12 hours, the redefined requirements for initial qualifications for staff members, and the inclusion of S*CCEEDS.</p>	<p>ADHS appreciates the support.</p>
<p>A provider expressed concern about her inability to translate documentation of high school education from Mexico to determine whether it is a high school diploma. The provider was concerned that ADHS might not be able to tell either.</p>	<p>ADHS explained that, for high school diplomas that have to be submitted to ADHS, ADHS determines through consular or other government information whether a foreign document is a high school diploma. ADHS explained that, if there is a question about a foreign document that is not required to be submitted to ADHS, ADHS could obtain a copy and determine whether the document is a high school diploma. ADHS has not made any changes in response to this comment.</p>
<p>A provider asked whether a staff member other than the provider or assistant provider has to have the same qualifications as the provider or assistant provider.</p>	<p>ADHS explained that additional staff members are not required to meet the same qualifications. ADHS has not made any changes in response to this comment.</p>
<p>A provider asked whether it is okay to have her mother, who is a Mexican citizen and does not have a social security number, but who meets all of the qualifications for a staff member, serve as a volunteer staff member.</p>	<p>ADHS explained that there is not a citizenship requirement for staff members. If the provider's mother meets the qualifications for a staff member, she can serve as a staff member. ADHS has removed from the rules all requirements related to social security numbers other than the requirement for an applicant to submit the applicant's social security number with an application.</p>
<p>The mother of a child cared for in an uncertified child care business asked how frequently continuing education is required and what the subject areas are.</p>	<p>ADHS explained that continuing education is required annually and that the proposed rules required training in at least two of the subject areas listed for annual training in R9-3-303. ADHS has not made any changes in response to this comment. However, ADHS has added to the rule college credits and training approved by Arizona Train the Trainer (Arizona T³ training), a collaborative effort of ADHS, the Pima County Health Department, the University of Arizona Cooperative Extension, the Maricopa County Department of Public Health, the Arizona Department of Economic Security, Central Arizona College, the Arizona Department of Education, Glendale Community College, and the Southern Arizona Child Care Association.</p>
<p>The S*CCEEDS Policy Committee recommended that ADHS replace the 12 subject areas listed in R9-3-303(A)(9) with the five S*CCEEDS Core Knowledge Areas: Child and Family Development, Family and Community Contacts, Professional and Personal Development, Care and Teaching of Young Children, and Administration and Management.</p>	<p>ADHS has added the new subject areas "administration and management" and "care and teaching of young children" and changed the subject area "child growth and development" to read "child and family growth and development."</p>
<p>Section: R9-3-304. Resident Qualifications</p>	
<p>Public Comment</p>	<p>ADHS Response</p>

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<p>A provider questioned why the requirement for tuberculosis testing is only for those residents 12 years of age or older. The provider stated that all of the provider's children have had tuberculosis immunizations and expressed concern for children, because the provider believes that there is more tuberculosis now.</p>	<p>According to the American Academy of Pediatrics (AAP), children younger than 12 years of age with primary pulmonary tuberculosis usually are not contagious because their pulmonary lesions are small, cough is minimal or nonexistent, and there is little or no expulsion of bacilli. In addition, the AAP has stated that routine tuberculosis skin testing, including school-based programs that include low-risk populations, that has a low yield of positive results or a large number of false-positive results, represents an inefficient use of health care resources. Also, there is not an immunization against tuberculosis routinely administered in the United States. The rule requirement refers only to testing, not immunization. ADHS has not made any changes in response to this comment.</p>
<p>Section: R9-3-305. Recordkeeping Requirements</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider expressed confusion and concern about R9-3-305's requirements for multiple files. The provider believed that the proposed rule would require a provider to keep five or six files per child according to the child's needs. The provider suggested that each child only have one file with all of the child's information in it.</p>	<p>ADHS's intention with the proposed rule was to have only one file for each enrolled child, although there would have been a separate file to house together the Emergency Information and Immunization Record Cards for all enrolled children. However, ADHS has revised the rule to simplify and clarify the requirements and make them less burdensome.</p>
<p>Section: R9-3-306. Staffing Levels</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider commented that it is not necessary for a provider or assistant provider to be present at all times when an enrolled child is at the child care group home. The provider believes that this could result in naming an individual as assistant provider just because that individual works the right hours. The provider commented that this is not necessary in such a small business, particularly because the provider can always be reached by cell phone while out of the home.</p>	<p>ADHS believes that requiring that either the provider or assistant provider be present and actively involved at the child care group home at all times during hours of operation will result in a higher quality of care and improved compliance with the rules. ADHS has found that rule violations occur more frequently when the provider is not at the child care group home and less qualified staff are left in charge. ADHS has not made any changes in response to this comment.</p>
<p>A provider asked for clarification of the rule requiring the provider and assistant provider to be present at all times when children are enrolled.</p>	<p>ADHS explained that the proposed rules require that either the provider or the assistant provider be present at all times, not that they both be present at all times. ADHS clarified that if there are six to 10 enrolled children present, and the provider and assistant provider are the only staff members, then they would both have to be present, but not when only one to five enrolled children are present. ADHS has not made any changes in response to this comment.</p>
<p>A provider commented that the rule requiring a provider to be present at all times needs to be changed because providers have doctor's appointments and vacations.</p>	<p>ADHS explained that the proposed rule requires that either the provider or the assistant provider be present at all times, which accommodates providers' personal business such as doctor appointments. ADHS has not made any changes in response to this comment.</p>
<p>Four providers commented that eliminating the requirement for a third staff member when more than 10 children are in care is a good rule, particularly because a provider can only charge for 10 children.</p>	<p>ADHS appreciates the support.</p>

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<p>Three providers questioned whether a provider will be out of ratio if the provider does not have a third staff member present when there are more than 10 children present.</p>	<p>ADHS explained that the proposed rules do not include a ratio. The proposed rules are consistent with A.R.S. § 36-897.02, which requires that at least two adult staff members be present when six to 10 children are in care. ADHS emphasized that adequate supervision will still be required. ADHS has not made any changes in response to this comment.</p>
<p>A provider questioned whether the requirement will be for two adult staff members to be present regardless of how many children are present, even if there are only three children present, for example.</p>	<p>ADHS explained that at least two adult staff members are required to be present when six to 10 children are in care, not when fewer children are in care. ADHS has not made any changes in response to this comment.</p>
<p>A provider stated that she is considering dropping her license and reducing to four children because Arizona has not changed its ratio for 25 years, while other states have changed their ratios to 8:1. The provider stated that it is not reasonable to have a ratio without a license of 6:1 and a ratio with a license of 5:1.</p>	<p>The proposed rules do not include a ratio. The proposed rules are consistent with A.R.S. § 36-897.02, which requires that at least two adult staff members be present when six to 10 children are in care. It is also important to note that, under A.R.S. § 36-897.01, only four children can be cared for in an uncertified home. ADHS has not made any changes in response to this comment.</p>
<p>ASCC-P expressed concern about the elimination of the requirement for a third staff member when more than 10 children are in a home. ASCC-P stated that, combined with the new definition of “enrolled child,” it is setting the stage for an unsafe situation. ASCC-F expressed concern about the elimination of the requirement for the third caregiver when more than 10 children are in care. A provider commented that she has some concerns about the elimination of the requirement for the third staff member with more than 10 children and suggested wording the rule to emphasize the responsibility issue. CAA expressed concern about the elimination of the third staff member when more than 10 children are in care. CAA acknowledged that the proposed rule language complies with A.R.S. § 36-897.02, but stated that, combined with the new definition of “enrolled child,” the changes are unsafe and do not meet the state’s minimum responsibility.</p>	<p>The proposed rules are consistent with ADHS’s statutory authority. A.R.S. § 36-897.02(C) provides that for purposes of certification, the provider’s own children shall not be counted. A.R.S. § 36-897.04(A)(1) goes on to expressly exempt from ADHS’s regulatory authority the care provided to children in the homes of their own parents. Thus, the definition of “enrolled child” does not include resident children or the provider’s own children, even if those children are present and receiving care at a child care group home. Resident children or the provider’s own children would be non-enrolled children. A.R.S. § 36-897.02(B) requires that at least two adult staff members be present when six to 10 enrolled children are present at a child care group home. ADHS does not have statutory authority to require a third staff member when more enrolled children are present, although ADHS recognizes that there may be up to 15 enrolled children present (only 10 for compensation). A.R.S. § 36-897.02(D) limits the total number of children present at any time for whom compensation is received to 10, but A.R.S. § 36-897.02(E) allows for a total of 15 children to be present, including children related to the provider (thus including both enrolled and non-enrolled children). Although ADHS does not have statutory authority to require a third staff member when 11 to 15 enrolled children are present, ADHS emphasizes that adequate supervision of enrolled children will still be required. ADHS has not made any changes in response to these comments.</p>
<p>Two providers commented that providers should be allowed to charge for the 11th through 15th children cared for in a child care group home. One provider stated that prohibiting compensation for these children means that a child care group home is required to run at only 75% of its capacity and cannot afford to buy toys, equipment, and medical and dental insurance and cannot keep good employees. The other provider stated that providers need to get paid for those children so that they can better pay their staff.</p>	<p>ADHS does not have statutory authority to allow compensation for the 11th through 15th enrolled children in a child care group home. A.R.S. § 36-897.02(D) allows compensation for a maximum of 10 children, and A.R.S. § 36-897.02(E) allows a maximum of 15 children to be present at a child care group home. ADHS believes that the statute allows five children to be present without compensation so that the provider’s own children can be accommodated, not to encourage providers to provide free child care services to others.</p>

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A provider asked whether the provider can employ a staff member who does not have a high school diploma or high school equivalency diploma to fill in when the assistant provider is present, but the provider needs to go somewhere, such as to a doctor appointment.	ADHS explained that the proposed rules allow a provider to employ a staff member who does not have a high school diploma or high school equivalency diploma, but that such a staff member cannot work without the supervision of the provider or the assistant provider.
A provider asked if her mother, who is not a staff member, can watch her two children while she is caring for the five enrolled children at her home.	ADHS explained that ADHS does not have any requirements related to who takes care of a provider's children, only related to who takes care of enrolled children.
Section: R9-3-307. Enrollment of Children	
Public Comment	ADHS Response
A provider expressed confusion about who may enroll a child and what an individual enrolling a child is required to submit. The provider was concerned that ADHS was requiring that only a particular staff member be permitted to enroll children.	ADHS explained that the proposed rule specifies that a child is to be enrolled by the child's parent or by an individual authorized in writing by the child's parent and specifies what is to be submitted for enrollment, but does not address which staff member takes the enrollment information.
Section: R9-3-309. Insurance Requirements	
Public Comment	ADHS Response
A provider commented that the amount of vehicle insurance required in the proposed rules is too high, stating that the provider does not have that much now, although the provider's insurance company knows that the provider transports children. The provider stated that this would be costly.	The proposed rule set out the state's minimum automobile insurance requirements, which are established in A.R.S. § 28-4009. However, to prevent confusion, ADHS has changed the rule to refer to the statutes.
A provider commented that the increase in liability insurance would be costly.	ADHS has reduced the maximum liability limit required back to the currently required limit of \$100,000.
Section: R9-3-313. Administration of Medication	
Public Comment	ADHS Response
A provider questioned why more rules were included regarding medication, because the provider has never had a problem with medications.	ADHS's intention was to clarify the rule and accommodate for mail-order pharmacies and prescription medication samples. ADHS has changed the language to make it clearer and less burdensome.
Section: R9-3-401. General Program and Equipment Standards	
Public Comment	ADHS Response
CAA expressed its support for the swimming safety requirements in R9-3-401.	ADHS appreciates the support.
A provider asked whether a provider is expected to have activities for overnight care.	ADHS explained that a provider is not expected to have activities during the time that a child would be expected to be sleeping, such as from 8:00 p.m. to 6:00 a.m. However, if a child is present during the day or earlier in the evening, then ADHS would expect for there to be a program of activities for the child. ADHS has not made any changes in response to this comment.
Section: R9-3-402. Supplemental Standards for Resting or Sleeping	
Public Comment	ADHS Response
A provider commented that the rules prohibit the use of "pack and play" equipment, although these are easier to use, are more reasonably priced, and take less space to store than portable cribs. The provider suggested that the rules be changed to allow "pack and play" equipment to be used as a sleeping area for an infant.	ADHS believes that "pack and play" equipment is not as safe as a crib or portable crib because of the potential for improper set-up and consequent collapse and because of the difficulty in sanitizing mesh or fabric surfaces without causing degradation of the material. ADHS has not made any changes in response to this comment.

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A provider asked whether the rules now allow use of a provider's beds by enrolled children.	ADHS confirmed that the proposed rules do not prohibit use of a family bed by an enrolled child, as long as the sheets are clean and the family member is not using it. ADHS has not made any changes in response to this comment.
Section: R9-3-403. Supplemental Standards for Care of an Enrolled Infant or 1- or 2-Year-Old Child	
Public Comment	ADHS Response
A provider expressed confusion about the scope of the items prohibited in a crib with an infant, particularly the term "bedding items." The provider suggested that "bedding items" be defined and that the use of receiving blankets be allowed in a crib with an infant.	ADHS explained that the intention was to prohibit the use of soft bedding items such as comforters, sheepskins, and other fluffy items. ADHS has changed the language to make it clearer and has added a definition for the term "soft."
CAA stated its strong support for the reduction of the consecutive minutes that an infant or 1- or 2-year-old child can be kept in a confining structure while awake.	ADHS appreciates the support.
A provider expressed concern about the rule requiring that an infant 6 months of age or younger or an older infant incapable of holding a bottle be held during feeding and the rule prohibiting the propping of bottles because the provider cares for a 4-month-old infant who holds her own bottle while reclining in her crib, but might appear to have it propped.	ADHS explained that the proposed rule requires a staff member to hold and feed an infant younger than 6 months of age or an older infant who cannot hold a bottle for feeding. ADHS also explained that infants can only be given water in naptime bottles, so they cannot be fed in their cribs. ADHS emphasized that it is developmentally important for babies to be held and that ADHS has a concern about babies not being held enough. ADHS has not made any changes in response to this comment.
A provider questioned why the proposed rules prohibit the use of walkers, because the provider has used them for years and does not believe that they are unsafe if a home is child-proofed and a child is being supervised. Additionally, the provider believed that they are an important part of helping children to walk.	ADHS explained that walkers are considered to be unsafe, due to the risk of children's toppling out and the risk of falling down stairs in them. Additionally, ADHS explained that the use of a walker can hinder the development of walking skills. The AAP strongly urges that walkers not be used for these reasons. ADHS has not made any changes in response to this comment.
A provider requested clarification of what a walker is, whether it includes only those with wheels.	ADHS explained that "walker" includes only those devices with wheels, not the stationary exercise devices such as an Exersaucer. ADHS has not made any changes in response to this comment.
A provider expressed concern about the rule requiring that infants be placed to sleep on their backs. The provider was concerned about getting cited for a violation if infants roll from their backs during sleep. The provider suggested putting a different age limit on the requirement.	ADHS explained that ADHS does not expect a provider to turn an infant back over if the infant rolls during sleep. ADHS is aware that older infants often roll during sleep. However, placing an infant to sleep on the infant's back has been established as an important measure in preventing sudden infant death syndrome. ADHS explained that a provider should contact one of the team leaders with OCCL if the provider has a problem with the way that a surveyor enforces this rule. ADHS has not made any changes in response to this comment.
Section: R9-3-404. Supplemental Standards for Care of an Enrolled 3-, 4-, or 5-Year-Old Child	
Public Comment	ADHS Response
CAA stated its strong support for the addition of supplemental standards of care for 3- to 5-year-old children.	ADHS appreciates the support.
Section: R9-3-405. Supplemental Standards for Care of an Enrolled School-Age Child	
Public Comment	ADHS Response

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CAA stated its strong support for the addition of supplemental standards of care for school-age children.	ADHS appreciates the support.
Section: R9-3-406. Supplemental Standards for Care of an Enrolled Special Needs Child	
Public Comment	ADHS Response
A provider who cares for developmentally disabled children expressed confusion about language in the Preamble's economic impact summary indicating that a provider may need to open more space at a cost to the provider.	ADHS explained that the proposed rule prohibits caring for children who cannot walk or who are in wheelchairs on a floor other than the ground floor. Thus, if a provider is currently caring for such children on a different floor, the provider may need to use additional space on the ground floor that is currently not being used for child care. ADHS recognizes that this may be an inconvenience to the provider, even though it may not cost the provider any money, because the provider has lost the privacy of that space. In addition, ADHS notes that not being able to use space on a floor other than the ground floor could result in a reduction in certified capacity if the square footage on the ground floor is not sufficient to maintain the current certified capacity. ADHS is setting this requirement for safety reasons. Because up to 15 children may be in care with only two staff members present, there could be a real fire evacuation issue if non-ambulatory special needs children were cared for other than on the ground level. Also, there could be daily safety issues from getting these children upstairs and downstairs, if a home is not equipped with an elevator or ramps. <i>In Caring for Our Children: National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs</i> (2nd ed. 2002), the AAP, the American Public Health Association (APHA), and the U.S. Department of Health and Human Services' Health Resources and Services Administration (HRSA) recommend requiring small and large family child care homes caring for children with ambulatory difficulty or who use wheelchairs to provide care only on the ground floor unless provisions have been made for efficient emergency evacuation to a safe, sheltered area. The stated rationale is that caring for these children on the ground floor may eliminate the need for transporting them down the stairs during an emergency exit and further provides that where the ground floor cannot be used, arrangements need to be made to remove them to a safe location, such as a fire tower stairwell, during an emergency exit. ADHS has not made any changes in response to this comment.
Section: R9-3-410. General Nutrition and Menu Standards	
Public Comment	ADHS Response
Three providers expressed concern about the prohibition on serving 2% and whole milk to children 2 years of age and older. They commented that children will not drink 1% or skim milk and will thus miss out on the nutrition and vitamins that milk provides.	ADHS has changed the rule to allow service of 2% milk.
Section: R9-3-412. Transportation of Enrolled Children	
Public Comment	ADHS Response
A provider questioned whether a staff member may transport children in the staff member's car.	ADHS has added language to allow a staff member to transport enrolled children in the staff member's car.
Section: R9-3-501. General Physical Environment Standards	
Public Comment	ADHS Response

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<p>A provider stated that she does not have privacy in her master bathroom because ADHS requires availability of a second bathroom in her child care group home, even though she cares for a number of infants who do not use the bathroom.</p>	<p>ADHS explained that the proposed rule required a child care group home to have indoor bathroom facilities with at least one working toilet and one working sink available for each 10 enrolled children, excluding enrolled children who are in diapers. ADHS has changed the language of the rule to clarify the requirement for toilets and sinks.</p>
<p>Section: R9-3-502. Outdoor Activity Area Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider commented that the rule eliminating grass as a resilient surface should take into account the size of play equipment – resilient surfaces should be required only for equipment over a particular size requirement. For example, some portable play equipment is only 9, 14, 19, 27, or 34 inches high.</p>	<p>ADHS has changed the rule to require a resilient surface only under climbing equipment and slides from which a child could fall 48 or more inches to the ground below and is providing a one-year grace period for child care group homes certified before the effective date of the rules. The rule requires either a resilient surface or growing grass to be under and around other playground equipment.</p>
<p>Five providers and the adult child of a provider expressed concern about prohibiting grass as a resilient surface under and around playground equipment. They commented that grass is easier to maintain and keep clean than other surfaces and is less of a hazard. Sand is expensive, attracts cats and insects, becomes very hard if allowed to compact, and is an irritant if in contact with the mouth or eyes. Wood chips are expensive to purchase and maintain; attract insects; compact; and become brittle with time, causing splinters; and, if small in size, are a choking hazard. Pea gravel gets very hot in the sun and can burn and also, if it has sharp edges, can cause cuts when children fall on it. Children stick wood chips in their pockets and mouths, eat sand, and stick pea gravel in their ears and noses. Also, children pick up and throw sand, wood chips, and pea gravel. One provider added that she has not had a child injured from her jungle gyms and swing sets in almost 14 years. One provider suggested that currently certified homes be grandfathered in or that the resilient surface only be required if equipment is higher than three feet tall. The adult child of a provider commented that prohibiting grass as a resilient surface would be the first step toward creating an institutionalized setting and would detract from the nurturing, family atmosphere of a child care group home setting. The commenter suggested that, instead of increasing regulations, ADHS should increase the support system for providers.</p> <p>A provider commented that, in addition to making her child care group home more of an institutional setting, eliminating the grass from her backyard could hurt the resale value of her home.</p> <p>A provider commented that the provider did not want sand in the provider’s backyard because the provider’s family also uses the backyard, and the cost would be very high.</p>	<p>ADHS’s intention is not to eliminate grass from backyards. Rather, ADHS’s intention is to make outdoor activity areas safer for enrolled children. Grass is not a resilient surface. However, ADHS has changed the rule to require a resilient surface only under climbing equipment and slides from which a child could fall 48 or more inches to the ground below and is providing a one-year grace period for child care group homes certified before the effective date of the rules. The rule requires either a resilient surface or growing grass to be under and around other playground equipment.</p>
<p>Section: R9-3-504. Fire Safety Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>

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<p>A provider commented that requiring a child care group home to have at least one fire evacuation crib is a substantial hardship for a home that only cares for one or two infants because a fire evacuation crib costs at least \$300. The provider also commented that her doorways are narrow and have a step down, which would create an obstacle for a fire evacuation crib. The provider suggested requiring fire evacuation cribs only for homes that care for four or more infants at a time.</p>	<p>ADHS has eliminated the requirement from the rules.</p>
<p>A provider commented that prohibiting smoking on the premises would cause the provider to leave the children unattended so that the provider could go next door to the neighbor's to smoke. The provider suggested allowing smoking in an area not used by children.</p>	<p>ADHS has changed the rule to allow smoking on the premises during hours of operation if it is done outside of certified areas, outside of the residential building, and outside of the presence and sight of enrolled children.</p>
<p>Section: R9-3-505. General Safety Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>CAA expressed its support for the general safety standards in R9-3-505.</p>	<p>ADHS appreciates the support.</p>
<p>Section: R9-3-508. Pet and Animal Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>Two providers commented that reptiles should not be prohibited in child care group homes. One provider suggested that instead the rules should require proof that the reptiles are free from disease and vaccinated yearly and should require that reptiles be kept in cages locked with a key that is kept out of reach of children. Another provider suggested that existing reptiles be grandfathered in and required to be outside of the home or in uncertified space. The provider also stated that reptiles are a good teaching tool and, because so many children have allergies to animals with fur, a good pet option.</p>	<p>ADHS has changed the rule to grandfather in reptiles being kept at a child care group home when the rules go into effect, provided that the reptiles are kept outside of certified areas and either outside in a segregated area to which enrolled children do not have access or in a glass or acrylic tank or container that would not allow enrolled children to touch the reptile or the inside of the tank or container. The rule prohibits new reptiles at a child care group home.</p>
<p>A provider expressed confusion about why pet dishes need to be out of the reach of children. The provider stated that the provider teaches children not to get into them, that this is part of learning.</p>	<p>ADHS requires that pet dishes be kept out of the reach of children because they are unsanitary and can be a drowning hazard. ADHS has changed the requirement for pet dishes simply to require that they be kept in an area inaccessible to enrolled children during hours of operation.</p>
<p>CAA expressed its support for the prohibition of reptiles.</p>	<p>ADHS appreciates the support, but has revised the prohibition, as described above.</p>

II. SECOND PUBLIC COMMENT PERIOD

<p>Rulemaking Process</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>ASCC-P stated that holding the oral proceedings at 5:00 p.m. during a holiday week still does not make them accessible for most providers. Most child care homes provide care until at least 6:00 p.m. on weekdays. The Southern Arizona Association for the Education of Young Children (SAAEYC) expressed a similar concern, stating that an evening hearing, later than 6:00 p.m., would be more appropriate. SAAEYC also stated that December 23 is not a good time to have a public hearing. The Valley of the Sun Association for the Education of Young Children (VSAEYC) expressed support for all of ASCC-P's comments.</p>	<p>ADHS scheduled the oral proceedings after state business hours in an attempt to accommodate stakeholders who would not be able to attend during state business hours. ADHS did not believe that delaying the oral proceedings until after the new year would result in greater attendance, and believed that the delay would likely make it impossible for ADHS to meet its desired timeline for completing the rules. Stakeholders who are unable or who choose not to attend oral proceedings because the time is not convenient still have an opportunity to comment in writing.</p>

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Child Care Resource and Referral stated that, in the future, a document that shows the changes (what words are proposed to be removed and which added), would make evaluating the proposed changes much easier.	Because ADHS is repealing the current rules from one Chapter and adopting new rules in another Chapter, and the Office of the Secretary of State does not permit a single rulemaking to include more than one Chapter, it is not possible for ADHS to do the rulemaking in one rule package that includes the text of the current rules and shows the changes made to that rule text through use of strikeout and underlining. In future rulemakings, however, ADHS will be able to amend the rules in Chapter 3 and thus will be able to show changes to the rule text through use of strikeout and underlining.
SAAEYC stated that ADHS needs to provide translation at oral proceedings for people whose first language is Spanish. A provider in Tucson also stated that non-English-speaking Spanish speakers at the Tucson oral proceeding felt awkward and unfit to be there because they do not speak English.	ADHS is currently researching the best means to provide interpreter services to non-English speakers during oral proceedings. In the future, ADHS will state in the Preambles of Notices of Proposed Rulemaking that individuals should contact ADHS if they have special needs, such as a need for interpreter services, for an oral proceeding.
SAAEYC stated that ADHS representatives should use name tents during oral proceedings so that audience members can remember the names of the ADHS representatives.	ADHS will use name tents for future oral proceedings.
Rules Generally	
Public Comment	ADHS Response
A provider asked why the Arizona Department of Economic Security (DES) requirements and ADHS requirements are so different.	ADHS explained that DES requirements are for facilities that care for fewer than five children for compensation and whose clients receive DES child care subsidies, whereas the ADHS requirements pertain to facilities that care for five or more children for compensation.
A provider asked whether the care of the facility environment is any less or different with four children than with 10 children.	ADHS explained that the reason ADHS does not regulate homes that provide care for four or fewer children is because ADHS does not have statutory authority to regulate those homes. The legislature has not included those within ADHS's mandate.
A provider expressed confusion about whether the rules were just proposed, were going to go into effect, or might change.	ADHS explained that the rules were just proposed rules, meaning that they were not yet in effect and were subject to change. ADHS explained that ADHS may have to make substantial changes to the proposed rules and then would have to do another supplemental proposed rulemaking showing those changes and that while this rulemaking is going on, the current rules remain in effect.
Section: R9-3-201. Application for a Certificate	
Public Comment	ADHS Response

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ASCC-P stated that it is imperative that group homes be given adequate, appropriate, and timely notice about the new zoning requirements. Group homes have not been sent out materials explaining the new requirements. They were sent a postcard telling them to go to the ADHS website or to call to find out about the changes. Notice needs to be user/customer friendly, ensuring that those impacted by this change have enough lead time to comply. This change will have a major financial impact on providers, as some communities charge upward of \$900.00 to be approved by zoning, and others will be forced to close.

VSAEYC expressed support for all of ASCC-P's comments. VSAEYC explained that zoning requirements are very different from city to city, are confusing and difficult to obtain, and sometimes result in huge financial challenges to providers. VSAEYC expressed concern that requiring zoning compliance would result in providers' choosing to go underground and do child care illegally. VSAEYC also explained that not all providers understand that obtaining ADHS certification does not mean that local zoning requirements are being met. VSAEYC suggested that ADHS prepare a document comparing city zoning requirements to present to prospective providers at orientation, because the providers are not always able to obtain this information themselves.

A provider expressed support for this idea—having ADHS compile the city zoning information to provide at orientation. Two providers asked when providers were going to be required to come into compliance with zoning.

ADHS has removed from the rules all references to compliance with local jurisdictions' zoning requirements. On February 13, 2004, ADHS published a Notice of Public Information rescinding Substantive Policy # SP-024-DLS-CCL, which required written documentation of compliance with local zoning requirements as a prerequisite to initial or renewal certification. ADHS has also provided notice of the policy rescission through a letter sent to all currently certified and pending child care group homes.

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<p>ADHS received comments from 15 providers concerned about the requirement to show compliance with local zoning requirements.</p> <p>A provider from Gilbert explained that when she asked the City of Gilbert about requirements nine years ago, there were none, but now Gilbert does not allow care for more than four children without a commercial license, which costs \$5400 to obtain; requires a sprinkler system in the home; and requires posting of a sign, sending a letter to neighbors noticing the commercial licensing application, and holding a public hearing.</p> <p>A provider from Tolleson explained that the provider cannot continue doing child care in her home there because Tolleson zoning will not allow parking on her home's driveway or on the street. The provider also stated that Tolleson zoning was unable to tell her how many children would be allowed, what hours of operation would be allowed, or what the total cost would be.</p> <p>A provider from Chandler explained how it took her and several other providers nine months to get the City of Chandler to reclassify child care homes as noncommercial facilities. The provider suggested that ADHS work with the cities to try to make the city requirements more consistent.</p> <p>Several providers expressed concern that just one neighbor's opposition to a child care home can result in failure to obtain permission to operate from local zoning.</p> <p>A provider also asked whether zoning is a one-time thing or a continuing requirement. The Chandler provider stated that in Chandler, it is required every three years.</p> <p>A provider expressed concern that ADHS was not specific enough about what kind of zoning compliance is required and stated that her jurisdiction requires compliance with building codes to be in compliance with zoning.</p> <p>By an ADHS hand count, 15 individuals attended the Tucson oral proceedings specifically because of the zoning requirement, although only five of them chose to speak. More than one Tucson provider stated that the City of Tucson has no regulation that applies to group homes and wants to apply commercial child care center requirements to them. A provider from Tucson also stated that he obtained a business license to operate from the City of Tucson, but now is being told that he has to comply with city zoning requirements, which he was not required to comply with in order to obtain the business license.</p> <p>A number of providers expressed confusion about the interaction of the State and the cities regarding zoning authority, believing that the State, not the cities, would adopt zoning requirements.</p>	<p>ADHS has removed from the rules all references to compliance with local jurisdictions' zoning requirements.</p>
<p>A provider asked if it is possible to turn a home located on a main street into a commercial facility.</p>	<p>ADHS explained that ADHS does not provide limitations on where child care facilities can be located except for those found in statute related to agricultural land and that a different set of ADHS rules would apply.</p>

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<p>A provider asked if she would still need to comply with local zoning if she were to drop down to caring for five kids.</p>	<p>ADHS explained that the provider would still be operating a child care group home if she were caring for five children for compensation. The legislature has drawn the line between four children and five children. With four children, the home is not a child care group home, and the ADHS rules would not apply. With five children, the home is a child care group home, and the ADHS rules apply.</p>
<p>A provider asked how much time group homes in Tucson would have to become compliant with zoning once the City of Tucson decides what to do with group homes about zoning.</p>	<p>ADHS responded that that is really a city issue. The city will determine how much time a person had to come into compliance. ADHS does not have any control over that. ADHS has removed from the rules all references to compliance with local jurisdictions' zoning requirements.</p>
<p>Section: R9-3-205. Inspections; Investigations</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider expressed concern that the rules do not say anything about ADHS surveyors being courteous. The provider stated that she was yelled at and called a liar by a surveyor while she was under investigation.</p>	<p>ADHS explained that if someone believes that they have been treated improperly by a surveyor from OCCL, that individual should call OCCL to complain, because the Program Manager would want to know about that.</p>
<p>A provider expressed concern that individuals can make anonymous complaints to OCCL and might do that for a personal reason unrelated to the child care operation, such as because they owe the provider money or have another grudge.</p>	<p>Although ADHS is not required by statute to take anonymous complaints, and A.R.S. § 41-1010 actually requires that a complainant alleging a violation of statute or rule provide the complainant's name, ADHS cannot ignore an alleged violation of statute or rule once it has been made. As the regulating agency, charged with ensuring the health, safety, and welfare of children in child care, ADHS needs to investigate allegations even when the complainant refuses to provide a name. ADHS has found that many complainants are unwilling to identify themselves. From a policy perspective, it is preferable to allow anonymous complaints even if it means receiving some complaints that are invalid, because not allowing anonymous complaints might mean that parents and other individuals would be unwilling to complain, for fear of repercussions. Accepting anonymous complaints can result in enhanced safety for the children in care.</p>
<p>Section: R9-3-302. Provider Qualifications and Responsibilities</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>ASCC-P stated that reducing the age from 21 years to 18 years and reducing the requirements for the assistant provider are not in the best interest of children, due to the maturity and educational levels of the provider. VSAEYC expressed support for all of ASCC-P's comments.</p>	<p>The rules does not represent a reduction in age for a second staff member at a child care group home. The current rules do not require an assistant provider and allow a staff member who is 18 years of age and who has a high school diploma or high school equivalency diploma to care for children without the supervision of the provider. In the new rules, ADHS is adding an assistant provider, who needs to be present at all times when a provider is not, and is requiring that an assistant provider have at least two credit hours in early education, child development, or a closely related field or 30 clock hours of training in early education, child development, or a closely related field. This is an increase in qualifications from the current rules. ADHS has not made any changes in response to this comment.</p>

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<p>ASCC-P stated that there needs to be some accommodation made for providers who, due to various political and other situations outside of the U.S., are unable to obtain copies of their high school diplomas. ASCC-P is currently working with the Refugee Resettlement Program and is aware of many refugees who flee deplorable conditions with just the clothes on their backs. There is no way they can access their high school diplomas. It would be a shame not to allow people in this situation to work in child care because of circumstances beyond their control. VSAEYC expressed support for all of ASCC-P's comments.</p>	<p>ADHS believes that it would be discriminatory to allow only non-U.S. citizens to qualify as providers or assistant providers when they cannot show proof of a high school diploma or high school equivalency diploma. An individual who does not have a high school diploma or high school equivalency diploma can still work as a staff member in a child care group home (or a child care facility), although that individual would have to be supervised. If the individual desires to be a provider or assistant provider, the individual can take a GED exam to obtain a high school equivalency diploma. ADHS has not made any changes in response to this comment.</p>
<p>Two certified teachers who operate a child care group home stated that requiring the schooling necessary to help pre-school children learn instead of just being in a "day care" is a good rule.</p>	<p>ADHS appreciates the support.</p>
<p>SAAEYC expressed disapproval of the current and proposed provision allowing an 18-year-old staff member with a high school diploma to provide care unsupervised by the provider.</p>	<p>ADHS originally proposed a rule requiring that an assistant provider be at least 21 years of age and have training equal to that required for a provider. During the first public comment period, ADHS received a great deal of comment about the economic impact that this would have on providers, some of whom stated that they would no longer be able to afford to operate if required to have an equally qualified assistant provider and one of whom stated that she would not be able to use her most competent staff member as an assistant provider solely because of the age restriction. ADHS considered the comments and decided to compromise by allowing an assistant provider to be 18 years of age or older, as the second staff member is in the current rules, but requiring that an assistant provider have a certain amount of education or training in addition to a high school diploma, high school equivalency diploma, or associate or bachelor degree.</p>
<p>Section: R9-3-303. Staff Member Qualifications</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>ASCC-P stated that the S*CCEEDS Program was advised that the new rule would allow a category for professional development under the training subjects allowed. The rule does not do this and will not allow providers to count the S*CCEEDS orientation toward training, even though it does provide appropriate and relevant training for personnel. VSAEYC expressed support for all of ASCC-P's comments.</p>	<p>ADHS does not agree that the S*CCEEDS Program was advised that a category for "professional development" would be added to the list of training subjects allowed. ADHS made several changes to the list of training subjects allowed to be more consistent with the S*CCEEDS core competencies. However, ADHS believes that the S*CCEEDS core competency "personal and professional development" is overly broad and would be subject to abuse if included as a permissible training subject in the rule. ADHS has not made any changes in response to this comment.</p>
<p>A provider asked what the annual training requirement is going to be under the new rules and how college credits are going to be dealt with—whether college credits can be used to satisfy the 12 hours of annual training and whether the hours will still need to be in two different subject areas if they are college credits.</p>	<p>ADHS is increasing the annual training requirement from nine clock hours to 12 clock hours. To clarify the rule and to be consistent with R9-3-302's allowing college credit hours and training clock hours to serve as alternatives, ADHS has changed R9-3-303(10) to allow one credit hour in early education, child development, or a closely related field from an accredited college or university to be used as an alternative means of satisfying the annual training requirement. The credit hour can be from one class and does not need to cover two of the subject areas listed in R9-3-303(10).</p>
<p>Section: R9-3-306. Staffing</p>	
<p>Public Comment</p>	<p>ADHS Response</p>

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<p>ASCC-P stated that the rule allows a home to have only two providers when there are more than 10 children in the home. Under the best circumstances, this will not allow for adequate supervision of children and is not in the best interest of children. SAAEYC also expressed concern about allowing only two providers to care for more than 10 children, stating that it is not a good, safe practice. VSAEYC expressed support for all of ASCC-P's comments.</p>	<p>The rules are consistent with A.R.S. § 36-897.02, which requires that at least two adult staff members be present when six to 10 children are in care. ADHS does not have statutory authority to require additional staff members when more enrolled children are present. However, ADHS emphasizes that adequate supervision will still be required. ADHS has not made any changes in response to this comment.</p>
<p>A provider stated that ratios should be higher.</p>	<p>ADHS explained that statute requires that two adults be present whenever there are six to 10 children in care and that the rules do not go beyond that. ADHS has not made any changes in response to this comment.</p>
<p>SAAEYC stated that Arizona is one of the last states not to regulate group size for child care programs, including child care group home programs, and asked for an explanation of the 10 children requirement.</p>	<p>ADHS interprets this as a criticism of the rule's allowing two adult staff members to care for 10-15 children. The rules are consistent with A.R.S. § 36-897.02, which requires that at least two adult staff members be present when six to 10 children are in care. ADHS does not have statutory authority to require additional staff members when more enrolled children are present. However, ADHS emphasizes that adequate supervision will still be required. ADHS has not made any changes in response to this comment.</p>
<p>Section: R9-3-309. Insurance Requirements</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider asked whether his daughter, who has non-commercial automobile insurance, would be permitted to transport an enrolled child. The provider wanted to know if he needed to have a commercial policy or could just carry regular motor vehicle insurance. Another provider also asked whether commercial transportation insurance is required under the proposed rules.</p>	<p>ADHS explained that the rule allows staff members to transport, but requires that the motor vehicle used be covered by motor vehicle insurance with at least the coverage limits required by A.R.S. Title 28, Chapter 9. ADHS explained that the rule does not require commercial insurance, but advised the provider to discuss with his insurance company whether a claim submitted under those circumstances would be covered by the policy. Some insurers will not allow a claim if the incident occurs while the car is being used for business; it depends on the specific provisions of the policy.</p>
<p>Section: R9-3-310. Admission and Release of Enrolled Children</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider asked if it is permissible for a provider to meet a parent half-way to pick up the parent's child and transport the child by car to the child care group home. The provider asked how signing in would work in that situation.</p>	<p>ADHS explained that it is permissible to transport enrolled children under the rules if the requirements for the driver and the motor vehicle are met. The provider would need to comply with the transportation rule and the insurance rule. Also, ADHS explained that the provider would have to have written permission to transport the child and would need permission to sign the child in. R9-3-310(A) explains who can sign a child into or out from a child care group home.</p>
<p>Section: R9-3-313. Administration of Medication</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>Two certified teachers who operate a child care group home stated that the changes in the rules on giving medication are good.</p>	<p>ADHS appreciates the support.</p>
<p>Section: R9-3-314. First-Aid Kit</p>	
<p>Public Comment</p>	<p>ADHS Response</p>

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<p>A provider stated that because the first-aid kit rule does not state quantities, having any of an item required in the rule should mean that the provider is in compliance with the rule. The provider suggested that the rule be clarified to state how many of each item are required.</p>	<p>ADHS explained that ADHS's policy is to verify that a provider has a sufficient quantity to meet the need if more than one enrolled child gets hurt at the same time or needs an item. If a provider has only one adhesive bandage, for example, that would not meet the need if more than one child gets hurt and needs a bandage. ADHS has changed the rule to clarify that the first-aid kit needs to contain a sufficient quantity of each listed item to meet the needs of the enrolled children at the child care group home.</p>
<p>Section: R9-3-401. General Program and Equipment Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>The American Safety and Health Institute (ASHI) stated that it is a non-profit association of professional educators who provide nationally recognized health and safety training programs across the U.S. and in several foreign countries. ASHI expressed concern about the rule specifying that a staff member with current certification in American Red Cross Basic Water Rescue training be stationed at a swimming pool during swimming activities. ASHI requested recognition as a provider of basic water rescue training for staff persons at child care group homes. ASHI stated that this prescriptive language prevents authorized instructors of other nationally recognized training organizations from providing life-saving training programs. ASHI also stated that mentioning only certain fee-for-service providers biases consumers, restricts their choices, undermines free enterprise, and is not in the public's best interest.</p>	<p>ADHS has changed the rule language to require that a staff member with "current certification in basic water rescue training completed through a nationally recognized health and safety training program such as American Red Cross Basic Water Rescue or American Safety and Health Institute Safety Training and Aquatic Rescue" be stationed at a swimming pool during swimming activities.</p>
<p>Section: R9-3-406. Supplemental Standards for Care of an Enrolled Special Needs Child</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>Two certified teachers who operate a child care group home stated that keeping handicapped children on the ground level is a good rule.</p>	<p>ADHS appreciates the support.</p>

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<p>A provider stated that she is unsure how the rule can exclude special needs children or handicapped children from care on a different level because to do so would violate their rights to have the same access to learning that all children deserve.</p>	<p>ADHS explained that ADHS sees this simply as a safety issue. Considering that up to 15 children can be in care and that only two caregivers may be present, there could be a real fire evacuation issue if non-ambulatory special needs children are cared for other than on the ground level. Also, there could be daily safety issues from getting them upstairs and downstairs, if a home is not equipped with an elevator or ramps. ADHS does not intend to discriminate against anyone or to encourage providers to discriminate against anyone. This is just a practical limitation created for safety reasons, the same safety reasons that caused ADHS to restrict care for children younger than 5 other than on the ground floor.</p> <p><i>In Caring for Our Children: National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs</i> (2nd ed. 2002), AAP, APHA, and HRSA recommend requiring small and large family child care homes caring for children with ambulatory difficulty or who use wheelchairs to provide care only on the ground floor unless provisions have been made for efficient emergency evacuation to a safe, sheltered area. The stated rationale is that caring for these children on the ground floor may eliminate the need for transporting them down the stairs during an emergency exit and further provides that where the ground floor cannot be used, arrangements need to be made to remove them to a safe location, such as a fire tower stairwell, during an emergency exit.</p> <p>ADHS has not made any changes in response to this comment.</p>
<p>Section: R9-3-502. Outdoor Activity Area Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>Two certified teachers who operate a child care group home requested that ADHS not require that the outdoor activity area directly border the residential building. When they opened their child care group home in April 2003, they were not required by ADHS or local planning and zoning to attach the play area to the house. This will be an added cost that they did not allow for. They, as teachers, have been in charge of more than 25 students at a time, making sure they were escorted to a safe area for play, and haven't had any problems in the past. The play area is less than 25 feet away from the house and allows the enrolled children a safe environment to walk to the play area. The children are always escorted by two capable adults, and none of the children have been lost in transition.</p>	<p>ADHS is adopting the requirement that the play area directly border the residential building because it will make it easier for children to be supervised while in the outdoor activity area, if the provider needs to go briefly into the house, and while going into the house from the outdoor activity area, such as when a child leaves the outdoor activity area to get a drink or use the bathroom. ADHS is concerned that allowing use of a play area some distance from the residential building results in children's being left unsupervised either while in the outdoor activity area, because a staff member needs to go into the house for some reason, or while in the house, if the staff member stays with the rest of the children in the outdoor activity area, and a child goes into the house alone. Ensuring that the outdoor activity area is directly adjacent to the house will help to eliminate these lapses in supervision. ADHS has not made any changes in response to this comment.</p>
<p>A provider asked whether ADHS would agree on use of a resilient surface other than sand because the provider has trouble keeping sand and wood chips clean and considers them to be a health and safety hazard.</p>	<p>ADHS explained that the rule allows for use of a nonhazardous material documented in laboratory resiliency testing by the manufacturer to provide resiliency at least equivalent to the resiliency of six inches of fine loose sand or wood fiber product and explained that the resilient surface is only required under and around climbing structures and slides from which a child could fall 48 or more inches to the ground below.</p>
<p>A provider asked if grass is okay under swings.</p>	<p>ADHS explained that it is permissible because swings are not considered to be climbing structures or slides.</p>

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<p>An early childhood nurse consultant for the Pima County Health Department expressed concern about ADHS's allowing grass under and around playground equipment less than 48 inches tall and swings, because <i>Caring for Our Children</i> specifically recommends that grass not be considered an energy-absorbent surface under climbing equipment of any height.</p>	<p>ADHS explained that the originally proposed rules required resilient surfacing under and around all climbing equipment and swings. However, ADHS received a great deal of public comment regarding the expense of putting in resilient surfacing, individuals' preference for grass yards, and the institutionalization of child care group homes and compromised by allowing the use of smaller playground equipment and swings over grass surfaces.</p>
<p>Section: R9-3-504. Fire Safety Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>A provider asked about fire evacuation cribs in the rules and whether the fire department requires them.</p>	<p>ADHS explained that the requirement to have at least one fire evacuation crib was taken out of the rule when published in the Notice of Supplemental Proposed Rulemaking, so that the current situation—no requirement for a fire evacuation crib—is being maintained. ADHS explained that whether the local fire department requires a fire evacuation crib would probably differ from jurisdiction to jurisdiction.</p>
<p>Section: R9-3-505. General Safety Standards</p>	
<p>Public Comment</p>	<p>ADHS Response</p>
<p>Two certified teachers who operate a child care group home requested that ADHS not require that infants and children younger than 5 years of age be cared for only on the ground floor of the child care group home's residential building. They have spent more than \$60,000 to build a large room over a garage to use for child care. If they had known that this rule was being made, they would have built the addition on the ground level. They stated that an enrolled child or staff member could be harmed in a fire whether on the ground floor or a top floor. A two-story home that has been built with an exit to the exterior avoids a tremendous amount of problems because an exit directly to the exterior is always available; whereas, even on a ground floor there can be problems getting children and staff out safely. They have been trained by the fire department and know how to use commercial fire extinguishers and, as certified teachers, have been instructed on how to evacuate students from a potential fire hazard. Another provider also objected to the prohibition on caring for children upstairs in a group home. The provider understood the rule to prohibit caring for any child upstairs ever, even if there is a second stairway. The provider stated that in order to obtain a use permit, the provider had to install 26 fire alarms in the home, with 13 monitored by a paid third-party company, which calls the fire department immediately. Also, the provider stated that with two stairways down, everyone should be able to evacuate efficiently and effectively. The provider has one empty room upstairs that she would like to put to use, and the city would allow children to be cared for upstairs as long as their strict guidelines are followed. The provider also noted that the food program and the city currently allow children to be cared for upstairs as long as the same rules for downstairs are observed; it would be nice if all agencies would adopt similar rules.</p>	<p>ADHS sent out notice of the draft rules in November 2002 and sent out notice of the proposed rules in August 2003. Both mailings were sent to all currently certified and pending child care group homes. The rule does not prohibit care of any child upstairs, only care of infants and children younger than 5. Thus, an upstairs room can be used to care for children who are 5 years of age or older, provided that the upstairs level has an exit that provides access to the ground level outside. ADHS believes that, aside from the obvious hazard posed to young children from stairs, upstairs care of young children (younger than 5 years of age) also increases the risk of being trapped in an unsafe situation when fire breaks out. In <i>Caring for Our Children</i>, AAP, APHA, and HRSA recommend that infants and toddlers always be cared for only on the ground floor, with access directly to the outdoors. AAP, APHA, and HRSA recommend that older preschool-age children and school-age children be cared for only on the ground floor of buildings of wood construction unless care is provided in a daylight-lit basement with exits no more than a half-flight high; in a tri-level facility with half-flights of stairs; or in a facility equipped with an automatic sprinkler system, with exit stairs enclosed by at least a one-hour fire barrier, and with openings in those barriers protected by at least one-hour fire doors. They also recommend that each floor above or below ground level used for child care have at least two unobstructed exits that lead to an open area at ground level. While ADHS agrees that it would be easiest for certificate holders and providers to comply if all interested agencies used the same rules, ADHS does not have the authority to change the rules of other state agencies or of local jurisdictions, and ADHS believes that the rules establish appropriate minimum standards to ensure the health, safety, and welfare of children cared for in certified child care group homes. ADHS has not made any changes in response to these comments.</p>

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A provider asked if ADHS was allowing use of trampolines.	ADHS explained that the rules prohibit allowing enrolled children to use or have access to trampolines.
Section: R9-3-507. Diaper-Changing Standards	
Public Comment	ADHS Response
Two certified teachers who operate a child care group home stated that requiring the use of gloves when changing a baby's diaper is a good rule.	ADHS appreciates the support.

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 made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 3. ~~EXPIRED~~ DEPARTMENT OF HEALTH SERVICES
CHILD CARE GROUP HOMES**

ARTICLE 1. ~~EXPIRED~~ GENERAL

Section

R9-3-101.	<u>Expired Definitions</u>
R9-3-102.	<u>Time-frames</u>
Table 1.	<u>Time-frames (in days)</u>
R9-3-103.	<u>Individuals to Act for Applicant or Certificate Holder</u>

ARTICLE 2. CERTIFICATION

Section

R9-3-201.	<u>Application for a Certificate</u>
R9-3-202.	<u>Fingerprinting Requirements</u>
R9-3-203.	<u>Certificate Renewal</u>
R9-3-204.	<u>Changes Affecting a Certificate</u>
R9-3-205.	<u>Inspections; Investigations</u>
R9-3-206.	<u>Denial, Revocation, or Suspension of a Certificate</u>

ARTICLE 3. ADMINISTRATION

Section

R9-3-301.	<u>Certificate Holder Responsibilities</u>
R9-3-302.	<u>Provider Qualifications and Responsibilities</u>
R9-3-303.	<u>Staff Member Qualifications</u>
R9-3-304.	<u>Resident Qualifications</u>
R9-3-305.	<u>Recordkeeping Requirements</u>
R9-3-306.	<u>Staffing</u>
R9-3-307.	<u>Enrollment of Children</u>
R9-3-308.	<u>Enrolled Child Immunization Requirements</u>
R9-3-309.	<u>Insurance Requirements</u>
R9-3-310.	<u>Admission and Release of Enrolled Children</u>
R9-3-311.	<u>Illness and Infestation</u>
Table 2.	<u>Exclusion of an Enrolled Child from the Child Care Group Home</u>
R9-3-312.	<u>Suspected Abuse or Neglect of an Enrolled Child</u>
R9-3-313.	<u>Administration of Medication</u>
R9-3-314.	<u>First-Aid Kit</u>

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R9-3-315. Accident, Emergency, or Serious Injury Procedure

ARTICLE 4. PROGRAM AND EQUIPMENT STANDARDS

Section

<u>R9-3-401.</u>	<u>General Program and Equipment Standards</u>
<u>R9-3-402.</u>	<u>Supplemental Standards for Resting or Sleeping</u>
<u>R9-3-403.</u>	<u>Supplemental Standards for Care of an Enrolled Infant or 1- or 2-Year-Old Child</u>
<u>R9-3-404.</u>	<u>Supplemental Standards for Care of an Enrolled 3-, 4-, or 5-Year-Old Child</u>
<u>R9-3-405.</u>	<u>Supplemental Standards for Care of an Enrolled School-Age Child</u>
<u>R9-3-406.</u>	<u>Supplemental Standards for Care of an Enrolled Special Needs Child</u>
<u>R9-3-407.</u>	<u>Supplemental Standards for Evening and Nighttime Care</u>
<u>R9-3-408.</u>	<u>Toilet Training</u>
<u>R9-3-409.</u>	<u>Discipline and Guidance</u>
<u>R9-3-410.</u>	<u>General Nutrition and Menu Standards</u>
<u>Table 3.</u>	<u>Meals and Snacks Required to Be Served to Enrolled Children</u>
<u>Table 4.</u>	<u>Meal Pattern for Children</u>
<u>R9-3-411.</u>	<u>General Food Service and Food Handling Standards</u>
<u>R9-3-412.</u>	<u>Transportation of Enrolled Children</u>
<u>R9-3-413.</u>	<u>Field Trips</u>

ARTICLE 5. PHYSICAL ENVIRONMENT STANDARDS

Section

<u>R9-3-501.</u>	<u>General Physical Environment Standards</u>
<u>R9-3-502.</u>	<u>Outdoor Activity Area Standards</u>
<u>R9-3-503.</u>	<u>Swimming Pool Standards</u>
<u>R9-3-504.</u>	<u>Fire Safety Standards</u>
<u>R9-3-505.</u>	<u>General Safety Standards</u>
<u>R9-3-506.</u>	<u>General Cleaning and Sanitation Standards</u>
<u>R9-3-507.</u>	<u>Diaper-Changing Standards</u>
<u>R9-3-508.</u>	<u>Pet and Animal Standards</u>

ARTICLE 1. ~~EXPIRED~~ GENERAL

R9-3-101. Expired Definitions

In addition to the definitions in A.R.S. § 36-897, the following definitions apply in this Chapter, unless otherwise specified:

1. "Abuse" has the meaning in A.R.S. § 8-201.
2. "Accident" means an unexpected occurrence that:
 - a. Causes physical injury to an enrolled child, and
 - b. May or may not be an emergency.
3. "Accredited" means approved by the:
 - a. New England Association of Schools and Colleges,
 - b. Middle States Association of Colleges and Secondary Schools,
 - c. North Central Association of Colleges and Schools,
 - d. Northwest Association of Schools and Colleges,
 - e. Southern Association of Colleges and Schools, or
 - f. Western Association of Colleges and Schools.
4. "Activity" means an action planned by a certificate holder or staff member and performed by an enrolled child while supervised by a staff member.
5. "Activity area" means a specific indoor or outdoor space or room within a certified area of a child care group home that is designated by a certificate holder for use by enrolled children for activities.
6. "Adaptive device" means equipment used to augment an individual's use of the individual's arms, legs, sight, hearing, or other physical part or function.
7. "Adult" means an individual 18 years of age or older.
8. "Age-appropriate" means consistent with a child's age and age-related stage of physical growth and mental development.
9. "Applicant" means an individual or business organization requesting one of the following:
 - a. An initial certificate under R9-3-201,
 - b. A renewal certificate under R9-3-203, or
 - c. Approval of a change affecting a certificate under R9-3-204.
10. "Application" means the documents that an applicant is required to submit to the Department to request a certificate

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- or approval of a request for a change affecting a certificate.
11. “Arizona T3 training” means training approved by Arizona Train the Trainer, a collaborative effort of the Department, the Pima County Health Department, the University of Arizona Cooperative Extension, the Maricopa County Department of Public Health, the Arizona Department of Economic Security, Central Arizona College, the Arizona Department of Education, Glendale Community College, and the Southern Arizona Child Care Association.
 12. “Assistant provider” means a staff member who meets the qualifications of R9-3-302(B) and who acts on behalf of the provider in the provider’s absence.
 13. “Association or cooperative” means a group of individuals other than a corporation, limited liability company, partnership, or joint venture who have joined together to operate a child care group home.
 14. “Business” means an enterprise or organization that provides products or services for compensation or that involves the use or management of property for compensation.
 15. “Business organization” means an entity such as an association or cooperative, corporation, limited liability company, or partnership.
 16. “Certificate” means the written authorization issued by the Department to operate a child care group home in Arizona.
 17. “Certificate holder” means a person to whom the Department has issued written authorization to operate a child care group home in Arizona.
 18. “Certified area” means that portion of the child care group home, including the property around the residential building, that has been inspected and approved by the Department to be used for child care.
 19. “Certified capacity” means the maximum number of enrolled children for whom a certificate holder is authorized by the Department to provide child care services at a child care group home at any given time.
 20. “Change in ownership” means a transfer of controlling legal or controlling equitable interest and authority in a child care group home.
 21. “Child” means any individual younger than 13 years of age.
 22. “Child care” means providing attention, supervision, and guidance to an enrolled child.
 23. “Child care services” means the range of activities and programs provided by a certificate holder to an enrolled child, including personal care, supervision, education, guidance, and transportation.
 24. “Child Protective Services” means the Child Protective Services Program of the Arizona Department of Economic Security.
 25. “Clean” means:
 - a. To remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping; or
 - b. Free of dirt and debris.
 26. “Clock hour” means a 60-minute period.
 27. “Closely related field” means an area of study pertaining to the growth, development, physical or mental care, or education of children or to the management of a child care business.
 28. “Communicable disease” has the meaning in A.A.C. R9-6-101.
 29. “Compensation” means money or other consideration, including goods, services, vouchers, time, or another benefit, that is received as payment.
 30. “Contiguous grounds” means real property that can be enclosed by a single unbroken boundary line that does not encompass property owned or leased by another person.
 31. “Controlling person” has the meaning in A.R.S. § 36-881.
 32. “Corporal punishment” means any physical act that inflicts pain to the body of a child or that may result in physical injury to a child.
 33. “Corporation” means a legal entity:
 - a. Created under or subject to A.R.S. Title 10, Chapters 1 through 17;
 - b. Created under or subject to A.R.S. Title 10, Chapters 24 through 40; or
 - c. Created under the laws of another state and subject to A.R.S. Title 10, Chapter 15.
 34. “CPR” means cardiopulmonary resuscitation.
 35. “Credit hour” means an academic unit earned at an accredited college or university by attending a one-hour class session each week during a semester or equivalent shorter course term or completing equivalent practical work as part of a course.
 36. “Crib” means a bed with enclosed sides that is designed and manufactured to be used as a sleeping area for an infant or 1- or 2-year-old child.
 37. “Criminal history affidavit” means the document required by A.R.S. § 36-897.03(B).
 38. “Custody documents” means papers establishing who has the legal authority over and duty to care for a child.
 39. “Days” means calendar days, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or state holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday.

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40. “Department” means the Arizona Department of Health Services.
41. “Developmentally appropriate” means consistent with a child’s physical, emotional, social, cultural, and cognitive development, based on the child’s age and family background and the child’s personality, learning style, and pattern and timing of growth.
42. “Discipline” means to correct a child’s behavior that does not meet generally accepted levels of social behavior.
43. “Emergency” means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
44. “Emergency contact” means an individual designated by an enrolled child’s parent on the Emergency Information and Immunization Record Card as an individual to be notified in case of the enrolled child’s injury, illness, infestation, emergency, or serious injury if a parent cannot be located and notified.
45. “Endanger” means to expose an individual to a situation where physical or mental injury to the individual may occur.
46. “Enrolled child” means a child:
 - a. Who is not a child of the provider;
 - b. Who is not a resident at the child care group home;
 - c. Who has been placed to receive child care services by a parent, who may be a staff member other than the provider;
 - d. Who has been accepted by the provider to receive child care services; and
 - e. For whose care compensation may or may not be given.
47. “Evening and nighttime care” means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
48. “Excess liability insurance” means general liability insurance coverage in addition to the maximum dollar amount of coverage for which an insurer issues a general liability insurance policy.
49. “Factory-built building” has the meaning in A.R.S. § 41-2142.
50. “Family style” means a method in which food is self-served from a communal cooking or serving receptacle accessible to the individuals dining.
51. “Fever” means an elevation of body temperature that is:
 - a. 101° F or higher, if taken by mouth or ear; or
 - b. 100° F or higher, if taken under the arm.
52. “Field trip” means travel to a location away from a certified area for an activity and participation in the activity.
53. “File” means a portable folder, binder, or other container that holds documents.
54. “Food” means a raw, cooked, or processed edible substance or ingredient, including a beverage, used or intended for use in whole or in part for human consumption.
55. “Full-day care” means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
56. “General liability insurance” means a contract under which an insurance company agrees to indemnify a person against responsibility and any obligation to pay for the death, injury, or disability of a third party or for damage to the property of a third party, and does not include homeowner insurance.
57. “Governmental entity” means a board, commission, department, office, or other administrative unit of the United States, the state, or a political subdivision of the state.
58. “Grass” means any plant of the family Gramineae, having jointed stems, sheathing leaves, and seed-like grains.
59. “Guidance” means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
60. “Hazard” means a source of endangerment.
61. “Health care provider” means:
 - a. A physician;
 - b. A physician assistant;
 - c. A registered nurse;
 - d. A registered nurse practitioner;
 - e. An individual who is:
 - i. Licensed to practice psychology under A.R.S. Title 32, Chapter 19.1; or
 - ii. Licensed as a psychologist under the laws of another state;
 - f. An individual who is:
 - i. Licensed to practice occupational therapy under A.R.S. Title 32, Chapter 34;
 - ii. Employed as an occupational therapist by the U.S. government or one of its agencies and exempt from licensure under A.R.S. § 32-3422(3); or
 - iii. Licensed or certified as an occupational therapist under the laws of another state;
 - g. An individual who is:
 - i. Licensed to practice physical therapy under A.R.S. Title 32, Chapter 19;
 - ii. Practicing as a physical therapist in the U.S. Armed Services, U.S. Public Health Services, or Veterans

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79. “Locked” means secured with a key, including a magnetic key, or combination so that opening is not possible except by using the key or entering the combination.
80. “Manufactured home” has the meaning in A.R.S. § 41-2142.
81. “Mat” means one of the following of sufficient size and thickness to accommodate the height, width, and weight of a reclining child’s body:
 - a. A foam pad that has a waterproof cover, or
 - b. A foam pad that has a fabric cover and is machine-washable.
82. “Mechanical restraint” means a device, article, or garment attached or adjacent to a child’s body that the child cannot easily remove and that restricts the child’s freedom of movement or normal access to the child’s body, but does not include a device, article, or garment:
 - a. Used for orthopedic purposes, or
 - b. Necessary to allow a child to heal from a medical condition.
83. “Medication” means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or that is available without a prescription for the treatment or prevention of illness or infestation.
84. “Menu” means a written description of food that a child care group home provides and serves as a meal or snack.
85. “Mobile home” has the meaning in A.R.S. § 41-2142.
86. “Motor vehicle” has the meaning in A.R.S. § 28-101.
87. “Naptime” means any period during hours of operation, other than evening and nighttime hours, that is designated by a certificate holder for the rest or sleep of enrolled children.
88. “Neglect” has the meaning in A.R.S. § 8-201.
89. “1-year old” means a child who is at least 12 months of age but not yet 2 years of age.
90. “1-year-old-child care” means child care services provided to a 1-year old.
91. “Parent” means:
 - a. A natural or adoptive mother or father.
 - b. A legal guardian appointed by a court of competent jurisdiction, or
 - c. A “custodian” as defined in A.R.S. § 8-201.
92. “Part-day care” means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.
93. “Partnership” means a joining of two or more individuals to conduct business, as governed by A.R.S. Title 29, Chapter 3 or 5 or the laws of another state.
94. “Perishable food” means food that becomes unfit for human consumption if not stored to prevent spoilage.
95. “Person” means an individual, business organization, or governmental entity.
96. “Personal items” means those articles of property that belong to an enrolled child and are brought to the child care group home for that enrolled child’s exclusive use, such as clothing, a blanket, a sheet, a toothbrush, a hairbrush, a comb, a washcloth, or a towel.
97. “Physician” means an individual licensed as a doctor of:
 - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
 - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
 - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
 - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of another state.
98. “Physician assistant” means:
 - a. The same as in A.R.S. § 32-2501, or
 - b. An individual licensed as a physician assistant under the laws of another state.
99. “Playpen” means an enclosure designed and manufactured to be used as a contained recreational area for an infant or 1- or 2-year-old child.
100. “Premises” means a child care group home’s residential building and its contiguous grounds, including any structures on those grounds.
101. “Program” means a variety of activities organized and conducted by a staff member.
102. “Proof of immunity” means documentation of immunization or evidence of immunity that complies with A.A.C. R9-6-704.
103. “Reference” means an adult who is:
 - a. Familiar with a staff member’s character due to observations made as a friend or acquaintance, or
 - b. Familiar with a staff member’s work abilities due to observations made as a superior or leader in a business, educational, church, or other organizational setting.
104. “Registered nurse” means:
 - a. The same as in A.R.S. § 32-1601, or
 - b. An individual licensed as a registered nurse under the laws of another state.
105. “Registered nurse practitioner” means:

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- a. The same as in A.R.S. § 32-1601, or
 - b. An individual licensed as a registered nurse practitioner under the laws of another state.
106. “Regular basis” means at recurring, fixed, or uniform intervals.
107. “Residence” means a residential building and its contiguous grounds, including any structures on those grounds, that are to be used as a child care group home.
108. “Resident” means an individual who uses a child care group home as the individual’s principal place of habitation for 30 days or more during the calendar year.
109. “Residential building” means a dwelling, such as a house, used for human habitation.
110. “Resilient surface” means a shock-absorbing layer of material placed to cushion a fall, such as a rubber unitary surfacing material manufactured for use in outdoor activity areas, fine loose sand, pea gravel, wood fiber product, or shredded rubber.
111. “S*CCEEDS” means Statewide Child Care and Early Education Development System, an early childhood professional career registry funded by the Arizona Department of Economic Security.
112. “Sanitize” means to use heat, a chemical agent, or a germicidal solution to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
113. “School-age child” means a child who:
- a. Meets one of the following:
 - i. Is 5 years old on or before January 1 of the current school year, or
 - ii. Was 5 years old on or before January 1 of the most recently completed school year; and
 - b. Meets one of the following:
 - i. Attends kindergarten or a higher level program in a “school,” as defined in A.R.S. § 15-101, or “private school,” as defined in A.R.S. § 15-101, during the current school year;
 - ii. Attended kindergarten or a higher level program in a “school,” as defined in A.R.S. § 15-101, or “private school,” as defined in A.R.S. § 15-101, during the most recently completed school year;
 - iii. Is home schooled at a kindergarten or higher level during the current school year; or
 - iv. Was home schooled at a kindergarten or higher level during the most recently completed school year.
114. “School-age-child care” means child care services provided to a school-age child.
115. “Separate” means to exclude a child from and have the child physically move away from other children, while keeping the child within a staff member’s sight and sound.
116. “Serious injury” means trauma or damage to some part of the body that requires medical treatment.
117. “Service classification” means one of the following:
- a. Full-day care.
 - b. Part-day care.
 - c. Evening and nighttime care.
 - d. Infant care.
 - e. 1-year-old-child care, or
 - f. School-age-child care.
118. “Signed” means affixed with an individual’s signature or, if the individual is unable to write the individual’s name, with a symbol representing the individual’s signature.
119. “Sippy cup” means a lidded drinking container that is designed to be leakproof or leak-resistant and from which a child drinks through a spout or straw.
120. “Soft” means yielding readily to touch or pressure, such as with a fleece, chenille, or velour blanket.
121. “Space utilization” means the designated use of specific areas within a certified area for specific child care services or activities.
122. “Special needs child” means:
- a. A child diagnosed with a physical or mental condition that substantially limits the child’s ability to provide self-care or perform age-appropriate manual tasks or substantially limits any of the child’s other major life functions such as walking, seeing, hearing, speaking, breathing, or learning;
 - b. A child with a “developmental disability” as defined in A.R.S. § 36-551; or
 - c. A “child with a disability” as defined in A.R.S. § 15-761.
123. “Staff member” means an individual who works at a child care group home providing child care, regardless of whether compensation is received by the individual in return for providing child care, and includes a provider or assistant provider.
124. “Supervised” means:
- a. When used in reference to a non-staff-member individual or a staff member at the child care group home, directly visually observed;
 - b. When used in reference to an enrolled child indoors, monitored and kept within sight or sound; and
 - c. When used in reference to an enrolled child outdoors, monitored and kept within sight and sound.
125. “Swimming pool” has the meaning in A.A.C. R9-8-801.

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126. "Training" means instruction received through:

- a. Completion of a live or computerized conference, seminar, lecture, workshop, class, or course; or
- b. Watching a video presentation and completing a Department-provided form to make a record of the video instruction.

127. "Tuberculosis control officer" has the meaning in A.R.S. § 36-711.

128. "Wading pool" has the meaning in A.A.C. R9-8-801.

129. "Week" means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.

130. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

R9-3-102. Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Chapter is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Chapter is set forth in Table 1 and begins on the date that the Department receives an application.
 - 1.** The Department shall send a 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 or items needed to complete the application.
 - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing information or items from the applicant.
 - c. If an applicant fails to submit to the Department all of the information or items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.
 - 2.** If the Department issues a certificate or other approval to the applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1 and begins on the date of the notice of administrative completeness.
 - 1.** As part of the substantive review for an application for an initial certificate or a certificate renewal, the Department shall conduct an inspection that may require more than one visit to the child care group home or residence.
 - 2.** As part of the substantive review for a request for approval of a change affecting a certificate that requires a change in the use of physical space at a child care group home, the Department shall conduct an inspection that may require more than one visit to the child care group home.
 - 3.** The Department shall send a certificate or a written notice of approval or denial of a certificate or other request for approval to an applicant within the substantive review time-frame.
 - 4.** During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
 - a. If the Department determines that an applicant, a child care group home, or a residence is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
 - b. An applicant shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, written documentation of the corrections required in a statement of deficiencies, within 30 days after the date of the comprehensive written request for additional information or the supplemental request for information.
 - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.
 - d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
 - 5.** The Department shall issue a certificate or approval if the Department determines that the applicant and the child care group home or residence are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.

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- and the applicant submits documentation of corrections, which is acceptable to the Department, for any deficiencies.
6. If the Department denies a certificate or approval, the Department shall send to the applicant a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

Table 1. Time-frames (in days)

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Review Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Initial Certificate under R9-3-201</u>	<u>A.R.S. § 36-897.01</u>	<u>150</u>	<u>30</u>	<u>120</u>
<u>Certificate Renewal under R9-3-203</u>	<u>A.R.S. § 36-897.01</u>	<u>150</u>	<u>30</u>	<u>120</u>
<u>Approval of Change Affecting Certificate under R9-3-204(B)</u>	<u>A.R.S. §§ 36-897.01, 36-897.02</u>	<u>75</u>	<u>30</u>	<u>45</u>

R9-3-103. Individuals to Act for Applicant or Certificate Holder

When an applicant or certificate holder is required by this Chapter to provide information on or sign an application form or other document, hold a fingerprint clearance card, or complete Department-provided orientation, the following shall satisfy the requirement on behalf of the applicant or certificate holder:

1. If the applicant or certificate holder is an individual, the individual;
2. If the applicant or certificate holder is a corporation, an officer of the corporation;
3. If the applicant or certificate holder is a partnership, one of the partners;
4. If the applicant or certificate holder is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
5. If the applicant or certificate holder is an association or cooperative, a member of the governing board of the association or cooperative;
6. If the applicant or certificate holder is a joint venture, one of the individuals signing the joint venture agreement; and
7. If the applicant or certificate holder is a business organization type other than those described in subsections (2) through (6), an individual who is a member of the business organization.

ARTICLE 2. CERTIFICATION

R9-3-201. Application for a Certificate

- A.** To be eligible to obtain a certificate to operate a child care group home, an applicant for a certificate shall:
1. Be at least 21 years of age;
 2. Possess a high school diploma, high school equivalency diploma, associate degree, or bachelor degree;
 3. Complete Department-provided orientation that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 4. Hold a valid fingerprint clearance card.
- B.** To obtain a certificate to operate a child care group home, an applicant shall submit to the Department an application completed using a Department-provided form and including:
1. The applicant's name and social security number;
 2. The name to be used for the child care group home, if any;
 3. The address of the residence;
 4. The mailing address of the applicant, if different than the address of the residence;
 5. The phone number of the residence;
 6. The phone number of the applicant, if different than the phone number of the residence;
 7. The name and address of each controlling person;
 8. If the applicant is a business organization, the following:
 - a. The applicant's type of business organization;
 - b. The following information about an individual who is to serve as the primary contact for information regarding the application:
 - i. Name;
 - ii. Address;
 - iii. Phone number; and
 - iv. Fax number, if any;
 - c. The following information about the applicant's statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the applicant:

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- i. Name;
 - ii. Address;
 - iii. Phone number; and
 - iv. Fax number, if any;
 - d. The name, title, and address of each officer and board member or trustee;
 - e. A copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
 - f. If the applicant is a corporation, a certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated no earlier than six months before the date of application; and
 - g. If the applicant is a limited liability company, a certificate of good standing or a registration of good standing issued to the applicant by the Arizona Corporation Commission and dated no earlier than six months before the date of application;
 9. A list of the rooms to be used for child care services;
 10. A list of the service classifications to be offered at the child care group home;
 11. Whether the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building;
 12. If the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building, the following:
 - a. The year of manufacture for the mobile home, manufactured home, or factory-built building; and
 - b. Copies of the following documents:
 - i. The installation permit required by A.A.C. R4-34-801;
 - ii. If the residential building is a factory-built building, the certificate of occupancy required by A.A.C. R4-34-801; and
 - iii. If the mobile home is a rehabilitated mobile home, the rehabilitation permit required by A.A.C. R4-34-606 and the certificate of compliance issued under R4-34-606;
 13. A floor plan of the residential building to be used at the child care group home, showing:
 - a. The location and dimensions of each room in the residential building, with designation of the rooms to be used and not to be used for child care services;
 - b. The location of each exit from the residential building;
 - c. The location of each sink and toilet to be used by enrolled children;
 - d. The location of each smoke or heat detector in the residential building;
 - e. The location of each fire extinguisher in the residential building; and
 - f. The location of each telephone in the residential building;
 14. A site plan of the residence showing:
 - a. The location and dimensions of the outdoor activity area.
 - b. The height of the fence around the outdoor activity area.
 - c. The location of each exit from the outdoor activity area.
 - d. The location of the residential building.
 - e. The location of each swimming pool.
 - f. The location of the fence around each swimming pool.
 - g. The height of the fence around each swimming pool, and
 - h. The location and dimensions of any other building or structure at the residence;
 15. A copy of a certificate of completion issued by the Department showing that the applicant has completed the orientation required by subsection (A)(3);
 16. A copy of the applicant's high school diploma, high school equivalency diploma, associate degree, or bachelor degree;
 17. The following information about the applicant; each individual who is to be a staff member at the child care group home, including the individual who is to serve as the provider; and each individual who resides in the residential building to be used at the child care group home:
 - a. Full name;
 - b. Birth date;
 - c. If a staff member, job title;
 - d. If a resident, relationship to the applicant or provider;
 - e. If a staff member, hire date; and
 - f. If an adult staff member or an adult resident, the following:
 - i. If a fingerprint clearance card has not yet been obtained, date that an application for a fingerprint clearance card was submitted to the Department of Public Safety;
 - ii. If a fingerprint clearance card has not yet been obtained, the Department of Public Safety application number;

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- iii. If a fingerprint clearance card has been obtained, expiration date of the fingerprint clearance card; and
- iv. Date that a criminal history affidavit was completed;
- 18. A copy of the applicant's current and valid fingerprint clearance card;
- 19. A criminal history affidavit completed by the applicant;
- 20. A copy of a certificate of completion issued by the Department showing that the individual who is to serve as provider has completed the orientation required by subsection (A)(3);
- 21. A certified check, business check, or money order made payable to the Arizona Department of Health Services for the fee required by A.R.S. § 36-897.01; and
- 22. The notarized signature of the applicant affirming:
 - a. That the individual signing on behalf of the applicant is an individual designated under R9-3-103 and has the authority to sign on behalf of the applicant;
 - b. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state, unless the denial was based on the controlling person's failure to complete the certification or licensing process according to a required time-frame;
 - c. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
 - d. Whether the applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - e. That the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - f. That the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 - g. That the information provided in the application, including the information in the documents attached to the application form, is accurate and complete.

R9-3-202. Fingerprinting Requirements

- A.** A certificate holder shall hold a valid fingerprint clearance card issued under A.R.S. § 41-1758.03.
- B.** A certificate holder shall ensure that each adult staff member and each adult resident at a child care group home:
 - 1. Holds a valid fingerprint clearance card issued under A.R.S. § 41-1758.03; or
 - 2. Submits to the certificate holder a copy of a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming an adult staff member or adult resident.
- C.** If an adult staff member or adult resident holds a fingerprint clearance card that was issued before the staff member or resident became a staff member or resident at the child care group home, the certificate holder shall contact the Department of Public Safety within seven working days after the individual becomes a staff member or resident to determine whether the fingerprint clearance card is valid. The certificate holder shall make a written record of this determination, including the name of the staff member or resident, the date of the contact with the Department of Public Safety, and whether the fingerprint clearance card is valid.
- D.** Except as provided in subsection (G), a certificate holder shall not allow an individual to be an adult staff member or adult resident if the individual has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1, and has not received an interim approval under A.R.S. § 41-619.55.
- E.** Except as provided in subsection (G), a certificate holder shall not allow an individual to be an adult staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55 but is then denied a good cause exception under A.R.S. § 41-619.55 and a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.
- F.** A certificate holder shall ensure that each adult staff member and each adult resident submits to the certificate holder a completed criminal history affidavit, as required in A.R.S. § 36-897.03(B).
- G.** An individual may be an adult resident even if the individual has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1; an interim approval under A.R.S. § 41-619.55; or a good cause exception under A.R.S. § 41-619.55, but the certificate holder shall ensure that the individual is never on the premises during hours of operation.

R9-3-203. Certificate Renewal

- A.** At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application completed using a Department-provided form and including:
 - 1. The applicant's name;
 - 2. The child care group home's certificate number;
 - 3. The child care group home's name, if applicable;
 - 4. The child care group home's street address, mailing address, and telephone number;
 - 5. The applicant's type of business organization, if applicable;

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6. If there have been any changes in the controlling person information submitted under R9-3-201(B)(7), a list of the changes;
7. If there have been any changes to the organizational information submitted under R9-3-201(B)(8), a list of the changes and a copy of each new organizational document and each organizational document changed since the document was provided under R9-3-201(B)(8);
8. A certified check, business check, or money order made payable to the Arizona Department of Health Services for the fee required by A.R.S. § 36-897.01; and
9. The notarized signature of the applicant affirming:
 - a. That the individual signing on behalf of the applicant is an individual designated under R9-3-103 and has the authority to sign on behalf of the applicant;
 - b. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state, unless the denial was based on the controlling person's failure to complete the certification or licensing process according to a required time-frame;
 - c. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
 - d. Whether the applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - e. That the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - f. That the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 - g. That the information provided in the application, including the information in any documents attached to the application form, is accurate and complete;
- B.** An applicant that submits the items required by subsection (A) later than 45 days before the expiration of the current certificate shall submit to the Department the late filing fee required by A.R.S. § 36-897.01 in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services.
- C.** If an applicant submits to the Department the items required by subsection (A) and, if applicable, the fee required by subsection (B) before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).

R9-3-204. Changes Affecting a Certificate

- A.** At least 30 days before the date of a change in a child care group home's name, a certificate holder shall send the Department written notice of the name change. Within 30 days after the date of receipt of the notice, the Department shall issue an amended certificate that incorporates the name change but retains the expiration date of the current certificate.
- B.** At least 30 days before the date of an intended change in a child care group home's space utilization or certified capacity, a certificate holder shall submit a written request for approval of the change to the Department. The written request shall include:
 1. The certificate holder's name;
 2. The child care group home's name, if applicable;
 3. The child care group home's street address, mailing address, and telephone number;
 4. The name, telephone number, and fax number of a point of contact for the request;
 5. The child care group home's certificate number;
 6. The type of change intended:
 - a. Space utilization, or
 - b. Certified capacity;
 7. A narrative description of the intended change;
 8. If the intended change involves a modification of the residential building that requires a building permit, a copy of the building permit;
 9. A floor plan of the residential building that complies with R9-3-201(B)(13) and shows the intended changes; and
 10. The following additional information, as applicable:
 - a. If requesting a change in certified capacity, the square footage of the outdoor activity area and the square footage of the child care group home's indoor activity areas; and
 - b. If requesting a change in space utilization that affects individual rooms, the name and square footage of each affected room.
- C.** The Department shall review a request submitted under subsection (B) according to R9-3-102. If the child care group home will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter with the intended change, the Department shall send the certificate holder an approval of the request and, if necessary, an amended certificate that incorporates the change but retains the expiration date of the current certificate.

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- D. A certificate holder shall not implement any change described in subsection (B) until the Department approves the request and, if necessary, issues an amended certificate.
- E. At least 30 days before the date of a change in service classification, a certificate holder shall send the Department written notice of the change.
- F. At least 30 days before the date of a change in the ownership of a child care group home, a certificate holder shall send the Department written notice of the change. A new owner shall obtain a new certificate as prescribed in R9-3-201 before beginning operation of a child care group home.
- G. A certificate holder changing a child care group home's location shall apply for a new certificate as prescribed in R9-3-201. A certificate holder shall obtain a new certificate from the Department before beginning operation of a child care group home at a new location.
- H. Within 30 days after the date of a change in the organizational information provided under R9-3-201(B)(8), other than a change in ownership, a certificate holder that is a business organization shall send the Department written notice of the change.

R9-3-205. Inspections; Investigations

- A. The Department shall inspect a residence before issuing an initial certificate and a child care group home before issuing a renewal certificate and as often as necessary to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter. An applicant, certificate holder, or provider shall allow the Department immediate access to all areas of the residence or child care group home that may affect the health, safety, or welfare of an enrolled child or to which an enrolled child may have access during hours of operation.
- B. During an inspection or investigation, an applicant or certificate holder shall demonstrate to the Department that the applicant or certificate holder and the residence or child care group home are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.
- C. During an initial, annual, or renewal inspection, or upon request during an investigation, an applicant or certificate holder shall make the following available for Department review:
 - 1. If the residence or child care group home has a gas-powered appliance or heating and cooling device, including a permanently installed gas-powered grill or a gas-powered swimming pool heater, a copy of a violation-free gas inspection conducted within 12 months before the date of inspection by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
 - 2. A certificate of general liability insurance or of combined general liability insurance and excess liability insurance, issued to the applicant or certificate holder, covering the child care group home, and including the following information about the insurance:
 - a. The effective and expiration dates,
 - b. The maximum liability limit,
 - c. The number of enrolled children covered, and
 - d. Whether the policy includes a waiver of coverage for physical or sexual abuse of an enrolled child; and
 - 3. If a staff member will or does transport enrolled children in a motor vehicle, the following information:
 - a. The year, make, and model of each motor vehicle used or to be used to transport enrolled children; and
 - b. For each motor vehicle used or to be used to transport enrolled children, an insurance policy that complies with A.R.S. Title 28, Chapter 9.
- D. During an initial inspection, an applicant shall make the following available at the residence for Department review:
 - 1. If the residential building is a mobile home, manufactured home, or non-commercial factory-built building, the Insignia of Approval issued under A.A.C. R4-34-802; and
 - 2. If the residential building is a rehabilitated mobile home, the Insignia of Approval issued under A.A.C. R4-34-606.
- E. If the Department receives a complaint alleging a violation of A.R.S. Title 36, Chapter 7.1, Article 4 or this Chapter, the Department shall conduct an investigation. A certificate holder or provider shall permit the Department to interview each staff member or enrolled child outside of the presence of others as part of an investigation.

R9-3-206. Denial, Revocation, or Suspension of a Certificate

- A. The Department may deny, revoke, or suspend a certificate to operate a child care group home if:
 - 1. An applicant or certificate holder:
 - a. Has provided false or misleading information to the Department;
 - b. Fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time prescribed in R9-3-102(C)(4)(b);
 - c. Fails to allow the Department to enter the child care group home during hours of operation or to inspect required records;
 - d. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 4 or this Chapter; or
 - e. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, but refuses to submit or implement a plan acceptable to the Department to eliminate any deficiencies; or
 - 2. An applicant, certificate holder, or other controlling person:

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- a. Has been arrested or charged with an offense listed in A.R.S. § 41-1758.03(B) or (C);
 - b. Is the parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201;
 - c. Has been denied a certificate or license to operate a child care group home or a certificate or license to operate a child care facility in this state or another state, unless the denial was based on the individual's failure to complete the certification or licensing process according to a required time-frame;
 - d. Has had a certificate or license to operate a child care group home or a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
 - e. Has been denied a fingerprint clearance card or has had a fingerprint clearance card suspended or revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
 - f. Has had a formal enforcement action issued against the individual by the Department under A.R.S. Title 36, Chapter 7.1, Article 1 or Article 4; or
 - g. Has had a restraining order and injunction issued against the individual by the county attorney or the attorney general under A.R.S. Title 36, Chapter 7.1, Article 1 or Article 4.
- B.** In determining whether to deny, suspend, or revoke a certificate, the Department shall consider the threat to the health and safety of enrolled children at a child care group home based on factors such as those listed in A.R.S. § 36-897.06(B)(1) through (10).

ARTICLE 3. ADMINISTRATION

R9-3-301. Certificate Holder Responsibilities

- A.** The certificate holder for a child care group home shall designate in writing a provider who meets the qualifications of R9-3-302(A) to act on behalf of the certificate holder and to be responsible for the daily on-site operation of the child care group home.
- B.** The certificate holder for a child care group home shall ensure that:
- 1. The provider meets the qualifications of R9-3-302(A) and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - 2. An assistant provider meets the qualifications of R9-3-302(B) and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - 3. Each staff member, including the provider or assistant provider, meets the qualifications of R9-3-303 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - 4. Each non-staff-member resident meets the qualifications of R9-3-304 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 - 5. The child care group home complies with all requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.

R9-3-302. Provider Qualifications and Responsibilities

- A.** To be a provider, an individual shall:
- 1. Be at least 21 years of age;
 - 2. Satisfy one of the following:
 - a. Have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree and have completed at least:
 - i. Three credit hours in early education, child development, or a closely related field from an accredited college or university; or
 - ii. 60 clock hours of training in early education, child development, or a closely related field; or
 - b. Be registered as a Level II-B with S*CCEEDS;
 - 3. Use the residential building at the child care group home as the individual's principal place of habitation;
 - 4. Complete Department-provided orientation that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 - 5. Meet the qualifications for a staff member in R9-3-303.
- B.** To be an assistant provider, an individual shall:
- 1. Be at least 18 years of age;
 - 2. Satisfy one of the following:
 - a. Have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree; or
 - b. Be registered as a Level II-A with S*CCEEDS;
 - 3. Have completed at least:
 - a. Two credit hours in early education, child development, or a closely related field from an accredited college or university; or
 - b. 30 clock hours of training in early education, child development, or a closely related field; and
 - 4. Meet the qualifications for a staff member in R9-3-303.
- C.** The provider for a child care group home shall ensure that:
- 1. Each staff member, including the provider or assistant provider, meets the qualifications of R9-3-303 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;

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2. Each non-staff-member resident meets the qualifications of R9-3-304 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
3. The provider designates in writing a staff member who meets the qualifications of subsection (B) to act as the assistant provider, who assumes the responsibilities of the provider when the provider is absent;
4. The assistant provider is present and actively involved at the child care group home at all times during hours of operation when the provider is absent;
5. The provider does not engage in outside employment during hours of operation and does not operate another business at or out of the residence during hours of operation;
6. No other business is operated at or out of the residence during hours of operation unless the operation of the business does not involve persons coming into the residence because of the business;
7. Child care is provided only in certified areas;
8. Each parent of an enrolled child is informed that the parent has immediate access to all certified areas during hours of operation;
9. Each parent of an enrolled child is allowed immediate access to all certified areas during hours of operation;
10. The following are allowed immediate access to the child care group home during hours of operation:
 - a. The Department;
 - b. The local health agency;
 - c. Child Protective Services;
 - d. The local fire department or Office of the State Fire Marshal, and
 - e. An inspector from the local jurisdiction verifying compliance with local codes and ordinances;
11. The following information is posted in a location that can be viewed by individuals entering or leaving the child care group home:
 - a. The child care group home certificate;
 - b. The name of the provider;
 - c. The name of the assistant provider;
 - d. A sign stating:
 - i. That inspection reports for the child care group home are available for review at the child care group home;
 - ii. The address of the Office of Child Care Licensing, and
 - iii. The telephone number of the Office of Child Care Licensing;
 - e. The hours of operation for the child care group home; and
 - f. A weekly menu;
12. Each non-staff-member individual who is in a certified area of the child care group home where an enrolled child is present, including an outdoor activity area, is supervised by a staff member at all times;
13. Except as provided in R9-3-413(C), each enrolled child is supervised by a staff member at all times;
14. Each non-adult staff member or staff member who does not possess a high school diploma, high school equivalency diploma, associate degree, or bachelor degree is supervised at all times by the provider or, in the provider's absence, by the assistant provider;
15. Each staff member is able to communicate with each enrolled child who communicates verbally;
16. Each staff member is knowledgeable about and able to provide verbal or written information upon request about each enrolled child's progress in the acquisition of skills, emotional development, and new or unusual behavior during daily activities;
17. At least one staff member with current certification in CPR specific to infants and children and pediatric first aid is at the child care group home at all times during hours of operation;
18. Each staff member records the times of the staff member's arrivals and departures on each day that the staff member works;
19. The provider complies with all applicable requirements in 9 A.A.C. 6, Article 7;
20. The provider notifies the Department at least 72 hours in advance whenever the child care group home will be closed for one or more days;
21. Child Protective Services or a local law enforcement agency and the Department are notified immediately of any suspected child abuse or neglect, as required by R9-3-312;
22. The Department is notified orally within 24 hours and in writing within 72 hours after one of the following occurs:
 - a. An injury to an enrolled child at the child care group home that results in the child's needing medical attention;
 - b. The death of an enrolled child or other individual at the child care group home;
 - c. Damage to a building at the child care group home, to a vehicle used in transporting enrolled children, or to equipment used in providing child care that affects the provider's ability to provide child care services in compliance with this Chapter;
 - d. Loss of a utility at the child care group home, such as electricity or water, that affects the provider's ability to provide child care services in compliance with this Chapter;
 - e. Loss of an enrolled child for any period of time, for any reason;

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- f. Fire at the child care group home;
 - g. An incident requiring police response, fire response, or other emergency response at the child care group home during hours of operation; or
 - h. The provider is notified that a staff member or adult resident:
 - i. Has been denied a fingerprint clearance card, an interim approval under A.R.S. § 41-619.55, or a good cause exception under A.R.S. § 41-619.55;
 - ii. Has had the staff member's or adult resident's fingerprint clearance card revoked or suspended; or
 - iii. Has been arrested for or charged with an offense listed in A.R.S. § 41-1758.03(B) or (C);
23. A parent of each enrolled child is notified orally, or an attempt is made to notify a parent of each enrolled child orally, immediately and a parent of each enrolled child is notified in writing within 24 hours after an incident requiring police response, fire response, or other emergency response at the child care group home during hours of operation; and
24. The provider submits to the Department a document containing the information described in R9-3-201(B)(17) once every 12 months after initial certification.
- D.** An individual who is serving as a provider when this rule becomes effective is required to have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree, but is not required to comply with subsection (A)(2)(a)(i) or (ii) or subsection (A)(2)(b) until September 1, 2009.
- E.** An assistant provider is required to have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree or to be registered as a Level II-A with S*CCEEDS, but is not required to comply with subsection (B)(3)(a) or (b) until September 1, 2007.

R9-3-303. Staff Member Qualifications

To be a staff member, an individual shall:

1. If the staff member will work with enrolled children only while supervised by the provider or assistant provider, be at least 16 years of age or registered as a Level I with S*CCEEDS;
2. If the staff member will work with enrolled children without being supervised by the provider or assistant provider:
 - a. Be at least 18 years of age and have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree; or
 - b. Be registered as a Level II-A with S*CCEEDS;
3. Not be the parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201;
4. If an adult, comply with the fingerprinting requirements in R9-3-202;
5. If an adult, submit to the certificate holder a criminal history affidavit completed by the staff member;
6. Demonstrate freedom from infectious pulmonary tuberculosis by submitting one of the following to the certificate holder:
 - a. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that a Mantoux skin test administered to the staff member no earlier than 12 months before and no later than 12 hours after becoming a staff member was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative at least 48 and no later than 72 hours after test administration;
 - b. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that another test for tuberculosis, recommended by the Centers for Disease Control and Prevention or the tuberculosis control officer, administered to the staff member no earlier than 12 months before and no later than 12 hours after becoming a staff member was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative; or
 - c. If the staff member cannot comply with subsection (6)(a) or (b), a statement dated no earlier than 12 months before becoming a staff member and written by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that the staff member is currently free from infectious pulmonary tuberculosis;
7. Unless opposed to immunization for religious reasons as described in subsection (8), demonstrate immunity to measles, rubella, diphtheria, and tetanus or establish a medical exemption from immunization:
 - a. By submitting to the certificate holder a copy of the staff member's proof of immunity or a written statement signed by the staff member attesting to immunity; and
 - b. For any of the diseases listed in subsection (7) for which a staff member has not received immunization and cannot attest to immunity, by submitting to the certificate holder a written statement signed by a physician, physician assistant, registered nurse practitioner, or registered nurse stating that the immunization would endanger the staff member's health or medical condition;
8. If opposed to immunization for religious reasons, submit to the certificate holder a written statement signed by the staff member attesting to the staff member's membership in a religion whose teachings are in opposition to immunization;
9. Complete training in the following subject areas within 10 days after becoming a staff member:
 - a. The statutes and rules that govern child care group homes, including staff member responsibilities;
 - b. The names, ages, and needs of enrolled children;

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- c. Guiding and disciplining enrolled children;
 - d. Hand washing;
 - e. Diapering, if any enrolled children are in diapers;
 - f. Toileting of enrolled children;
 - g. Recognizing signs of illness and infestation;
 - h. Sudden infant death syndrome awareness, if infant or 1-year-old child care is provided at the child care group home;
 - i. Detecting and preventing child abuse or neglect and reporting suspected child abuse or neglect; and
 - j. Responding to accidents and emergencies; and
10. Complete one of the following every 12 months after becoming a staff member:
- a. At least 12 clock hours of Arizona T3 training;
 - b. At least one credit hour in early education, child development, or a closely related field from an accredited college or university; or
 - c. At least 12 clock hours of training in two or more of the following subject areas:
 - i. Responding to accidents and emergencies;
 - ii. Recognizing signs of illness and infestation;
 - iii. Child and family growth and development;
 - iv. Detecting and preventing child abuse or neglect and reporting suspected child abuse or neglect;
 - v. Care and teaching of young children;
 - vi. Guiding and disciplining children;
 - vii. Nutrition and developmentally appropriate eating habits;
 - viii. Availability of community services and resources, including those available to special needs children;
 - ix. Involving and communicating with parents;
 - x. Developmentally appropriate child care activities;
 - xi. Sun safety;
 - xii. Outdoor activity area safety;
 - xiii. Sudden infant death syndrome awareness; and
 - xiv. Business administration and management.

R9-3-304. Resident Qualifications

A non-staff-member resident shall:

- 1. If an adult, comply with the fingerprinting requirements in R9-3-202;
- 2. If an adult, submit to the certificate holder a criminal history affidavit completed by the adult resident;
- 3. If 12 years of age or older, demonstrate freedom from infectious pulmonary tuberculosis by submitting one of the following to the certificate holder:
 - a. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that a Mantoux skin test administered to the resident no earlier than 12 months before and no later than 12 hours after becoming a resident 12 years of age or older was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative at least 48 and no later than 72 hours after test administration;
 - b. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that another test for tuberculosis, recommended by the Centers for Disease Control and Prevention or the tuberculosis control officer, administered to the resident no earlier than 12 months before and no later than 12 hours after becoming a resident 12 years of age or older was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative; or
 - c. If the resident cannot comply with subsection (3)(a) or (b), a statement dated no earlier than 12 months before becoming a resident 12 years of age or older and written by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that the resident is currently free from infectious pulmonary tuberculosis;
- 4. Unless opposed to immunization for religious reasons as described in subsection (5), demonstrate immunity to measles, rubella, diphtheria, and tetanus or establish a medical exemption from immunization as follows:
 - a. By submitting to the certificate holder a copy of the resident's proof of immunity or a written statement signed by the resident or, if the resident is a minor, the resident's parent attesting to the resident's immunity; and
 - b. For any of the diseases listed in subsection (4) for which a resident has not received immunization and cannot attest to immunity, by submitting to the certificate holder a written statement signed by a physician, physician assistant, registered nurse practitioner, or registered nurse stating that the immunization would endanger the resident's health or medical condition; and
- 5. If opposed to immunization for religious reasons, submit to the certificate holder a written statement signed by the resident or, if the resident is a minor, the resident's parent attesting to the resident's membership in a religion whose teachings are in opposition to immunization.

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R9-3-305. Recordkeeping Requirements

- A.** The provider for a child care group home shall maintain the following records at the child care group home:
- 1.** A file for each staff member that includes:
 - a.** The following information about the staff member:
 - i.** Full name.
 - ii.** Birth date.
 - iii.** Home address.
 - iv.** Home telephone number.
 - v.** Start date, and
 - vi.** Job title;
 - b.** The staff member's first-aid or CPR certificate, if applicable;
 - c.** If the staff member is an adult:
 - i.** If the staff member holds a valid fingerprint clearance card issued according to A.R.S. § 41-1758.03, a copy of the staff member's valid fingerprint clearance card;
 - ii.** If the staff member has not yet obtained a fingerprint clearance card, a copy of the staff member's fingerprint clearance card application;
 - iii.** If the staff member holds a valid fingerprint clearance card that was issued before the staff member became a staff member at the child care group home, documentation of verification of the validity of the staff member's fingerprint clearance card, as required by R9-3-202(C);
 - iv.** If the staff member has an interim approval under A.R.S. § 41-619.55, a copy of the staff member's interim approval; and
 - v.** A criminal history affidavit completed by the staff member;
 - d.** If the staff member is the provider:
 - i.** A copy of the provider's certificate of completion issued by the Department for Department-provided orientation that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - ii.** A copy of the provider's high school diploma, high school equivalency diploma, associate degree, or bachelor degree; and
 - iii.** Unless the provider is exempt under R9-3-302(D), a copy of documentation establishing the provider's compliance with R9-3-302(A)(2)(a)(i) or (ii) or R9-3-302(A)(2)(b); and
 - e.** If the staff member is the assistant provider:
 - i.** A copy of the assistant provider's high school diploma, high school equivalency diploma, associate degree, or bachelor degree or documentation of the assistant provider's achieving Level II-A with S*CCEEDS; and
 - ii.** Unless the assistant provider is exempt under R9-3-302(E), documentation establishing the assistant provider's compliance with R9-3-302(B)(3)(a) or (b);
 - f.** If the staff member works with enrolled children without being supervised by the provider or assistant provider, a copy of the staff member's high school diploma, high school equivalency diploma, associate degree, or bachelor degree or documentation of the staff member's achieving Level II-A with S*CCEEDS;
 - g.** Documentation showing freedom from infectious pulmonary tuberculosis, as required by R9-3-303(6);
 - h.** Documentation regarding immunity to measles, rubella, diphtheria, and tetanus, as required by R9-3-303(7) or (8);
 - i.** Documentation showing that the staff member completed the training required by R9-3-303(9) within 10 days after becoming a staff member;
 - j.** Documentation showing the staff member's compliance with the annual training requirement of R9-3-303(10); and
 - k.** Documentation of the provider's good faith efforts to contact at least two previous employers of the staff member, as required by A.R.S. § 36-897.03(C), including the name of each employer, the date of the contact, and comments regarding the information obtained;
 - 2.** A file for each non-staff-member resident that includes:
 - a.** The following information about the resident:
 - i.** Full name.
 - ii.** Birth date, and
 - iii.** Relationship to the certificate holder or provider;
 - b.** If the resident is an adult:
 - i.** If the resident holds a valid fingerprint clearance card issued according to A.R.S. § 41-1758.03, a copy of the resident's valid fingerprint clearance card;
 - ii.** If the resident has not yet obtained a fingerprint clearance card, a copy of the resident's fingerprint clearance card application;
 - iii.** If the resident holds a valid fingerprint clearance card that was issued before the resident became a resident

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16. Field trip permission notices, as required by R9-3-413(A), and field trip attendance records, as required by R9-3-413(B)(3), if applicable.
- B.** A provider shall maintain the file required in subsection (A) for each enrolled child, staff member, or non-staff-member resident at the child care group home during the entire period that the child is enrolled, the staff member is working, or the resident lives at the child care group home and for at least 12 months after the date that the child is disenrolled from, the staff member stops working at, or the resident stops living at the child care group home.
- C.** Except as otherwise provided in subsections (A)(5), (A)(9), and (B), a provider shall maintain all records required to be maintained by this Section for at least 12 months after the date of the last event recorded in the record.
- D.** A provider shall ensure that all of the records required to be maintained by this Section either are written in English or, if written in a language other than English, include an English translation.
- E.** A provider shall ensure that all of the records required to be maintained by this Section are made available to the Department during an inspection.

R9-3-306. Staffing

A provider shall ensure that:

1. The provider or the assistant provider is present and actively involved at the child care group home when one to five enrolled children are at the child care group home; and
2. At least one adult staff member in addition to the provider or the assistant provider is present and actively involved at the child care group home when six to 10 enrolled children are at the child care group home.

R9-3-307. Enrollment of Children

- A.** A provider shall require that a child be enrolled by the child's parent or by an individual authorized in writing by the child's parent.
- B.** Before a child may attend a child care group home, the provider shall require the individual enrolling the child to submit:
1. An Emergency Information and Immunization Record Card including:
 - a. The child's name;
 - b. Unless the child resides in a shelter for victims of domestic violence, the child's home address;
 - c. The child's home phone number;
 - d. The child's sex;
 - e. The child's date of birth;
 - f. The child's date of enrollment;
 - g. The names of the child's parents;
 - h. The work addresses for each of the child's parents;
 - i. Unless the child's parent resides in a shelter for victims of domestic violence, each parent's home address;
 - j. If the child's parent resides in a shelter for victims of domestic violence, a post office box or other mailing address where mail can be sent to the parent;
 - k. The home and work telephone numbers for each of the child's parents;
 - l. The name of each parent's employer;
 - m. The name, address, and telephone number of the child's primary physician;
 - n. The name, address, and telephone number of the hospital that the child's parents would prefer that the child be taken to in the event of an emergency;
 - o. Instructions on which individual the provider is to call first if the child is injured or shows signs of illness or infestation;
 - p. A statement that the parent signing the Emergency Information and Immunization Record Card authorizes any hospital or physician to render immediate aid as may be required for the health and safety of the child and that the parent understands that the parent accepts responsibility for the expense of this aid;
 - q. The names, addresses, and telephone numbers of at least two emergency contacts who reside within the same metropolitan area;
 - r. Whether the child is allergic to food or another substance and, if so, the name of each substance and the procedure to follow if exposure occurs;
 - s. Whether the child is susceptible to infections and, if so, the precautions to take to avoid infection;
 - t. Whether the child is subject to convulsions and, if so, the procedure to follow if a convulsion occurs;
 - u. Whether the child has any physical condition of which the provider needs to be aware and, if so, instructions from the parent regarding the physical condition; and
 - v. The dated signature of the parent who supplied the information;
 2. A copy of a modified diet prescribed for the child, if applicable;
 3. The document regarding immunization required by R9-3-308(A);
 4. If the child is a special needs child, the document required by R9-3-406(A); and
 5. If there are custody documents pertaining to the child, a copy of the custody documents, as required under subsection (C).

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- C.** If there are custody documents pertaining to an enrolled child, a provider shall:
1. Obtain a copy of the custody documents before the child attends the child care group home or within 14 days after the custody documents become effective; and
 2. Ensure that a note is made on the child's Emergency Information and Immunization Record card stating that the child care group home has a copy of custody documents pertaining to the child.

R9-3-308. Enrolled Child Immunization Requirements

- A.** A provider shall not permit an enrolled child to attend a child care group home until the provider receives one of the following:
1. A copy of the child's proof of immunity; or
 2. A statement signed by the child's parent that:
 - a. States that the child is being raised in a religion that prohibits immunization, and
 - b. Includes the child's name and date of birth.
- B.** A provider shall check a child's proof of immunity against the immunization requirements contained in 9 A.A.C. 6, Article 7 at the time of first attendance and at least every three months thereafter to determine whether the child has received each immunization that the child is required to receive.
- C.** If an enrolled child has not received each immunization that the child is required to receive under 9 A.A.C. 6, Article 7, the provider shall notify the child's parent in writing that the child will be excluded from the child care group home 15 days after the date of notification unless the child's parent submits to the provider one of the following for each immunization that the child is required to receive but has not yet received:
1. Proof of immunity showing that the child has received the immunization; or
 2. A dated statement signed by a doctor of allopathic, osteopathic, or homeopathic medicine certifying:
 - a. That the child has a medical condition, which is identified;
 - b. That as a result of the medical condition, the immunization may be detrimental to the child's health; and
 - c. The estimated duration of the medical condition.
- D.** A provider shall ensure that each time an enrolled child's parent provides proof of immunity, a statement for medical exemption, or a statement for religious exemption, a staff member attaches a copy of the document to the child's Emergency Information and Immunization Record Card.
- E.** A provider shall document on a child's Emergency Information and Immunization Record Card:
1. Whether the child has a statement for medical exemption as described in subsection (C)(2) and, if so, its duration; and
 2. Whether the certificate holder has sent the child's parent notification of immunizations that the child needs and, if so, the date of each notification.

R9-3-309. Insurance Requirements

- A.** A certificate holder shall secure and maintain the following insurance coverage, issued to the certificate holder, for a child care group home:
1. General liability insurance or a combination of general liability insurance and excess liability insurance with a maximum liability limit of at least \$100,000; and
 2. For each motor vehicle owned by the certificate holder and used by a staff member to transport enrolled children, motor vehicle insurance that has the coverage limits required by A.R.S. Title 28, Chapter 9.
- B.** A certificate holder shall obtain a certificate of insurance for the insurance policy required by subsection (A)(1). A certificate holder shall ensure that the certificate of insurance complies with R9-3-205(C)(2).
- C.** A certificate holder shall submit to the Department a copy of a new certificate of insurance or new insurance policy immediately after the certificate holder's insurance policy required under subsection (A)(1) or (2) expires, is canceled, or is changed.
- D.** If the general liability insurance policy or combination of general liability insurance and excess liability insurance for a child care group home includes a waiver of coverage for physical or sexual abuse of an enrolled child, the provider shall provide written notice of this waiver of coverage at the time of each child's enrollment to the parent or other individual enrolling the child.

R9-3-310. Admission and Release of Enrolled Children

- A.** A provider shall ensure that:
1. An enrolled child is signed into and signed out from the child care group home by:
 - a. The child's parent;
 - b. An individual authorized in writing or by telephone by the child's parent; or
 - c. The child, if the child is a school-age child and the child's parent has submitted written permission for the child to self-admit or self-release; and
 2. The parent or other individual who brings a child to the child care group home, including a child who self-admits, records the time of the child's arrival and signs the attendance record; and
 3. The parent or other individual who picks up a child from the child care group home, including a child who self-releases, records the time of the child's departure and signs the attendance record.

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- B.** If an enrolled child submits to the provider written permission for the child to self-admit or self-release, the provider shall ensure that a staff member verifies permission with a parent before the child is allowed to self-admit or self-release.
- C.** If an individual who is unknown to the staff member present comes to sign out an enrolled child, the staff member shall do the following before releasing the child to the individual:
 - 1. Review the child's Emergency Information and Immunization Record Card to verify that the child's parent has authorized the individual to sign out the child; and
 - 2. Review a driver license or other picture identification to verify the individual's identity.
- D.** A provider shall not admit an enrolled child to the child care group home if the child's presence will cause the child care group home to violate R9-3-306 or exceed its certified capacity.

R9-3-311. Illness and Infestation

- A.** A provider shall exclude an enrolled child from the child care group home when:
 - 1. The child's illness prevents the child from participating in program activities without experiencing discomfort or aggravation of symptoms;
 - 2. The child's illness results in a greater need for care than staff members can provide without compromising the health or safety of other enrolled children;
 - 3. The child's exclusion is required under 9 A.A.C. 6, Article 3; or
 - 4. The child's exclusion is required by Table 2.
- B.** If an enrolled child exhibits signs of illness or infestation that require exclusion from the child care group home under subsection (A), a provider shall ensure that a staff member:
 - 1. Immediately separates the child from other enrolled children;
 - 2. Notifies the child's parent or, if a parent cannot be reached, an emergency contact by telephone or other expeditious means that the child needs to be picked up from the child care group home; and
 - 3. Makes a written record of the notification and places it in the child's file.
- C.** A provider shall ensure that a staff member or resident who has signs or symptoms of illness or infestation is excluded when required under 9 A.A.C. 6, Article 3 or using the same criteria as required for an enrolled child under Table 2.
- D.** If a provider is notified that an enrolled child, staff member, or resident has an infestation or a communicable disease, other than human immunodeficiency virus or a sexually transmitted disease, the provider shall ensure that:
 - 1. Written notice of potential exposure is provided to each staff member and to a parent of each enrolled child within 24 hours after the provider receives notice of the communicable disease or infestation;
 - 2. Notice is provided to the local health agency if required under 9 A.A.C. 6, Article 2;
 - 3. If the communicable disease is vaccine preventable, an enrolled child who lacks proof of immunity to the communicable disease is excluded from the child care group home until:
 - a. The child's parent submits proof of immunity to the provider; or
 - b. The time designated by 9 A.A.C. 6, Article 3 or by the local health agency;
 - 4. If the communicable disease is vaccine preventable, a staff member or resident who lacks proof of immunity to the communicable disease, including a staff member or resident who is exempt from immunization under R9-3-303(8) or R9-3-304(5), is excluded from the child care group home if required by 9 A.A.C. 6, Article 3 or by the local health agency; and
 - 5. An enrolled child, staff member, or resident with the communicable disease or infestation is excluded from the child care group home until the time designated under 9 A.A.C. 6, Article 3 or by the local health agency.
- E.** If subsection (A), (C), or (D) requires exclusion of a resident, the provider shall:
 - 1. Exclude the resident until exclusion is no longer required, or
 - 2. Close the child care group home until exclusion is no longer required.

Table 2. Exclusion of an Enrolled Child from the Child Care Group Home

Child's Condition	Exclusion Requirement
Diarrhea	Exclude until diarrhea has been absent for 24 hours without antidiarrheal medication or until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Eye discharge, consisting of thick mucus or pus draining from the eye	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious or until the condition has resolved
Fever	Exclude until fever has been absent for 24 hours without fever-reducing medication or until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious

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Impetigo	Exclude until 24 hours after initial treatment for impetigo
Rash with fever or behavioral change	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious or until the condition has resolved
Severe, persistent coughing, such as where the child makes a high-pitched whooping sound after coughing or the coughing is not relieved by a drink of water or, for an asthmatic child, by asthma medication	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Stools that contain blood or mucus	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Vomiting two or more times in the previous 24 hours	Exclude until vomiting has been absent for 24 hours, unless a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the vomiting is caused by a noncommunicable condition and the child is not in danger of dehydration
Yellowish skin or eyes	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious

R9-3-312. Suspected Abuse or Neglect of an Enrolled Child

- A.** A provider or staff member shall immediately report suspected abuse or neglect of an enrolled child to Child Protective Services or to a local law enforcement agency, as required by A.R.S. § 13-3620, and to the Department.
- B.** A provider or staff member who reports suspected abuse or neglect shall:
1. Provide the Department with a copy of the written report provided to Child Protective Services or a local law enforcement agency.
 2. Document each telephonic or in-person report of suspected child abuse or neglect made by the provider or staff member, and
 3. Retain a record of each report as required in R9-3-305(A)(12).

R9-3-313. Administration of Medication

- A.** A provider shall notify a parent of each enrolled child about whether prescription or nonprescription medication may be administered to an enrolled child by a staff member. This notification may be made by posting a notice in a location that can be viewed by individuals entering or leaving the child care group home.
- B.** If prescription or nonprescription medication is administered at a child care group home, a provider shall ensure that:
1. The provider or another staff member designated in writing by the provider is responsible for:
 - a. Administering medication at the child care group home.
 - b. Storing medication at the child care group home.
 - c. Supervising the ingestion of medication, and
 - d. Documenting the administration of medication;
 2. At any given time, only one designated staff member at the child care group home is responsible for the duties described in subsection (B)(1);
 3. The designated staff member does not administer medication to an enrolled child unless the child's parent has submitted a completed Department-provided authorization form for each medication to be administered to the child, including:
 - a. The child's first and last names;
 - b. The name of the medication;
 - c. The prescription number, if any;
 - d. Instructions for administration specifying:
 - i. The dosage.
 - ii. The route of administration.
 - iii. The first and last dates that the medication is to be administered, and
 - iv. The frequency of administration;
 - e. The reason for the medication;
 - f. The signature of the child's parent or of a physician, physician assistant, or registered nurse practitioner; and
 - g. The date of signature;
 4. The designated staff member documents each administration of medication to an enrolled child on the Department-

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provided authorization form described in subsection (B)(3), including:

- a. The date and time of administration;
- b. The name of the medication;
- c. The prescription number, if any;
- d. The dose of medication administered; and
- e. The signature of the designated staff member who administered the medication to the child; and

5. The designated staff member:

- a. Measures liquid medication for oral administration using a measuring cup, spoon, or dropper specifically made for measuring liquid medication;
- b. Administers prescription medication to an enrolled child only:
 - i. From a container dispensed by a pharmacy and accompanied by a pharmacy-generated prescription label that includes the child's first and last names and administration instructions;
 - ii. From a container dispensed by a pharmacy and accompanied by administration instructions for the child to receive the medication written and signed by a physician, physician assistant, or registered nurse practitioner; or
 - iii. From a container prepackaged and labeled as a manufacturer's sample; labeled with the child's first and last names; and accompanied by administration instructions for the child to receive the medication written and signed by a physician, physician assistant, or registered nurse practitioner;
- c. Administers nonprescription medication to an enrolled child only from an original manufacturer's container labeled with the child's first and last names; and
- d. Does not administer a medication that has been transferred from one container to another.

C. A provider shall allow an enrolled child to receive an injection at the child care group home only after obtaining written authorization from a physician, physician assistant, or registered nurse practitioner. An injection may be administered at a child care group home by an individual authorized by state law to give injections or, in an emergency, by any individual as permitted under A.R.S. §§ 32-1421(A)(1) and 32-1631(2).

D. A provider shall return unused prescription or nonprescription medication to a parent when the medication is no longer being administered to the enrolled child or when the medication has expired, whichever comes first. If a child is no longer enrolled at a child care group home, and the provider is unable to locate the child's parent, the provider shall dispose of the medication according to state and federal laws.

E. A provider shall ensure that:

1. Medication belonging to enrolled children is stored in a locked, leakproof storage cabinet or container that is used only for storing medication belonging to enrolled children and that is inaccessible to enrolled children;
2. Medication belonging to staff members and residents is stored in a locked, leakproof storage cabinet or container that is used only for storing medication belonging to staff members and residents and that is inaccessible to enrolled children; and
3. Medication that requires refrigeration is stored in locked, leakproof containers in a refrigerator, with the medication for enrolled children stored separately from the medication for staff members and residents.

F. A provider shall ensure that a child care group home does not stock a supply of prescription or nonprescription medication for administration to enrolled children.

R9-3-314. First-Aid Kit

A provider shall ensure that a child care group home has a first-aid kit that is located in an area accessible to staff members but inaccessible to enrolled children. The first-aid kit shall contain at least the following items, in a quantity sufficient to meet the needs of the enrolled children at the child care group home:

1. Adhesive bandages of assorted sizes.
2. Antiseptic solution or sealed antiseptic wipes.
3. Sterile gauze pads.
4. Disposable medical-grade gloves.
5. Disposable resealable plastic bags of at least one-gallon size.
6. Scissors, and
7. Medical tape.

R9-3-315. Accident, Emergency, or Serious Injury Procedure

If an enrolled child has an accident, emergency, or serious injury while at the child care group home, the provider shall:

1. Ensure that treatment is provided to the enrolled child, including CPR or first aid as needed;
2. Call 9-1-1 or another emergency response agency if urgent medical treatment is needed;
3. Within 30 minutes after the accident, emergency, or serious injury, notify a parent of the child or, if the provider is unable to locate and notify a parent of the child, an emergency contact; and
4. Document:
 - a. The date, time, location, and circumstances of the child's accident, emergency, or serious injury;

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- b. The method used to notify the parent or emergency contact; and
- c. The time that the parent or emergency contact was notified.

ARTICLE 4. PROGRAM AND EQUIPMENT STANDARDS

R9-3-401. General Program and Equipment Standards

A provider shall ensure that:

- 1. The health, safety, or welfare of an enrolled child is not endangered;
- 2. An enrolled child is not subjected to abuse or neglect at the child care group home;
- 3. The child care group home's buildings, activity areas, and indoor and outdoor play equipment are maintained in good repair and free from hazards;
- 4. The child care group home has sufficient play materials and equipment to meet the needs of the enrolled children in attendance at the child care group home;
- 5. Each enrolled child is cleaned as necessary after a meal or activity;
- 6. The program at the child care group home is:
 - a. Structured to meet the following:
 - i. The age and developmental level of each enrolled child;
 - ii. The needs of each enrolled child; and
 - iii. The enrolled children's need for familiarity, consistency, and routine; and
 - b. Based upon a weekly schedule that includes:
 - i. Routines, such as meals and snacks and rest periods, that follow a familiar and consistent pattern;
 - ii. If weather and air quality permit, outdoor activities;
 - iii. Stories, music, dancing, singing, and reading;
 - iv. Listening and talking opportunities; and
 - v. Creative activities such as water play, cutting and pasting, painting, coloring, dramatic play, and playing with blocks;
- 7. An enrolled child is bathed at the child care group home only if the child's parent has provided written consent for bathing and bathing instructions;
- 8. If swimming is included in the program, the following requirements are met:
 - a. An enrolled child is allowed to swim at the child care group home only if the child's parent has provided written consent for swimming;
 - b. An individual who satisfies the following is stationed at the swimming pool in a location that enables the individual to see clearly all parts of the swimming pool, including the bottom, at all times while enrolled children are using the swimming pool:
 - i. The individual shall be the provider, the assistant provider, or an adult staff member with a high school diploma, high school equivalency diploma, associate degree, or bachelor degree; and
 - ii. The individual shall have current certification in basic water rescue training completed through a nationally recognized health and safety training program such as American Red Cross Basic Water Rescue or American Safety and Health Institute Safety Training and Aquatic Rescue; and
- 9. Drinking water is available to enrolled infants and 1- or 2-year old children and is accessible to older enrolled children at all times.

R9-3-402. Supplemental Standards for Resting or Sleeping

A provider shall ensure that:

- 1. There is a separate bed, cot, mat, or crib for each enrolled child who needs to rest or sleep at the child care group home, and each enrolled child is allowed to sleep only on a bed or crib mattress or on a cot or mat;
- 2. A waterbed is not used by an enrolled child;
- 3. A bunk bed is not used by an enrolled child unless the enrolled child rests or sleeps on the bottom bunk;
- 4. No other individual lies down or otherwise is physically located on the same bed, cot, or mat or in the same crib with an enrolled child;
- 5. Each bed, cot, mat, or crib used by an enrolled child is stable, constructed so that it does not create a hazard, large enough to accommodate the size and weight of the child, clean, and in good repair;
- 6. Crib use meets the following requirements:
 - a. Each crib is commercially manufactured;
 - b. Each crib has sides that are made of:
 - i. A solid material, or
 - ii. Bars spaced no more than 2 3/8 inches apart;
 - c. A playpen is not used in place of a crib;
 - d. Stacked cribs are not used;
 - e. Each crib is used with a crib mattress that:
 - i. Leaves no more than a 1/2 inch gap between the mattress and each side of the crib, and

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- ii. Is commercially waterproofed or completely and tightly covered with a waterproof crib mattress cover;
- f. Each crib and crib mattress is cleaned and sanitized when soiled;
- g. When in use, the top surface of each crib mattress is completely covered with a clean, fitted sheet designed for the crib mattress size;
- h. Each sheet used in a crib is laundered:
 - i. Before being used by an enrolled child;
 - ii. When it becomes soiled, and
 - iii. At least every 24 hours;
- i. No mechanical restraint of any kind is used in a crib;
- j. No bumper pads, pillows, quilts, comforters, sheepskins, stuffed toys, or other soft products are in a crib while an infant is in the crib;
- k. An infant is placed to sleep on the infant's back, unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing; and
- l. An infant is not placed to sleep using a positioning device that restricts movement, unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing;
- 7. When in use, the top surface of each bed mattress, cot, or waterproof mat is completely covered with a clean sheet or similar covering; and
- 8. Each sheet or similar covering used on a bed mattress, cot, or waterproof mat or each machine-washable mat is laundered:
 - a. If used by only one enrolled child each week, at least weekly;
 - b. If used by more than one enrolled child each week, before being used by each child; and
 - c. Whenever it becomes soiled.

R9-3-403. Supplemental Standards for Care of an Enrolled Infant or 1- or 2-Year-Old Child

A provider caring for an enrolled infant or 1- or 2-year-old child shall ensure that:

- 1. Each infant or 1- or 2-year-old child is spoken to and held by staff members throughout the day;
- 2. A staff member responds immediately to the distress signals of an infant or 1- or 2-year-old child;
- 3. An infant or 1- or 2-year-old child does not spend more than 30 consecutive minutes of time while awake in a crib, playpen, high chair, or other confining structure or piece of equipment;
- 4. Each infant or 1-year-old child is allowed to maintain an individual pattern of sleeping, waking, and eating, unless the infant's or child's parent has instructed otherwise;
- 5. Each infant is provided a crib that complies with R9-3-402(6) for use while sleeping;
- 6. An infant's formula, breast milk, or other food is prepared, stored, and fed according to written instructions from the infant's parent;
- 7. An infant or 1-year-old child is not fed cereal by bottle, unless the infant's or child's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing;
- 8. A staff member holds and feeds an infant younger than 6 months of age or an older infant who cannot hold a bottle for feeding;
- 9. A staff member seats an infant who is no longer being held for feeding or a 1- or 2-year-old child in a high chair or at a table with a chair that allows the infant or child to reach food while sitting;
- 10. Each high chair is equipped with a safety strap that is secured while an infant or child is seated in the high chair;
- 11. Only water is provided in a naptime or bedtime bottle or sippy cup given to an infant or 1- or 2-year-old child;
- 12. A used bottle or sippy cup is immediately removed from a crib, bed, cot, or mat and emptied and cleaned;
- 13. A staff member checks the diaper of each infant or 1- or 2-year-old child throughout the day and changes a diaper as soon as it is wet or soiled;
- 14. Age-appropriate materials and equipment meeting the interests and needs of an infant or 1- or 2-year-old child, as applicable, are provided and are available at all times to the enrolled children at the child care group home, including:
 - a. Books, including some cloth books;
 - b. Medium-sized rubber or soft plastic balls;
 - c. Manipulative toys;
 - d. Blocks and block accessories;
 - e. Washable soft toys and dolls;
 - f. Large muscle equipment; and
 - g. Musical instruments;
- 15. Toys provided for an infant or 1- or 2-year-old child are too large to swallow; and
- 16. A child is not permitted to use a walker.

R9-3-404. Supplemental Standards for Care of an Enrolled 3-, 4-, or 5-Year Old Child

A provider caring for an enrolled 3-, 4-, or 5-year-old child shall ensure that age-appropriate materials and equipment meeting the interests and needs of a 3-, 4-, or 5-year-old child, as applicable, are provided and are available at all times to the 3-, 4-, or

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5-year-old enrolled children at the child care group home, including:

1. Art supplies.
2. Blocks and block accessories.
3. Books.
4. A dramatic play area with toys and dress-up clothes.
5. Large muscle equipment.
6. Manipulatives.
7. Science materials, and
8. Musical instruments.

R9-3-405. Supplemental Standards for Care of an Enrolled School-Age Child

A provider caring for an enrolled school-age child shall ensure that age-appropriate materials and equipment meeting the interests and needs of a school-age child are provided and are available at all times to the school-age enrolled children at the child care group home, including:

1. Art and craft supplies.
2. Games.
3. Sports equipment.
4. Books.
5. Science materials, and
6. Manipulatives.

R9-3-406. Supplemental Standards for Care of an Enrolled Special Needs Child

- A.** Before a special needs child first attends a child care group home, the provider shall obtain from the child's parent:
1. A copy of any existing individualized plan for the child that can be reviewed, adopted, and followed by the provider when caring for the child; or
 2. If there is no existing individualized plan available for a special needs child before first attendance, the child's parent's written instructions for providing care for the child.
- B.** If a provider does not receive an individualized plan before a special needs child's first attendance, the provider shall require that a written individualized plan be developed within 30 days after the child's first attendance by a team consisting of the provider, the child's parent, and at least one health care provider.
- C.** An individualized plan shall include the following, as applicable for the child:
1. A medication schedule;
 2. Nutrition and feeding instructions;
 3. A description of the training required for a staff member who feeds the child;
 4. Documentation of which staff members have completed the training required to feed the child;
 5. Instructions for medical equipment or adaptive devices used by the child;
 6. Emergency instructions;
 7. Toileting and personal hygiene instructions;
 8. Identification of specific child care services to be provided at the child care group home;
 9. Information from health care providers, including the frequency and length of any prescribed medical treatment or therapy;
 10. A description of the training required for a staff member who cares for the child;
 11. Documentation of which staff members have received the training required to care for the child; and
 12. Instructions for fire evacuation drills.
- D.** A provider shall ensure that:
1. An enrolled child's individualized plan is implemented;
 2. An individualized plan is updated at least once every 12 months after the date of the initial plan and as changes occur;
 3. A special needs child's parent is provided a copy of the individualized plan;
 4. A staff member does not prepare formula for tube-feeding a special needs child;
 5. All formula for tube-feeding a special needs child is commercially prepackaged in a ready-to-use state or brought by the child's parent in an unbreakable container;
 6. A staff member feeds a special needs child using a feeding apparatus or clears a feeding apparatus only after receiving instruction from the child's parent or an individual designated by the child's parent;
 7. A special needs child is provided with developmentally appropriate toys, materials, and equipment, which are available to the special needs child at all times;
 8. A staff member assists a special needs child as necessary to enable the child to participate in activities at the child care group home;
 9. A special needs child who uses a wheelchair or is not able to walk is cared for only on the ground floor of the child care group home;
 10. When a staff member transports a special needs child in a wheelchair in a motor vehicle, the following requirements

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are met:

- a. The child's wheelchair is secured in the motor vehicle using at least four anchorages attached to the motor vehicle floor and at least four securement devices, such as straps or webbing with buckles and fasteners, that attach the wheelchair to the anchorages;
- b. The child is secured in the wheelchair by means of a wheelchair restraint that is a combination of pelvic and upper body belts intended to secure a passenger in a wheelchair; and
- c. The child's wheelchair is placed in a position in the motor vehicle that does not prevent access to the child in the wheelchair or passage to the front and rear of the motor vehicle.

R9-3-407. Supplemental Standards for Evening and Nighttime Care

A provider who provides evening or nighttime care shall:

1. Provide each enrolled child receiving evening and nighttime care with a bed, cot, or crib that complies with the standards of R9-3-402;
2. Ensure that each staff member providing evening and nighttime care remains awake until all enrolled children are asleep; and
3. Ensure that each staff member providing evening and nighttime care is allowed to sleep only if the staff member maintains unobstructed access to and unimpaired hearing of sleeping enrolled children.

R9-3-408. Toilet Training

A. A provider shall consult with an enrolled child's parent to establish a mutual and developmentally appropriate plan for toilet training. The provider shall document the plan, implement the plan, and document the ongoing implementation of the plan.

B. A provider shall not force toilet training or allow toilet training to be forced on an enrolled child.

R9-3-409. Discipline and Guidance

A. A provider shall ensure that:

1. Each staff member establishes reasonable rules and limits for enrolled children's behavior and applies them consistently and teaches, models, and uses positive reinforcement to encourage orderly conduct, self-control, and age-appropriate behavior;
2. Each staff member does the following when disciplining an enrolled child:
 - a. Explains to the child why the particular behavior is not allowed.
 - b. Suggests an alternate behavior to the child, and
 - c. Assists the child to become engaged in an alternate activity;
3. If an enrolled child's behavior may result in harm to the child or to another, a staff member holds the child without undue force until the child regains self-control or composure; and
4. An enrolled child is disciplined only by a staff member.

B. A provider shall ensure that a staff member does not use or allow:

1. Discipline that could endanger a child;
2. Corporal punishment; or
3. Discipline that involves:
 - a. Eating, napping, sleeping, or toileting;
 - b. Medication;
 - c. Mechanical restraint;
 - d. Humiliation; or
 - e. Fear.

C. A staff member may separate an enrolled child older than 2 years of age from other children for unacceptable behavior according to the following:

1. A separation period may not last longer than one minute for each year of the child's age, and
2. A separation period may not last longer than 10 minutes.

D. A staff member may not discipline the staff member's own child in a manner inconsistent with subsections (A) through (C) during hours of operation unless the child is not an enrolled child and the discipline is performed off the premises and does not violate child abuse statutes.

R9-3-410. General Nutrition and Menu Standards

A. This Section does not apply to infants.

B. A provider shall ensure that meals and snacks are served to enrolled children in compliance with Table 3.

C. When a provider provides food for enrolled children, the provider shall ensure that:

1. Each meal or snack is prepared and served according to the meal pattern requirements in Table 4;
2. Second servings of food are served to each enrolled child at meal time and snack time, if requested by the child;
3. The same food item, other than milk, is not served more than once in a single day;
4. During each week, meals include a variety of foods from each food category in the meal pattern requirements in

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Table 4:

5. Milk served to an enrolled child older than 2 years of age is 2% fat, 1% fat, or skim milk;
 6. High fat or high sugar food items such as muffins, brownies, donuts, pastries, croissants, cakes, or cookies are served to satisfy a meal or snack category no more than twice each week; and
 7. High sugar cereal is served to satisfy a meal or snack category no more than twice each week.
- D.** If a parent who provides food for the parent's enrolled child does not provide milk or juice for the child, the provider shall provide milk or juice to the child unless doing so would be inconsistent with a modified diet prescribed for the child by the child's parent, physician, physician assistant, or registered nurse practitioner.
- E.** A provider shall maintain a supply of food sufficient to serve the meals and snacks required by this Section to be served to each enrolled child attending the child care group home in a single day.
- F.** A provider shall:
1. Prepare a weekly menu specifying the foods to be served at each meal and snack on each day.
 2. Date each menu.
 3. Post each menu before the first meal or snack of the week on the menu, and
 4. Write food substitutions on a posted menu no later than the morning of the day of the meal or snack to which the substitution applies.

Table 3. Meals and Snacks Required to Be Served to Enrolled Children

<u>Times Enrolled Child Is at Child Care Group Home</u>	<u>Child Required to Be Served</u>
<u>Before 8:00 a.m.</u>	<u>Breakfast, if requested by parent or child</u>
<u>Between 8:00 a.m. and 11:00 a.m.</u>	<u>At least one snack</u>
<u>Between 11:00 a.m. and 1:00 p.m.</u>	<u>Lunch</u>
<u>Between 1:00 p.m. and 5:00 p.m.</u>	<u>At least one snack</u>
<u>Between 5:00 p.m. and 7:00 p.m., if staying beyond 7:00 p.m.</u>	<u>Dinner</u>
<u>Between 7:00 p.m. and 9:00 p.m., if staying beyond 9:00 p.m.</u>	<u>At least one snack</u>

Table 4. Meal Pattern for Children

<u>BREAKFAST</u> (Each breakfast shall include at least one serving from each category.)			
<u>Categories, denoted by ■</u>	<u>Ages 1 and 2</u>	<u>Ages 3 through 5</u>	<u>Ages 6 through 12</u>
<u>■ Milk, fluid</u>	<u>1/2 cup</u>	<u>3/4 cup</u>	<u>1 cup</u>
<u>■ Vegetable, fruit, or 100% full-strength juice</u>	<u>1/4 cup</u>	<u>1/2 cup</u>	<u>1/2 cup</u>
<u>■ Grains/breads (whole grain or enriched)</u>			
<u>Bread; or</u>	<u>1/2 slice</u>	<u>1/2 slice</u>	<u>1 slice</u>
<u>Cornbread, rolls, muffins, or biscuits; or</u>	<u>1/2 serving</u>	<u>1/2 serving</u>	<u>1 serving</u>
<u>Cold dry cereal (served by volume or weight, whichever is less); or</u>	<u>1/4 cup, or 1/3 oz.</u>	<u>1/3 cup, or 1/2 oz.</u>	<u>3/4 cup, or 1 oz.</u>
<u>Cooked cereal, pasta, noodle products, or cereal grains</u>	<u>1/4 cup</u>	<u>1/4 cup</u>	<u>1/2 cup</u>
<u>LUNCH OR DINNER</u> (Each lunch or dinner shall include at least one serving from each category.)			
<u>Categories, denoted by ■</u>	<u>Ages 1 and 2</u>	<u>Ages 3 through 5</u>	<u>Ages 6 through 12</u>
<u>■ Milk, fluid</u>	<u>1/2 cup</u>	<u>3/4 cup</u>	<u>1 cup</u>
<u>■ Vegetable, fruit, or 100% full-strength juice (two or more)</u>	<u>1/4 cup total</u>	<u>1/2 cup total</u>	<u>3/4 cup total</u>
<u>■ Grains/breads (whole grain or enriched)</u>			

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<u>Bread; or</u>	<u>1/2 slice</u>	<u>1/2 slice</u>	<u>1 slice</u>
<u>Cornbread, rolls, muffins, or biscuits; or</u>	<u>1/2 serving</u>	<u>1/2 serving</u>	<u>1 serving</u>
<u>Cooked cereal, pasta, noodle products, or cereal grains</u>	<u>1/4 cup</u>	<u>1/4 cup</u>	<u>1/2 cup</u>
■ Meat and meat alternatives¹			
<u>Lean meat, fish, or poultry (edible portion as served); or</u>	<u>1 oz.</u>	<u>1 1/2 oz.</u>	<u>2 oz.</u>
<u>Cheese;² or</u>	<u>1 oz.</u>	<u>1 1/2 oz.</u>	<u>2 oz.</u>
<u>Egg; or</u>	<u>1 egg</u>	<u>1 egg</u>	<u>1 egg</u>
<u>Cooked dry beans or peas;³ or</u>	<u>1/4 cup</u>	<u>3/8 cup</u>	<u>1/2 cup</u>
<u>Yogurt (low fat or nonfat); or</u>	<u>1/2 cup, or 4 oz.</u>	<u>3/4 cup, or 6 oz.</u>	<u>1 cup, or 8 oz.</u>
<u>Peanut butter, soy nut butter, or other nut or seed butters; or</u>	<u>2 Tbsp.</u>	<u>3 Tbsp.</u>	<u>4 Tbsp.</u>
<u>Peanuts, soy nuts, tree nuts, or seeds; or</u>	<u>1/2 oz.</u>	<u>3/4 oz.</u>	<u>1 oz.</u>
<u>An equivalent quantity of any combination of the above meat and meat alternatives</u>			
<u>SNACKS</u> (Each snack shall include at least one serving from each of two categories.) ⁴			
<u>Categories, denoted by ■</u>	<u>Ages 1 and 2</u>	<u>Ages 3 through 5</u>	<u>Ages 6 through 12</u>
■ Milk, fluid	<u>1/2 cup</u>	<u>1/2 cup</u>	<u>1 cup</u>
■ Vegetable, fruit, or 100% full-strength juice	<u>1/2 cup</u>	<u>1/2 cup</u>	<u>3/4 cup</u>
■ Grains/breads (whole grain or enriched)			
<u>Bread; or</u>	<u>1/2 slice</u>	<u>1/2 slice</u>	<u>1 slice</u>
<u>Cornbread, rolls, muffins, or biscuits; or</u>	<u>1/2 serving</u>	<u>1/2 serving</u>	<u>1 serving</u>
<u>Cold dry cereal (served by volume or weight, whichever is less); or</u>	<u>1/4 cup, or 1/3 oz.</u>	<u>1/3 cup, or 1/2 oz.</u>	<u>3/4 cup, or 1 oz.</u>
<u>Cooked cereal, pasta, noodle products, or cereal grains</u>	<u>1/4 cup</u>	<u>1/4 cup</u>	<u>1/2 cup</u>
■ Meat and meat alternatives			
<u>Lean meat, fish, or poultry (edible portion as served); or</u>	<u>1/2 oz.</u>	<u>1/2 oz.</u>	<u>1 oz.</u>
<u>Cheese;² or</u>	<u>1/2 oz.</u>	<u>1/2 oz.</u>	<u>1 oz.</u>
<u>Egg; or</u>	<u>1/2 egg</u>	<u>1/2 egg</u>	<u>1 egg</u>
<u>Yogurt (low fat or nonfat); or</u>	<u>1/4 cup</u>	<u>1/4 cup</u>	<u>1/2 cup</u>
<u>Cooked dry beans or peas;⁶ or</u>	<u>1/8 cup</u>	<u>1/8 cup</u>	<u>1/4 cup</u>
<u>Peanut butter, soy nut butter, or other nut or seed butters; or</u>	<u>1 Tbsp.</u>	<u>1 Tbsp.</u>	<u>2 Tbsp.</u>
<u>Peanuts, soy nuts, tree nuts, or seeds; or</u>	<u>1/2 oz.</u>	<u>1/2 oz.</u>	<u>1 oz.</u>
<u>An equivalent quantity of any combination of the above meat and meat alternatives</u>			

¹ No more than 50% of the requirement may be met with nuts or seeds. If nuts or seeds are served, they are required to be combined with another meat or meat alternative to meet the requirement. For the purpose of determining combinations, one ounce of nuts or seeds is equal to one ounce of cooked lean meat, fish, or poultry.

² Only natural or processed cheese may be served.

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³ Dried beans and dried peas may be used as a meat alternative or as a vegetable in the same meal service, but each can satisfy only one category requirement in each meal.

⁴ Juice may not be served when milk is the only other category served.

⁵ Only natural or processed cheese may be served.

⁶ Dried beans and dried peas may be used as a meat alternative or as a vegetable in the same meal service, but each can satisfy only one category requirement in each meal.

R9-3-411. General Food Service and Food Handling Standards

A. A provider shall ensure that:

1. Except as provided in subsection (B), each staff member washes the staff member's hands with soap and running water before handling food, between food handling tasks, and before serving food;
2. Except as provided in subsection (B), enrolled children, except infants and special needs children who cannot wash their own hands, wash their hands with soap and running water before handling or eating food;
3. A staff member:
 - a. Washes with a washcloth or disposable wipes the hands of an infant or of a special needs child who cannot wash the child's own hands before the infant or special needs child handles or eats food, and
 - b. Uses each washcloth or disposable wipe only once before it is laundered or discarded;
4. A staff member encourages, but never forces, an enrolled child to eat;
5. A staff member assists each enrolled child who needs assistance with eating;
6. A staff member teaches self-feeding skills to each enrolled child as necessary;
7. Food served to an enrolled child younger than 5 years of age is prepared so as not to present a choking hazard;
8. Each enrolled child is supplied with drinking and eating utensils for the child's own use;
9. Each enrolled child's bottle or sippy cup is marked with at least the child's last name and first initial;
10. An enrolled child is not allowed to drink from the bottle, sippy cup, cup, or glass of another child or another individual;
11. An enrolled child is not allowed to eat food directly off the floor, carpet, or ground;
12. An enrolled child's parent is notified when the child consistently refuses to eat or exhibits unusual eating behavior;
13. Each staff member is informed of a modified diet prescribed for an enrolled child by the child's parent, physician, physician assistant, or registered nurse practitioner;
14. The food served to an enrolled child is consistent with a modified diet prescribed for the child by the child's parent, physician, physician assistant, or registered nurse practitioner;
15. After each use, non-single-use utensils and equipment used in preparing, eating, or drinking food are:
 - a. Washed in an automatic dishwasher and air dried or heat dried; or
 - b. Washed in hot soapy water, rinsed in clean water, sanitized, and air dried or heat dried;
16. Single-use utensils and equipment are disposed of after being used;
17. Perishable foods, including perishable foods in sack lunches, are covered and stored in a refrigerator at a temperature of 45° F or below;
18. A refrigerator at the child care group home maintains a temperature of 45° F or below, as shown by a thermometer kept in the refrigerator at all times;
19. A freezer at the child care group home maintains a temperature of 32° F or below, as shown by a thermometer kept in the freezer at all times;
20. Only pasteurized milk is served;
21. Fresh milk is served undiluted directly from the original, commercially filled container, and unused portions of individual servings are not returned to the original container;
22. Reconstituted dry milk is not served to meet the fluid milk requirement;
23. Juice served to enrolled children for a meal or snack is pasteurized full-strength 100% vegetable or 100% fruit juice from an original, commercially filled container or reconstituted from a concentrate according to manufacturer directions;
24. Fruit drinks that are not full-strength 100% fruit juice, such as juice cocktail, lemonade, fruit punch, or a drink made from a powder, syrup, or concentrate other than 100% juice concentrate, are pasteurized and are not served in place of full-strength 100% vegetable or 100% fruit juice;
25. Foods are prepared as close as possible to serving time and, if prepared in advance, are either:
 - a. Cold held at a temperature of 45° F or below or hot held at a temperature of 130° F or above until served; or
 - b. Cold held at a temperature of 45° F or below and then reheated to a temperature of at least 165° F before being served;
26. Food leftover from a meal served family style or from the provider's family meal is not served to an enrolled child;
27. Foods are prepared in a manner that maintains nutrients, flavor, texture, and appearance; and
28. A food is not served past its expiration date or after it has begun to spoil.

B. If soap and running water are not available at a location where food is served, such as on a field trip, disposable wipes followed by liquid alcohol-based hand sanitizer may be used as a substitute for washing hands with soap and running water.

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R9-3-412. Transportation of Enrolled Children

- A.** A provider shall not transport or allow a staff member to transport an enrolled child in a motor vehicle without written authorization from the child's parent.
- B.** A provider shall ensure that:
1. A copy of the Emergency Information and Immunization Record Card for each enrolled child being transported is in the motor vehicle during transportation;
 2. Each motor vehicle used by a staff member to transport an enrolled child is maintained in a mechanically safe condition;
 3. The service and repair records for each motor vehicle used by a staff member to transport an enrolled child are maintained at the child care group home as required by R9-3-305;
 4. Each motor vehicle used by a staff member to transport an enrolled child is:
 - a. Currently registered in Arizona as required under A.R.S. § 28-2153; and
 - b. Insured under a motor vehicle insurance policy that complies with A.R.S. Title 28, Chapter 9;
 5. Except as permitted under R9-3-413(C), an individual who transports an enrolled child in a motor vehicle:
 - a. Is a staff member,
 - b. Is an adult,
 - c. Possesses a current and valid Arizona driver license,
 - d. Carries identification while transporting enrolled children,
 - e. Has current certification in pediatric first aid,
 - f. Has current certification in CPR specific to infants and children, and
 - g. Is not prohibited from driving under A.R.S. § 41-1758.03(D);
 6. An enrolled child is not transported in a trailer attached to a motor vehicle, in a truck bed, or in a camper;
 7. Each enrolled child younger than 5 years of age is secured in a child passenger restraint system while transported in a motor vehicle, as required under A.R.S. § 28-907;
 8. Each enrolled child who is 5 years of age or older is secured with an adjustable lap belt or an integrated lap and shoulder belt while transported in a motor vehicle;
 9. An enrolled child is not transported in the front seat of a motor vehicle equipped with a passenger-side airbag unless the passenger-side airbag has been disarmed;
 10. A staff member is not permitted to stand or sit on the floor of a motor vehicle while the motor vehicle is in motion;
 11. Each motor vehicle used to transport enrolled children is equipped with:
 - a. An operational heating system;
 - b. An operational air-conditioning system;
 - c. A first-aid kit that meets the requirements of R9-3-314;
 - d. Two clean towels or blankets; and
 - e. Drinking water in an amount sufficient to meet the needs of each enrolled child in the motor vehicle and sufficient cups or other drinking receptacles so that each individual in the motor vehicle can drink from a different cup or receptacle;
 12. An enrolled child is not allowed to open or close the door of a motor vehicle used to transport an enrolled child;
 13. The driver of a motor vehicle used to transport an enrolled child does not wear headphones or earphones, use a wireless telephone, or smoke tobacco or any other substance while transporting an enrolled child;
 14. An enrolled child is loaded and unloaded in a safe area located away from any hazard;
 15. Each door of a motor vehicle used to transport an enrolled child is locked while the motor vehicle is in motion;
 16. An enrolled child is never left unattended in a motor vehicle;
 17. The driver of a motor vehicle used to transport an enrolled child removes the ignition key and sets the emergency brake before exiting the motor vehicle; and
 18. The Department is notified by telephone or other equally expeditious means within 24 hours after a motor vehicle accident that involves a motor vehicle transporting an enrolled child.

R9-3-413. Field Trips

- A.** A provider shall not take an enrolled child on a field trip unless, before the field trip, the provider has obtained the dated signature of the child's parent on a written permission notice that includes:
1. The child's name;
 2. The purpose of the field trip;
 3. The name of the field trip destination;
 4. The street address and, if available, the telephone number of the field trip destination;
 5. The date of the field trip;
 6. The projected time of departure from the child care group home; and
 7. The projected time of arrival back at the child care group home.
- B.** A provider shall ensure that:
1. A copy of the Emergency Information and Immunization Record Card for each enrolled child participating in a field

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trip is taken on the field trip:

2. A list stating the full name of each enrolled child participating in a field trip is taken on the field trip:
 3. A staff member ensures that each enrolled child on the list required under subsection (B)(2) is accounted for at all times on a field trip and makes a record of each child's presence at the following times by documenting the time and placing a checkmark on the list next to the name of each child accounted for:
 - a. Immediately before leaving for the field trip or when boarding a motor vehicle;
 - b. Upon arrival at the field trip destination;
 - c. During each hour while at the field trip destination;
 - d. When preparing to leave the field trip destination or when boarding a motor vehicle to return to the child care group home; and
 - e. Upon returning to the child care group home and reentering the residential building at the end of the field trip;
 4. Drinking water in an amount sufficient to meet the needs of each individual participating in a field trip and sufficient cups or other drinking receptacles so that each individual on a field trip can drink from a different cup or receptacle are taken on a field trip;
 5. Each enrolled child participating in a field trip wears in plain view written identification stating the name, address, and telephone number of the child care group home; and
 6. Each enrolled child participating in a field trip wears out of view written identification stating the full name of the child.
- C. A parent who is not a staff member may transport enrolled children in the parent's motor vehicle on a field trip if the provider ensures that:
1. The parent:
 - a. Is an adult;
 - b. Possesses a current and valid Arizona driver license, and
 - c. Carries identification while transporting enrolled children; and
 2. The parent's motor vehicle is:
 - a. Currently registered in Arizona as required under A.R.S. § 28-2153; and
 - b. Insured under an insurance policy that complies with A.R.S. Title 28, Chapter 9.

ARTICLE 5. PHYSICAL ENVIRONMENT STANDARDS

R9-3-501. General Physical Environment Standards

- A. A child care group home shall have:
1. At least 30 square feet of floor space in indoor certified areas for each enrolled child, not including the following:
 - a. A kitchen,
 - b. A bathroom,
 - c. A laundry room,
 - d. A workshop room,
 - e. A hallway, or
 - f. A garage that has not been converted into living space;
 2. If there are up to 10 enrolled children at the child care group home, excluding enrolled children who are in diapers, indoor bathroom facilities with at least one working toilet and one working sink available;
 3. If there are more than 10 enrolled children at the child care group home, excluding enrolled children who are in diapers, indoor bathroom facilities with at least two working toilets and two working sinks available;
 4. At least two unobstructed, usable exits to the outside that are available for enrolled children to use; and
 5. An outdoor activity area that complies with R9-3-502.
- B. A provider shall ensure that each indoor certified area is maintained at a temperature between 68° F and 82° F during hours of operation.
- C. A provider shall ensure that the lighting in each indoor certified area is sufficient to enable a staff member to see each enrolled child in the certified area.

R9-3-502. Outdoor Activity Area Standards

- A. A child care group home shall have an outdoor activity area that:
1. Is at least 375 square feet in size;
 2. Directly borders the residential building;
 3. Provides easy access to indoor activity areas and to bathroom facilities;
 4. Includes shaded areas large enough to accommodate all enrolled children occupying the outdoor activity area at any time;
 5. Is accessible by a route that does not expose an enrolled child to a hazard;
 6. Has a resilient surface under and around each climbing structure and slide from which a child could fall 48 or more inches to the ground below, consisting of:
 - a. At least six inches of fine loose sand or wood fiber product, or

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- b. A nonhazardous material documented in laboratory resiliency testing by the manufacturer to provide resiliency at least equivalent to the resiliency of six inches of fine loose sand or wood fiber product;
- 7. If it contains play equipment, has play equipment that:
 - a. Is arranged to eliminate hazards and to minimize conflict between children using the equipment;
 - b. If 48 or more inches tall, is anchored securely with anchors that pose no hazard to children and that are installed below the ground and under resilient surface material or non-dormant, green, growing grass; and
 - c. If less than 48 inches tall or a swing, has non-dormant, green grass growing under and around it or has a resilient surface that complies with subsection (A)(6) under and around it; and
- 8. Unless subsection (C) applies, is totally enclosed by a fence that:
 - a. Is at least four feet high;
 - b. Is constructed so that it is strong and stable;
 - c. Is secured to the ground;
 - d. Does not have any vertical or horizontal open space that exceeds four inches at any point, including any space on a gate; and
 - e. Has a gate that is kept closed and latched while enrolled children are in the outdoor activity area.
- B.** A provider shall ensure that:
 - 1. Only enrolled children, staff members, the provider's children, and child friends of the provider's children are permitted in an outdoor activity area during outdoor activities;
 - 2. If fine loose sand, wood fiber product, or another loose material is used to provide a resilient surface in an outdoor activity area, the loose material is maintained to retain resiliency; and
 - 3. If foam or rubber mats are used to provide a resilient surface in an outdoor activity area, the foam or rubber mats are not placed directly on top of cement, asphalt, or concrete.
- C.** If the property adjoining an outdoor activity area has a swimming pool that is not enclosed by a fence that complies with the requirements of R9-3-503(B), the fence around the outdoor activity area shall comply with the requirements of R9-3-503(B) and be kept locked during hours of operation unless prohibited by the local fire code.
- D.** A certificate holder whose child care group home was certified before the effective date of this Section is required to have a resilient surface or non-dormant, green grass growing under and around each climbing structure and slide in an outdoor activity area from which a child could fall 48 or more inches to the ground below, but is not required to comply with subsection (A)(6)(a) or (b) until one year after the effective date of this Section.

R9-3-503. Swimming Pool Standards

- A.** A provider shall ensure that a swimming pool used by an enrolled child at a child care group home:
 - 1. Conforms to manufacturer's specifications for installation and operation and to all applicable local ordinances;
 - 2. Contains water that meets one of the following chemical disinfection standards:
 - a. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
 - b. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
 - c. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - 3. Is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer;
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools;
 - b. An operational vacuum cleaning system; and
 - c. The following items, which shall be accessible whenever the swimming pool is in use:
 - i. A ring buoy attached to a 1/2 inch diameter rope at least 25 feet in length, and
 - ii. A shepherd's crook.
- B.** A provider shall ensure that a swimming pool at the child care group home is totally enclosed by a fence that:
 - 1. Separates the swimming pool from all other outdoor areas;
 - 2. Is secured to the ground;
 - 3. Is constructed so that it is stable and capable of enduring force without breaking;
 - 4. Is at least five feet high;
 - 5. Has a self-closing, self-latching, lockable gate; and
 - 6. Does not have any vertical or horizontal open space that exceeds four inches at any point, including any space on a gate.
- C.** A provider shall ensure that:
 - 1. During periods of use, a swimming pool's water quality is tested at least once each day for compliance with subsection (A)(2), and the results of the water quality tests are documented in a log that includes each testing date and test result;

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2. A swimming pool is not used by an enrolled child if a water quality test shows that the swimming pool water does not comply with subsection (A)(2);
3. Each gate on a fence around a swimming pool on the premises is locked whenever the swimming pool is not in use;
4. Swimming pool chemicals are kept in a locked storage area that is inaccessible to enrolled children; and
5. Swimming pool machinery, including a vacuum cleaning system, is inaccessible to enrolled children.

D. A provider shall not allow an enrolled child to use or have access to a wading pool.

R9-3-504. Fire Safety Standards

A. A provider shall ensure that:

1. The house number of the child care group home's residential building is painted or posted on the premises so that it is clearly visible from the street;
2. A smoke detector is installed in each indoor activity area used by enrolled children and in each hallway of the child care group home's residential building;
3. Each smoke detector required under subsection (A)(2):
 - a. Is maintained in an operable condition; and
 - b. Is either battery operated or, if hard-wired into the electrical system of the child care group home's residential building, has a back-up battery;
4. The child care group home's residential building has at least two portable fire extinguishers that are labeled as rated at least 2A-10-BC by the Underwriters Laboratories, one of which is mounted and maintained in the kitchen;
5. Each rechargeable fire extinguisher in the child care group home's residential building is inspected and maintained each year and has a current inspection tag attached;
6. Each disposable fire extinguisher in the child care group home's residential building is checked monthly and is discarded when its indicator reaches the red zone;
7. Each electrical outlet in a certified area is covered with a safety plug cover or insert when not in use;
8. An appliance, light, or other device with a frayed or spliced electrical cord is not used at the child care group home;
9. An extension cord is not used in place of permanent wiring at the child care group home;
10. An electrical cord is not run under a rug or carpeting, over a nail, or from one room to another at the child care group home;
11. Each electrical, cable, or telephone outlet at the child care group home is covered with a face plate;
12. Each natural gas line at the child care group home is inspected and repaired as needed and at least annually by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
13. Each unused natural gas outlet at the child care group home has its valves removed by and is capped at the wall or floor by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
14. Heating and cooling equipment at the child care group home, such as a wood-burning stove, fireplace, or chiminea, is inaccessible to enrolled children;
15. An unvented space heater, open-flame space heater, or electric portable heater is not used in the child care group home's residential building during hours of operation;
16. Each fireplace in a certified area is screened;
17. A candle or incense is not burned in the child care group home's residential building during hours of operation;
18. Smoking is permitted on the premises during hours of operation only if done outside of certified areas, outside of the residential building, and outside of the presence and sight of enrolled children; and
19. If the child care group home's residential building is a mobile home, a manufactured home, or a factory-built building, it meets the following requirements:
 - a. The manufactured home or factory-built building was built after 1976, as documented by a certificate issued by the U.S. Department of Housing and Urban Development and permanently attached to the manufactured home or factory-built building, or has been inspected and approved by a structural engineer;
 - b. The mobile home is a rehabilitated mobile home, as documented by an Insignia of Approval issued under A.A.C. R4-34-606;
 - c. The skirting around the mobile home, manufactured home, or factory-built building is permanently attached and surrounds the entire perimeter of the residential building;
 - d. Each stairway or ramp to the mobile home, manufactured home, or factory-built building:
 - i. Is constructed so that it is stable and capable of enduring force without breaking;
 - ii. Is usable; and
 - iii. Has railings; and
 - e. A gas water heater located inside the mobile home, manufactured home, or factory-built building is surrounded by sheet rock.

B. A provider shall test the battery for each smoke detector required under subsection (A)(2) each month and shall make a

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record of each test performed in a smoke detector battery test log. A provider shall replace a smoke detector battery that is no longer charged.

- C.** A provider shall prepare a fire evacuation plan and post the fire evacuation plan in an activity area accessible to staff members. The fire evacuation plan shall include a floor plan of the child care group home's residential building on which lines have been drawn showing the evacuation path.
- D.** A provider shall ensure that an unannounced fire evacuation drill is conducted at least once each month as follows:
1. During a fire evacuation drill, each staff member and enrolled child at the child care group home shall be evacuated from the child care group home according to the fire evacuation plan;
 2. Each fire evacuation drill shall be conducted at a different time of day than the last fire evacuation drill; and
 3. The provider shall make a record of each fire evacuation drill in a fire evacuation drill log, including:
 - a. The date of the fire evacuation drill,
 - b. The time of the fire evacuation drill, and
 - c. The amount of time that it took to evacuate each staff member and enrolled child at the child care group home.

R9-3-505. General Safety Standards

- A.** A provider shall ensure that enrolled infants and children younger than 5 years of age are cared for only on the ground floor of the child care group home's residential building.
- B.** Except as provided in R9-3-406(D)(9), a provider may care for enrolled children 5 years of age or older on a floor above or below the ground floor of the child care group home's residential building if the floor on which care is provided has an exit that provides access to the ground level outside.
- C.** A provider shall ensure that:
1. A stairway that leads to a floor or room outside of the certified area is separated from the certified area by either a door or gate that is kept closed during hours of operation;
 2. A glass window that is located lower than 36 inches above the floor, a sliding glass door, or another type of glass partition that is located lower than 36 inches above the floor either is made of tempered glass or has conspicuous markings located at a child's eye level;
 3. Firearms and ammunition kept at the child care group home are stored in separate locked areas, locked cabinets, or locked containers inaccessible to and out of the view of enrolled children;
 4. The child care group home has at least one operable telephone readily available in a certified area, as follows:
 - a. If local landline telephone service is not available at the child care group home, as established by documentation, the telephone may be a wireless telephone; and
 - b. If local landline telephone service is available at the child care group home, the child care group home shall have landline service with at least one telephone that does not require electricity to operate;
 5. A list of emergency information is posted on or next to the telephone described in subsection (C)(4) and includes:
 - a. The child care group home's address and telephone number,
 - b. 9-1-1, and
 - c. The telephone numbers for the following:
 - i. A poison control center,
 - ii. The local police department, and
 - iii. The local fire department;
 6. Each hazardous material at the child care group home, other than a flammable liquid, is stored in its original or another clearly labeled container and is kept in an area, cabinet, or container that is locked;
 7. Each flammable liquid at the child care group home is stored:
 - a. In its original container;
 - b. In a locked area inaccessible to enrolled children; and
 - c. Away from any heat-producing appliance or equipment, such as a water heater or furnace;
 8. Each cord at the child care group home, including an electrical cord, window blind cord, or curtain cord, is inaccessible to an enrolled child;
 9. Each fan in a certified area is inaccessible to enrolled children and is permanently mounted;
 10. Each poisonous plant in a certified area at the child care group home is inaccessible to enrolled children;
 11. Each irrigation ditch, abandoned mine, or well in the outdoor activity area of the child care group home is inaccessible to enrolled children;
 12. An enrolled child does not have access to a hot tub, spa, pond, fountain, or portable wading pool or to any other body of water more than one-inch deep that is on the premises; and
 13. An enrolled child is not permitted to use or have access to a trampoline at the child care group home.

R9-3-506. General Cleaning and Sanitation Standards

A provider shall ensure that:

1. All certified areas of the child care group home and the furnishings, equipment, supplies, materials, utensils, and toys in those certified areas are kept clean and free of insects and vermin;

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2. All equipment, materials, and toys used by or accessible to enrolled children are cleaned and disinfected as often as necessary to maintain them in a clean and disinfected condition and, for items used by infants or 1- or 2-year olds, at least once every 24 hours;
3. Each enrolled child's personal items are labeled with at least the child's last name and first initial and, except for diapering products, are stored separately from the personal items of other enrolled children and residents;
4. An enrolled child's wet or soiled clothing is:
 - a. If the clothing is soiled with feces, emptied into a flush toilet without rinsing;
 - b. Placed in a plastic bag labeled with at least the child's first initial and last name;
 - c. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
 - d. Sent home with the child;
5. All plumbing fixtures at the child care group home are maintained in operating condition;
6. The plumbing at the child care group home supplies sufficient water pressure to meet the child care group home's toileting and cleaning needs;
7. Each bathroom used by enrolled children at the child care group home has the following within the reach of enrolled children:
 - a. Mounted toilet tissue;
 - b. Dispensed soap, and
 - c. Singly dispensed paper towels;
8. A staff member washes the staff member's hands with soap and running water after toileting;
9. An enrolled child other than a special needs child who cannot wash the child's own hands washes the enrolled child's hands with soap and running water after toileting;
10. After a special needs child who cannot wash the child's own hands uses the toilet, a staff member washes the child's hands with a washcloth or disposable wipes, using each washcloth or disposable wipe on only one child and only one time before it is laundered or discarded;
11. Each toilet bowl, lavatory, bathtub, shower, drinking fountain, bathroom floor, activity area floor, and kitchen floor in a certified area is cleaned and disinfected daily or, if necessary, more often;
12. A bathtub is cleaned and disinfected before being used to bathe an enrolled child and, if used to bathe more than one enrolled child in one day, between each use;
13. Food waste at the child care group home is stored in a waterproof container that is tightly covered and lined with a plastic bag; and
14. Food waste and other refuse is removed from the child care group home daily or, if necessary, more often to maintain a clean environment free from odor.

R9-3-507. Diaper-Changing Standards

- A. A staff member shall change diapers only in a certified area that is not a kitchen or eating area and that offers access to running water and dispensed soap.
- B. A provider shall ensure that:
 1. A diaper-changing surface is waterproof;
 2. A staff member cleans, sanitizes, and dries a diaper-changing surface before and after each diaper change;
 3. A staff member doing diaper changing washes the staff member's hands with soap and running water before and after each diaper change;
 4. A staff member doing diaper changing wears single-use disposable medical-grade gloves during each diaper change;
 5. A staff member doing diaper changing washes an enrolled child's hands with soap and running water or with a washcloth or disposable wipe after the enrolled child's diaper is changed and uses each washcloth on only one child and only one time before it is laundered and each disposable wipe on only one child and only one time before it is discarded;
 6. Soiled cloth diapers or plastic pants are:
 - a. If soiled with feces, emptied into a flush toilet without rinsing;
 - b. Placed in a plastic bag labeled with at least the child's first initial and last name;
 - c. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
 - d. Sent home with the child; and
 7. Soiled disposable diapers and disposable training pants are:
 - a. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
 - b. Removed from the diaper-changing area and discarded in an outside waste receptacle once daily or, if necessary, more often to maintain a clean environment free from odor.

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R9-3-508. Pet and Animal Standards

- A.** A provider shall ensure that:
1. Each dog, cat, or ferret at the child care group home has a current vaccination against rabies;
 2. All pet and animal habitats at the child care group home are kept clean;
 3. Except as provided in subsection (B), a reptile is not kept at the child care group home;
 4. When kept in a certified area of the child care group home, a bird kept at the child care group home is:
 - a. Kept in a cage during hours of operation, and
 - b. Not kept in the kitchen or an eating area of the child care group home;
 5. Pets and animals are controlled so that the cleanliness of the child care group home is maintained and no enrolled child, staff member, or other individual at the child care group home is endangered;
 6. All pets and other animals, except cats and dogs, are kept in enclosures that are inaccessible to enrolled children, except as an activity, during hours of operation;
 7. Each pet dish is kept in an area inaccessible to enrolled children during hours of operation;
 8. Receptacles for pet feces and urine, such as litter boxes, are inaccessible to enrolled children;
 9. Pet feces in an outdoor activity area is cleaned up before enrolled children are permitted in the outdoor activity area; and
 10. Enrolled children and staff members wash their hands with soap and running water after an activity involving animals.
- B.** A provider who is keeping a reptile at a child care group home as of September 1, 2004, may continue to keep the reptile at the child care group home if:
1. The reptile is kept out of certified areas; and
 2. The reptile is kept either:
 - a. Outside in a completely segregated area to which an enrolled child cannot gain access, or
 - b. In a glass or acrylic tank or container that would not allow an enrolled child to touch the reptile or the inside of the tank or container.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES**

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R9-5-101	Amend
R9-5-102	Amend
Article 7	Repeal
R9-5-701	Repeal
R9-5-702	Repeal
Table 2	Repeal
R9-5-703	Repeal
R9-5-704	Repeal
R9-5-705	Repeal
R9-5-706	Repeal
R9-5-707	Repeal
R9-5-708	Repeal
Article 8	Repeal
R9-5-801	Repeal
R9-5-802	Repeal
R9-5-803	Repeal
R9-5-804	Repeal
R9-5-805	Repeal
R9-5-806	Repeal
R9-5-807	Repeal
R9-5-808	Repeal
R9-5-809	Repeal
Article 9	Repeal
R9-5-901	Repeal

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R9-5-902	Repeal
R9-5-903	Repeal
R9-5-904	Repeal
R9-5-905	Repeal
R9-5-906	Repeal
R9-5-907	Repeal
R9-5-908	Repeal
R9-5-909	Repeal
R9-5-910	Repeal
R9-5-911	Repeal
R9-5-912	Repeal
Article 10	Repeal
R9-5-1001	Repeal
R9-5-1002	Repeal
R9-5-1003	Repeal
R9-5-1004	Repeal
R9-5-1005	Repeal
R9-5-1006	Repeal

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

Authorizing statutes: A.R.S. §§ 36-136(F), 36-883, 36-897.01, 36-897.02

Implementing statutes: A.R.S. §§ 36-883, 36-897.01, 36-897.02

3. The effective date of the rules:

The Department has designated a delayed effective date of September 1, 2004, to be consistent with the delayed effective date in the separate rulemaking adopting new rules for child care group homes in 9 A.A.C. 3. The Department has determined that good cause exists for this delayed effective date and that the public interest will not be harmed by the delayed effective date. Having these rules remain effective until the new rules take effect will ensure that child care group homes are continuously regulated to protect the health, safety, and welfare of children in care in the child care group home setting.

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 1818, June 6, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 3603, August 15, 2003

Notice of Supplemental Proposed Rulemaking: 9 A.A.R. 4998, November 21, 2003

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

Name: Lourdes B. Ochoa, State Licensing (Program) Manager

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Child Care Licensing
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2539

Fax: (602) 364-4768

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

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 W. Adams, Suite 202
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

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

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

This rulemaking amends the rules in 9 A.A.C. 5, Article 1 to remove references specific to child care group homes and, in Articles 7 through 10, repeals all of the rules specific to child care group homes. In a separate rulemaking,

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proceeding simultaneously with this rulemaking, the Department is making new rules for child care group homes in a new Chapter 3 entitled "Child Care Group Homes." The Department is moving the rules for child care group homes to a separate Chapter to make them easier to find and use and to alleviate any confusion caused by their being in the same Chapter with the rules for child care facilities.

In addition, the Department is simplifying the definition of "compensation"; is removing an unnecessary section symbol in the definition of "facility premises"; and is deleting references to a class one or two fingerprint clearance card in R9-5-102 because of statutory changes made in Laws 2003, Chapter 214.

The Department is making this rulemaking with a delayed effective date of September 1, 2004, to be consistent with the delayed effective date in the separate rulemaking adopting new rules for child care group homes in 9 A.A.C. 3. The Department has determined that good cause exists for this delayed effective date. Having these rules remain effective until the new rules take effect will provide the Department time to create new forms, train staff on the requirements of the new rules, and adjust operations to conform to the new requirements. In addition, it will provide stakeholders time to learn the new rules and to come into compliance with them. The Department has determined that the public interest will not be harmed by the delayed effective date because having these rules remain effective until the new rules take effect will ensure that child care group homes will be continuously regulated to protect the health, safety, and welfare of children in care in the child care group home setting.

6. An explanation of the substantial change which resulted in this supplemental notice:

The Department is making this rulemaking with a delayed effective date of September 1, 2004, which was not identified in the original Notice of Proposed Rulemaking. The Department is doing this to be consistent with the delayed effective date for the separate rulemaking adopting new rules for child care group homes in 9 A.A.C. 3.

In addition, the Department is simplifying the definition of "compensation"; is removing an unnecessary section symbol in the definition of "facility premises"; and is deleting references to a class one or two fingerprint clearance card in R9-5-102 because of statutory changes made in Laws 2003, Chapter 214.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

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:

This rulemaking will significantly benefit the Department and the public because this rulemaking makes it possible for the rules for child care group homes to be adopted in a new Chapter specific to child care group homes and will minimally benefit the Department and the public because it simplifies the definition of "compensation" to make it clearer. In addition, the Department will incur minimal-to-moderate costs resulting from the rulemaking process. The Department does not anticipate that this rulemaking will have any other economic impacts.

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

The Department has not made any changes to the rules since the Notice of Supplemental Proposed Rulemaking.

11. A summary of the comments made regarding the rule and the agency response to them:

The Department did not receive any oral or written comments regarding these rules. All of the comments received during the public comment periods related to the new rules being adopted in 9 A.A.C. 3.

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 made as an emergency rule?

No

15. The full text of the rules follows:

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TITLE 9. HEALTH SERVICES

CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES

ARTICLE 1. GENERAL

Section

- R9-5-101. Definitions
- R9-5-102. Individuals to Act for Applicant, or Licensee, or Certificate Holder Regarding Document, Fingerprinting, and Department-Provided Training Requirements

ARTICLE 7. ~~CHILD CARE GROUP HOME CERTIFICATION~~ REPEALED

Section

- R9-5-701. ~~Application for a Certificate~~ Repealed
- R9-5-702. ~~Time frames~~ Repealed
- Table 2. ~~Time frames (in days)~~ Repealed
- R9-5-703. ~~Fingerprinting Requirements~~ Repealed
- R9-5-704. ~~Certificate Renewal~~ Repealed
- R9-5-705. ~~Changes Affecting a Certificate~~ Repealed
- R9-5-706. ~~Change in Provider~~ Repealed
- R9-5-707. ~~Inspections; Investigations~~ Repealed
- R9-5-708. ~~Denial, Revocation, or Suspension of Certificate~~ Repealed

ARTICLE 8. ~~CHILD CARE GROUP HOME ADMINISTRATION~~ REPEALED

Section

- R9-5-801. ~~Provider Standards and Responsibilities~~ Repealed
- R9-5-802. ~~Personnel Standards and Responsibilities~~ Repealed
- R9-5-803. ~~Facility Staffing~~ Repealed
- R9-5-804. ~~Inspection Reports~~ Repealed
- R9-5-805. ~~Personnel Records and Reports~~ Repealed
- R9-5-806. ~~Children's Records and Reports~~ Repealed
- R9-5-807. ~~Attendance Records; Admission and Release of Children~~ Repealed
- R9-5-808. ~~Insurance~~ Repealed
- R9-5-809. ~~Other Businesses on Facility Premises~~ Repealed

ARTICLE 9. ~~PROGRAM AND EQUIPMENT FOR CHILD CARE GROUP HOMES~~ REPEALED

Section

- R9-5-901. ~~General Program and Equipment Standards~~ Repealed
- R9-5-902. ~~Supplemental Program and Equipment Standards for Infants and Children 2 Years of Age and Younger~~ Repealed
- R9-5-903. ~~Supplemental Equipment Standards for School-age Children~~ Repealed
- R9-5-904. ~~Supplemental Program and Equipment Standards for Special Needs Children~~ Repealed
- R9-5-905. ~~Supplemental Program and Equipment Standards for Night Care~~ Repealed
- R9-5-906. ~~Illness and Infestation~~ Repealed
- R9-5-907. ~~Emergency Medical Care~~ Repealed
- R9-5-908. ~~Medications~~ Repealed
- R9-5-909. ~~Discipline and Guidance~~ Repealed
- R9-5-910. ~~Nutrition and Meals~~ Repealed
- R9-5-911. ~~General Food Service and Food Handling Standards~~ Repealed
- R9-5-912. ~~Transportation of Children and Field Trips~~ Repealed

ARTICLE 10. ~~ACTIVITY AREAS AND PHYSICAL FACILITY STANDARDS FOR CHILD CARE GROUP HOMES~~ REPEALED

Section

- R9-5-1001. ~~Child Care Group Home Activity Areas~~ Repealed
- R9-5-1002. ~~Swimming Pools~~ Repealed
- R9-5-1003. ~~Fire and Safety~~ Repealed
- R9-5-1004. ~~Sanitation~~ Repealed
- R9-5-1005. ~~Diaper Changing~~ Repealed

R9-5-1006. ~~Pets and Animals Kept on the Premises~~ Repealed

ARTICLE 1. GENERAL

R9-5-101. Definitions

In this Chapter, unless otherwise specified:

1. No change
2. No change
 - a. No change
 - b. No change
 - c. No change
3. No change
4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
5. "Activity" means an action planned by a licensee, ~~certificate holder, or provider~~ and performed by a child while supervised by a staff member.
6. "Activity area" means a specific indoor or outdoor space or room of a licensed facility ~~or certified child care group home~~ that is designated by a licensee ~~or certificate holder~~ for use by enrolled children for activities.
7. No change
8. No change
9. No change
10. No change
11. "Applicant" means an individual or business organization requesting one of the following:
 - a. An initial or renewal license, or
 - ~~b. An initial or renewal certificate;~~
 - e.b. Approval of a change affecting a license under R9-5-206, ~~or~~
 - ~~d. Approval of a change affecting a certificate under R9-5-705.~~
12. "Application" means the documents that an applicant is required to submit to the Department for licensure, ~~certification,~~ or approval of a request for a change affecting a license ~~or a certificate~~.
13. No change
14. "Association or cooperative" means a group of individuals other than a corporation, limited liability company, partnership, joint venture, or public school who have established a governing board and bylaws to operate a facility ~~or a child care group home~~.
15. No change
16. No change
17. No change
18. No change
19. No change
20. ~~"Certificate" means the written authorization issued by the Department to operate a child care group home in Arizona.~~
21. ~~"Certificate holder" means a person to whom the Department has issued a certificate to operate a child care group home in Arizona.~~
22. ~~"Certified capacity" means the maximum number of children for whom a certificate holder is authorized by the Department to provide child care services at a child care group home at any given time.~~
- 23-20. ~~"Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a facility or child care group home resulting from a sale or merger of a facility or child care group home.~~
- 24-21. No change
- 25-22. "Child" means:
 - a. ~~For a child care facility, the same as in A.R.S. § 36-881; and~~
 - b. ~~For a child care group home, any individual less than 13 years of age.~~
- 26-23. No change
- 27-24. No change
 - a. No change
 - b. No change
 - c. No change

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- d. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
- ~~28.~~ “Child care group home” has the same meaning as in A.R.S. § 36-897.
- ~~29-25.~~ “Child care services” means the range of activities and programs provided by a licensee ~~or certificate holder~~ to a child, including personal care, supervision, education, guidance, and transportation.
- ~~30-26.~~ No change
- ~~31-27.~~ No change
 - a. No change
 - b. No change
 - c. No change
- ~~32-28.~~ No change
- ~~33-29.~~ No change
- ~~34-30.~~ No change
- ~~35-31.~~ “Compensation” means money or other consideration, including goods, services, vouchers, time, or another benefit, that is received by a licensee ~~or certificate holder from any individual~~ as payment for child care services ~~or that is received by a staff member from a licensee or certificate holder as payment for working in a child care facility or child care group home.~~
- ~~36-32.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- ~~37-33.~~ No change
- ~~38-34.~~ No change
- ~~39-35.~~ No change
- ~~40-36.~~ No change
- ~~41-37.~~ No change
- ~~42-38.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- ~~43-39.~~ No change
- ~~44-40.~~ No change
- ~~45-41.~~ No change
- ~~46-42.~~ No change
- ~~47-43.~~ “Enrolled” means placed by a parent and accepted by a licensee ~~or certificate holder~~ for child care services.
- ~~48-44.~~ No change
- ~~49-45.~~ “Facility” means:
 - a. ~~In Articles 2 through 6, “child care facility” as defined in A.R.S. § 36-881; and~~
 - b. ~~In Articles 7 through 10, “child care group home.”~~
- ~~50-46.~~ No change
- ~~51-47.~~ “Facility premises” means property that is:
 - a. Designated on an application for a license ~~or certificate~~ by the applicant, and
 - b. Licensed ~~or certified~~ for child care services by the Department under A.R.S. § Title 36, Chapter 7.1, Article 1 ~~or 4~~ and these rules.
- ~~52-48.~~ No change
 - a. No change
 - b. No change
- ~~53-49.~~ No change
- ~~54-50.~~ No change
- ~~55-51.~~ No change
- ~~56-52.~~ No change
- ~~57-53.~~ No change
- ~~58-54.~~ No change

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~~59-55~~. No change

~~60-56~~. No change

a. No change

b. No change

c. No change

~~61-57~~. "Hours of operation" means the specific time during a day for which a licensee ~~or certificate holder~~ is licensed ~~or certified~~ to provide child care services.

~~62-58~~. No change

~~63-59~~. No change

a. No change

b. No change

~~64-60~~. No change

~~65-61~~. No change

~~66-62~~. "Inspection" means:

a. Onsite examination of a facility by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and these rules;

~~b. Onsite examination of a child care group home by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules;~~

~~e-b.~~ Onsite review of facility ~~or child care group home~~ records or reports by the Department; or

~~d-c.~~ Onsite examination of a facility ~~or a child care group home~~ by a local governmental entity.

~~67-63~~. No change

~~68-64~~. No change

~~69-65~~. No change

~~70-66~~. No change

~~71-67~~. No change

~~72-68~~. No change

~~73-69~~. No change

~~74-70~~. "Menu" means:

a. A written description of the food that a facility ~~or child care group home~~ provides and serves as a meal or snack, or

b. The combination of food that a facility ~~or child care group home~~ provides and serves as a meal or snack.

~~75-71~~. No change

~~76-72~~. No change

~~77-73~~. No change

~~78-74~~. No change

~~79-75~~. No change

~~80-76~~. No change

a. No change

b. No change

~~81-77~~. No change

~~82-78~~. No change

~~83-79~~. No change

a. No change

b. No change

c. No change

~~84-80~~. No change

~~85-81~~. No change

~~86-82~~. No change

a. No change

b. No change

~~87-83~~. "Personal reference" means an adult who is familiar with a director's, ~~a provider's~~, or a staff member's character due to observations made as a friend or acquaintance.

~~88-84~~. "Physical plant" means a building that houses a facility ~~or a child care group home~~, or licensed ~~or certified~~ areas within a building that houses a facility ~~or a child care group home~~, including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.

~~89-85~~. No change

a. No change

b. No change

c. No change

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- d. No change
- e. No change
- ~~90-86.~~No change
 - a. No change
 - b. No change
- ~~91-87.~~No change
- ~~92-88.~~No change
- ~~93-89.~~No change
- ~~94-90.~~“Professional reference” means an adult who is familiar with a director’s, ~~a provider’s,~~ or a staff member’s work abilities due to observations made as a supervisor or leader in a business, school, church, or other organizational setting.
- ~~95-91.~~No change
- ~~96.~~ “Provider” means the certificate holder or a person the certificate holder designates in writing who, pursuant to applicable statutes and rules, is to be responsible for direct daily supervision, operation and maintenance of the child care ~~group home.~~
- ~~97-92.~~No change
- ~~98-93.~~No change
- ~~99-94.~~No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
- ~~100-95.~~No change
- ~~101-96.~~“Resident” means:
 - a. In reference to residency in a child care facility ~~or child care group home,~~ an individual who does not work in the child care facility ~~or child care group home,~~ but who uses the child care facility ~~or child care group home~~ as the individual’s principal place of habitation for 30 days or more during the calendar year; and
 - b. In reference to residency in Arizona, the same as in A.R.S. § 43-104.
- ~~102-97.~~No change
- ~~103-98.~~No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
- ~~104-99.~~No change
- ~~105-100.~~No change
- ~~106-101.~~No change
- ~~107-102.~~No change
- ~~108-103.~~No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- ~~109-104.~~No change
- ~~110-105.~~“Space utilization” means the designated use of an area within a facility ~~or a child care group home~~ for specific child care services or activities.
- ~~111-106.~~“Staff” or “staff member” or “child care personnel” means an individual who works in a facility ~~or a child care group home,~~ regardless of whether compensation is received by the individual.
- ~~112-107.~~No change
- ~~113-108.~~No change
- ~~114-109.~~“Substantial compliance” means:
 - a. ~~For a child care facility,~~ that the nature or number of violations revealed by any type of inspection or investiga-

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tion of an applicant for licensure or a licensed child care facility does not pose a direct risk to the life, health, or safety of children; and

- b. For a child care group home, that the nature or number of violations revealed by any type of inspection or investigation of an applicant for certification as a child care group home or a certified child care group home does not pose a direct risk to the life, health, or safety of children.

~~115-110.~~ "Supervision" means:

- a. The physical presence of a facility director, ~~provider,~~ or staff member who has responsibility for and is within sight and sound of an enrolled child, or
- b. The physical presence of a facility director, ~~provider,~~ or teacher-caregiver who is providing direction to and is within sight and sound of a staff member or student-aide.

~~116-111.~~ No change

~~117-112.~~ No change

~~118-113.~~ "Training" means child care-related conferences, seminars, lectures, workshops, classes, courses, or instruction required by the Department of a licensee, ~~certificate holder,~~ or staff member.

~~119-114.~~ No change

R9-5-102. Individuals to Act for Applicant, or Licensee, ~~or Certificate Holder~~ Regarding Document, Fingerprinting, and Department-Provided Training Requirements

When an applicant, or licensee, ~~or certificate holder~~ is required by this Chapter to provide information on or sign documents, possess a ~~class one or two~~ fingerprint clearance card, or complete Department-provided training, the following shall satisfy the requirement on behalf of the applicant, or licensee, ~~or certificate holder~~:

1. If the applicant, or licensee, ~~or certificate holder~~ is an individual, the individual;
2. If the applicant, or licensee, ~~or certificate holder~~ is a corporation, an officer of the corporation;
3. If the applicant, or licensee, ~~or certificate holder~~ is a partnership, two of the partners;
4. If the applicant, or licensee, ~~or certificate holder~~ is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
5. If the applicant, or licensee, ~~or certificate holder~~ is an association or cooperative, two members of the governing board of the association or cooperative;
6. If the applicant, or licensee, ~~or certificate holder~~ is a joint venture, two of the individuals signing the joint venture agreement;
7. If the applicant, or licensee, ~~or certificate holder~~ is a public school, an individual designated in writing as signatory for the public school by the school governing board or school district superintendent;
8. If the applicant, or licensee, ~~or certificate holder~~ is a charter school, the person approved to operate the charter school by the district governing board, the Arizona Board of Education, or the Arizona Board for Charter Schools;
9. If the applicant, or licensee, ~~or certificate holder~~ is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
10. If the applicant, or licensee, ~~or certificate holder~~ is a business organization type other than those described in subsections (2) through (9), two individuals who are members of the business organization.

ARTICLE 7. ~~CHILD CARE GROUP HOME CERTIFICATION~~ REPEALED

R9-5-701. Application for a Certificate Repealed

An applicant for a certificate shall:

1. ~~Be at least 21 years of age; and~~
2. ~~Submit to the Department an application including:~~
 - a. ~~A notarized application form signed by the applicant stating:~~
 - i. ~~The applicant's name;~~
 - ii. ~~The child care group home's name, if applicable;~~
 - iii. ~~The child care group home's street address, mailing address, and telephone number;~~
 - iv. ~~The applicant's type of business organization;~~
 - v. ~~Whether the applicant agrees to allow the Department to submit supplemental requests for information; and~~
 - vi. ~~That the applicant has read and will comply with these rules; has the financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules; and declares that the information provided in the application is accurate and complete;~~
 - b. ~~If the applicant is a business organization, an Attachment to Application including the following organizational information about the business organization:~~
 - i. ~~The address of the business organization;~~
 - ii. ~~The name, title, and address of the business organization's statutory agent or of the individual designated by the business organization to accept service of process and subpoenas;~~
 - iii. ~~The name, title, and address of each officer and board member or trustee; and~~

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- iv. A copy of the business organization's articles of incorporation, partnership or joint venture documents, or limited liability documents, if applicable;
- e. A Child Care Information Sheet, including:
 - i. The applicant's name and telephone number;
 - ii. The child care group home's name, street address, mailing address, and telephone number;
 - iii. A list of the rooms in the child care group home indicating which rooms will be used for child care;
 - iv. A list of the child care service classifications to be provided in the child care group home; and
 - v. The applicant's signature and the date signed;
- d. A copy of the applicant's valid class one or class two fingerprint clearance card issued according to A.R.S. § 41-1758.03;
- e. A Criminal History Affidavit Class I or Class II completed by the applicant and including the information required by A.R.S. § 36-897.03;
- f. A certificate issued by the Department showing that the applicant has completed at least four hours of Department-provided training that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and these rules;
- g. The following physical plant documents:
 - i. A floor plan of the child care group home showing the dimensions of the outside walls of the child care group home; the dimensions of each room to be used for child care; the location of each exit from the child care group home; the location of each sink and toilet to be used by enrolled children; and the location of each smoke or heat detector, fire extinguisher, and telephone in the child care group home;
 - ii. A site plan of the child care group home's outdoor activity area showing the dimensions of the outdoor activity area, the height of the fence around the outdoor activity area, the location of each exit from the outdoor activity area, the location of the house, the location of the shaded area required by R9-5-604(F), the location of a swimming pool, the height of the fence around the swimming pool, and the location of any other building or structure in the outdoor activity area;
 - iii. A copy of a violation-free fire inspection conducted within 90 days before the date of application by the local fire department or the Office of the State Fire Marshal; and
 - iv. If the child care group home has gas-powered appliances or heating and cooling devices, a copy of a violation-free gas inspection conducted within 90 days before the date of application by a state-licensed plumber or an individual licensed by the state to conduct inspection and repairs of gas lines and gas-fired heating and cooling devices;
- h. An Applicant, Staff, and Resident Report Form, including the applicant's name and address; a statement that the information on the form is accurate and complete; the dated signature of the applicant; and the following information about the applicant, each staff member, and each resident:
 - i. Name;
 - ii. Social security number or identification number issued by the U.S. Immigration and Naturalization Service;
 - iii. Birth date;
 - iv. Hire date, if applicable;
 - v. Job title, if a staff member, or relationship to certificate holder or provider, if a resident;
 - vi. Date of high school diploma or high school equivalency diploma, if applicable; and
 - vii. Information demonstrating each individual's compliance with A.R.S. § 36-897.03;
- i. A Provider Qualifications Form completed by the individual that the applicant intends to have serve as provider, including:
 - i. The name of the individual;
 - ii. The child care group home's name, if applicable;
 - iii. The child care group home's street address and telephone number;
 - iv. A statement that the individual is at least 21 years of age, will accept the primary responsibility for the daily administration and operation of the child care group home, and possesses the minimum qualifications required by R9-5-801;
 - v. A copy of the individual's high school diploma or high school equivalency diploma;
 - vi. A description of any additional education completed by the individual;
 - vii. A statement that the individual has on file at the child care group home the names, addresses, and telephone numbers of two professional references and two personal references for the individual;
 - viii. A statement that the information in the Provider Qualifications Form is accurate and complete; and
 - ix. The dated signature of the individual;
- j. At least one written professional reference and one written personal reference for the individual that the applicant intends to have serve as provider;
- k. Copies of certificates of general liability insurance and motor vehicle insurance that comply with R9-5-808; and
- l. The fee required by A.R.S. § 36-897.01.

R9-5-702. Time frames Repealed

- A.** The overall time frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is listed in Table 2. The applicant and the Department may agree in writing to extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed 25% of the overall time frame.
- B.** The administrative completeness review time frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is listed in Table 2 and begins on the date that the Department receives an application.
 - 1. The Department shall send a 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 items needed to complete the application.
 - b. The administrative completeness review time frame and the overall time frame are suspended from the date that the notice of deficiencies is issued until the date that the Department receives all of the missing items from the applicant.
 - e. If an applicant for an initial certificate, a renewal certificate, or an approval of a change affecting a certificate fails to submit to the Department all of the items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.
 - 2. If the Department issues a certificate or other approval to the applicant during the administrative completeness review time frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time frame described in A.R.S. § 41-1072 is listed in Table 2 and begins on the date of the notice of administrative completeness.
 - 1. As part of the substantive review for an initial certificate application or a certificate renewal application, the Department shall conduct an inspection that may require more than one visit to the child care group home.
 - 2. As part of the substantive review for a request for approval of a change affecting a certificate that requires a change in the use of physical space at the child care group home, the Department shall conduct an inspection that may require more than one visit to the child care group home.
 - 3. The Department shall send a certificate or a written notice of approval or denial of a certificate or other request for approval to an applicant within the substantive review time frame.
 - 4. During the substantive review time frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
 - a. If the Department determines that an applicant or a child care group home is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
 - b. An applicant shall submit to the Department all of the information requested in the comprehensive written request for additional information and written documentation of the corrections required in the statement of deficiencies, if applicable:
 - i. Within 120 days after the date of the comprehensive written request for additional information, if applying for an initial certificate or for approval of a change affecting a certificate; or
 - ii. Within 10 days after the date of the comprehensive written request for additional information, if applying for a certificate renewal.
 - e. The substantive review time frame and the overall time frame are suspended from the date that the Department issues a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including documentation of corrections required in a statement of deficiencies, if applicable.
 - d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including documentation of corrections required in a statement of deficiencies, if applicable, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
 - 5. The Department shall issue a certificate or approval if the Department determines that the applicant and child care group home are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, and the applicant submits documentation of corrections that is acceptable to the Department for any deficiencies.
 - 6. If the Department determines that a certificate or approval is to be denied, the Department shall send to the applicant a written notice of denial stating the reasons for denial and all other information required by A.R.S. § 41-1076.

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Table 2. ~~Time frames (in days) Repealed~~

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative-Completeness-Review-Time-Frame	Substantive-Review-Time-Frame
Initial Certificate under R9-5-701	A.R.S. § 36-897.01	120	30	90
Certificate Renewal under R9-5-704	A.R.S. § 36-897.01	90	30	60
Approval of Change-Affecting Certificate under R9-5-705	A.R.S. §§ 36-897.01, 36-897.02	75	30	45

R9-5-703. ~~Fingerprinting Requirements Repealed~~

- ~~A. A certificate holder shall ensure that each staff member and each adult resident at a child care group home:

 - 1. Possesses a valid class one or class two fingerprint clearance card issued under A.R.S. § 41-1758.03, or
 - 2. Submits to the certificate holder a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming a staff member or adult resident.~~
- ~~B. If a staff member or adult resident possesses a class one or class two fingerprint clearance card that was issued before the staff member or adult resident became a staff member or adult resident at the child care group home, the certificate holder shall contact the Department of Public Safety within seven working days after the individual becomes a staff member or adult resident to determine whether the class one or class two fingerprint clearance card is valid. The certificate holder shall make a record of this determination, including the name of the staff member or adult resident, the date of the contact with the Department of Public Safety, and whether the class one or class two fingerprint clearance card is valid.~~
- ~~C. A certificate holder shall not allow an individual to be a staff member or adult resident if the individual has been denied a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1 and has not received an interim approval under A.R.S. § 41-619.55(H).~~
- ~~D. A certificate holder shall not allow an individual to be a staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55(H) but is then denied a good cause exception under A.R.S. § 41-619.55 and a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.~~
- ~~E. A certificate holder shall ensure that each staff member and each adult resident submits to the certificate holder the form required in A.R.S. § 36-897.03(B).~~
- ~~F. A certificate holder shall maintain documentation of each staff member's or adult resident's compliance with this Section in each staff member's or adult resident's file throughout the time the individual is a staff member or adult resident and for 12 months after the individual ceases to be a staff member or adult resident.~~

R9-5-704. ~~Certificate Renewal Repealed~~

- ~~A. At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application including:

 - 1. A notarized application form signed by the applicant that includes:
 - a. The applicant's name;
 - b. The child care group home's name, if applicable;
 - c. The child care group home's street address, mailing address, and telephone number;
 - d. The applicant's type of business organization; and
 - e. A statement that the applicant has read and will comply with these rules; has the financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules; and declares that the information provided in the application is accurate and complete;
 - 2. An Attachment to Application including any changes to the information previously submitted as prescribed in R9-5-701(2); and
 - 3. The fee required by A.R.S. § 36-897.01.~~
- ~~B. An applicant that submits the items required by subsection (A) later than 45 days before the expiration date of the current certificate shall pay to the Department the late filing fee required by A.R.S. § 36-897.01.~~
- ~~C. If an applicant submits the items required by subsection (A) and the fee required by subsection (B), if applicable, before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).~~

R9-5-705. ~~Changes Affecting a Certificate~~ Repealed

- A.** At least 30 days before the date of a change in a child care group home's name, a certificate holder shall send the Department written notice of the name change. Within 30 days after the date of receipt of the notice, the Department shall issue an amended certificate that incorporates the name change but retains the expiration date of the current certificate.
- B.** At least 30 days before the date of an intended change in a child care group home's space utilization or certified capacity, a certificate holder shall submit a written request for approval of the change to the Department. The written request shall include:
1. The certificate holder's name;
 2. The child care group home's name, if applicable;
 3. The child care group home's street address, mailing address, and telephone number;
 4. The name, telephone number, and fax number of a point of contact for the request;
 5. The child care group home's certificate number;
 6. The type of change:
 - a. Space utilization, or
 - b. Certified capacity;
 7. A narrative description of the intended change; and
 8. The following additional information, as applicable:
 - a. If requesting a change in certified capacity, the square footage of the outdoor activity area and the square footage of the child care group home's indoor activity areas; and
 - b. If requesting a change in space utilization that affects individual rooms, the name and square footage of each affected room.
- C.** The Department shall review a request submitted under subsection (B) according to R9-5-702. If the child care group home will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules with the intended change, the Department shall send the certificate holder an amended certificate that incorporates the change but retains the expiration date of the current certificate.
- D.** A certificate holder shall not implement any change described under subsection (B) until the Department issues an amended certificate.
- E.** At least 30 days before the date of a change in service classification, a certificate holder shall send the Department written notice of the change.
- F.** At least 30 days before the date of a change in the ownership of a child care group home, a certificate holder shall send the Department written notice of the change. A new owner shall obtain a new certificate as prescribed in R9-5-701 before the new owner begins operating the child care group home.
- G.** A certificate holder changing a child care group home's location shall apply for a new certificate as prescribed in R9-5-701.
- H.** Within 30 days after the date of a change in any corporate or company officer or statutory agent, a certificate holder that is a corporation or a limited liability company shall send the Department written notice of the change.
- I.** Within 30 days after the date of a change in the membership of a partnership or joint venture or in the individual designated in writing to accept service of process and subpoenas, a certificate holder that is a partnership or joint venture shall send the Department written notice of the change.
- J.** Within 30 days after the date of a change in the officers of an association or cooperative or in the statutory agent or other individual designated in writing to accept service of process and subpoenas, a certificate holder that is an association or cooperative shall send the Department written notice of the change.

R9-5-706. ~~Change in Provider~~ Repealed

At least 30 days before changing a child care group home's provider, a certificate holder shall send the Department written notice of the change. The written notice shall include a Provider Qualifications Form completed as required by R9-5-701(2)(i).

R9-5-707. ~~Inspections; Investigations~~ Repealed

- A.** The Department shall inspect each child care group home before issuing an initial certificate or a renewal certificate and as often as necessary to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules. A certificate holder shall allow access to all areas of the child care group home affecting the health, safety, or welfare of an enrolled child or to which an enrolled child has access during hours of operation.
- B.** If the Department receives written or verbal information alleging a violation of A.R.S. Title 36, Chapter 7.1, Article 4 or these rules, the Department shall conduct an investigation. A certificate holder shall permit the Department to interview staff members, residents, and enrolled children as part of an investigation.

R9-5-708. ~~Denial, Revocation, or Suspension of Certificate~~ Repealed

- A.** The Department may deny, revoke, or suspend a certificate to operate a child care group home if an applicant or certificate holder:

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1. Provides false or misleading information to the Department;
 2. Has been denied a certificate or license to operate a child care group home or a certificate or license to operate a child care facility in any state, unless the denial was based on the applicant's failure to complete the certification or licensing process according to a required time frame;
 3. Has had a certificate or license to operate a child care group home or a certificate or license to operate a child care facility revoked or suspended in any state;
 4. Has been denied a fingerprint clearance card or has had a fingerprint clearance card revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
 5. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 4 or these rules; or
 6. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, but refuses to carry out a plan acceptable to the Department to eliminate any deficiencies.
- B.** In determining whether to deny, suspend, or revoke a certificate, the Department shall consider the threat to the health and safety of children in a child care group home based on such factors as:
1. Repeated violations of statutes or rules;
 2. A pattern of non-compliance;
 3. The type of violation;
 4. The severity of the violation; and
 5. The number of violations.

ARTICLE 8. CHILD CARE GROUP HOME ADMINISTRATION REPEALED

R9-5-801. Provider Standards and Responsibilities Repealed

- A.** The provider shall:
1. Be 21 years of age or older;
 2. Have a high school diploma or its equivalent;
 3. Have current certification in child care first aid and infant/child cardiopulmonary resuscitation through a course approved by the Department; and
 4. Have a certificate issued by the Department showing that the provider has completed at least four hours of Department-provided training that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and these rules and records of attendance from all courses, workshops, seminars and training events attended.
- B.** The provider shall:
1. Orient each of the facility's personnel and each household member to the statutes and rules governing child care group homes and to the facility's policies and procedures;
 2. Ensure that the facility is operated in full compliance with statutes and rules governing child care group homes;
 3. Ensure that each enrolled child is supervised by child care personnel at all times and that any other duties or activities of personnel shall not interfere with the supervision and care given to children;
 4. Ensure that all visitors who are present in the facility or grounds, during hours of operation, are supervised and accompanied by the child care group home personnel;
 5. Notify parents and guardians of their right to enter the child care group home, during hours of operation, while their child is present;
 6. Maintain a written daily log of all accidents, injuries, behavior problems, or other unusual incidents at the facility. This record shall be kept at the facility for one calendar year following the year in which the incident occurred;
 7. Report any unusual incident which has occurred at the facility to the parent/guardian of each enrolled child, including the following:
 - a. Illness, injury, or death of a child or other person in the child care group home;
 - b. Damage to the facility, vehicles, and equipment involved in the provision of child care;
 - c. The presence of any individual in the facility who has, or is suspected of having, a contagious or infectious disease transmitted by the fecal-oral route, the airborne route, or through close personal contact;
 - d. An enrolled child who has run away or is missing from the facility;
 - e. Any fire at the facility; or
 - f. Any occurrence at the facility which required police, fire, ambulance, or other emergency response;
 8. Immediately report unusual incidents listed in subsection (B)(7) of this Section to the Department by telephone after they have occurred and shall submit a written report of the incident to the Department within 72 hours of its occurrence;
 9. Notify Child Protective Services and the local police immediately if any incident of suspected child abuse is observed, pursuant to A.R.S. § 13-3620;
 10. Ensure that back-up personnel, registered with the Department, are available within 15 minutes during hours of operation to assure compliance with staffing requirements specified in R9-5-803. The name, address, and telephone number of all available back-up personnel shall be posted by the facility telephone.

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11. Develop a written plan and instructions for facility personnel and household members to use in case of emergency. Each of the facility's personnel and household members who are 18 years of age or older shall have read and be able to demonstrate that they can implement the plan.
12. Prior to hiring, make good faith efforts to obtain three personal and three past employer references for facility personnel including household members engaged in child care. These references shall include at least one written personal reference and one written reference from the most recent employer regarding the individual's fitness to provide child care. Documents shall be maintained in the facility which reflect the reference information received.
13. Comply with requirements of R9-5-802(A) and (B).

R9-5-802. Personnel Standards and Responsibilities Repealed

- A.** Personnel providing child care for enrolled children, without direct supervision from the provider, shall:
1. Be 18 years of age or older; and
 2. Have a high school diploma or its equivalent.
- B.** Personnel shall:
1. Be oriented to the statutes and rules governing child care group homes and to facility policies and procedures before providing care for enrolled children;
 2. Have the physical and emotional health necessary to perform the duties and responsibilities required by the statutes and rules governing child care group homes; and
 3. Not use any tobacco products, alcohol, or illegal drugs, or be under the influence of alcohol or illegal drugs while providing child care. When personnel must take medications at the facility, the medications shall be:
 - a. Prescribed by a physician in the original container and which do not interfere with the provision of child care; and
 - b. Nonprescription medications sold over the counter, used as directed and which do not interfere with the provision of child care;
 4. Take all reasonable precautions to protect children from hazards;
 5. Not cause or permit a child to be abused;
 6. Attend nine hours of training each year, which shall include the following:
 - a. Orientation of all new employees to the child care group home and its policies and procedures;
 - b. On the job training for all new personnel who need training in specific areas to meet their job responsibilities;
 - c. Personnel responsibilities in complying with these statutes and rules;
 - d. Child health and safety procedures including recognition of illness and disease and training in basic disease control techniques;
 - e. Child growth and development;
 - f. Child abuse prevention, detection, and reporting;
 - g. Positive guidance and discipline;
 - h. Nutrition and good eating habits;
 - i. Availability of community services;
 - j. Family involvement and communication with families; and
 - k. Program planning and development; and
 7. Be excluded from the facility if there is evidence that their presence would not be conducive to, or would be detrimental to, the welfare of the children.

R9-5-803. Facility Staffing Repealed

- A.** One adult personnel member shall be present when one to five children are in care.
- B.** Two adult personnel staff members shall be present when six to 10 children are in care.
- C.** One additional personnel member shall be present when more than 10 children are in care. The personnel member may be a person who is 16 or 17 years old and is directly supervised by the provider.

R9-5-804. Inspection Reports Repealed

- A.** A chronological file of all reports of inspections conducted at the child care group home and documentation that required corrections have been timely made shall be kept current and maintained at the facility.
- B.** The file of inspection reports shall include all reports issued to the facility by the Department, the Department of Education Child Care Food Program, the Department of Economic Security, any county health department, any fire authority, any department of zoning, inspections conducted by the provider, and any other report issued to the facility by a governmental agency.
- C.** The file of inspection reports shall be presented to the parent or guardian of each child prior to enrollment at the facility and at any time when requested by the parent or guardian of an enrolled child.

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R9-5-805. Personnel Records and Reports Repealed

- A.** The provider shall retain and keep current the following information about child care personnel and all household members:
1. Name, home address, and telephone number;
 2. First-aid and CPR certificates, if applicable;
 3. Verification of compliance with A.R.S. § 36-897.03;
 4. Date of employment or volunteer assignment;
 5. Proof of negative tuberculin skin test or chest x-ray for all personnel and household members; and
 6. A written statement by the staff member or volunteer, on Department approved forms, testifying to immunity to measles, rubella, diphtheria, tetanus and polio. Individuals who were born before January 1, 1957, shall be considered immune to measles and therefore exempt from the measles immunization.
- B.** Personnel records and reports shall be made immediately available by the provider for inspection by the Department for a period of one calendar year following termination of employment, volunteer work or household membership.

R9-5-806. Children's Records and Reports Repealed

- A.** A child care group home shall maintain at the facility an individual file for each enrolled child separate from household or personal records. The file shall be made immediately available for inspection by the Department and shall contain the following:
1. Child's name, address, sex, and date of birth;
 2. Names of the child's parent or guardian, home and work addresses, and telephone numbers;
 3. Name, address, and telephone number of individuals to be notified in the event that the parents or guardian cannot be located. A minimum of two emergency contacts shall be available for each enrolled child prior to acceptance to the facility;
 4. Name and telephone number of child's primary source of medical care;
 5. Authorization and instructions for emergency medical care of the child when the parent or guardian cannot be contacted;
 6. Written instructions of the parent, guardian, or attending physician for any special dietary needs;
 7. A record completed by the parent, guardian, or physician noting the child's susceptibility to any illness and special needs;
 8. Immunization record or exemption affidavit which includes:
 - a. A verifiable record provided by the child's health care provider, parent or guardian which states that the child has received current, Department recommended, age appropriate immunizations for Haemophilus Influenza, Type B (Hib), measles, mumps, rubella, diphtheria, pertussis, tetanus and polio; or
 - b. An affidavit signed by the child's health care provider that the child has a medical condition such that required immunizations would seriously endanger the child's health; or
 - c. An affidavit signed by the child's parent or guardian that the child is being raised in a religion which prohibits immunization;
 9. Documentation that the provider has given written notice at least quarterly to the parent or guardian of each child who is 24 months of age or younger of all immunizations for that child which will become due during the upcoming quarter;
 10. Documentation that the provider has given written notice at least annually, to the parent or guardian of each child who is 25 months or older of all immunizations for that child which will become due during the coming year;
 11. Ensure that no child continues enrollment at the child care group home for more than 15 days after receiving notification of necessary immunizations until proof of immunizations or exemption from immunizations is provided;
 12. Documentation that the child's parent or guardian was notified immediately of an accident or injury to the child which required police, fire, ambulance or other emergency response;
 13. Legal documentation of sole legal guardianship, if the custodial parent or guardian requests that the center not allow the non-custodial parent to interact with the child at the center;
 14. Written permission allowing phone authorizations for release of the child signed by the parent or legal guardian;
 15. If an enrolled child is to be released to any individuals other than the custodial parent or guardian, authorization for such release shall be obtained when the child is enrolled and shall be updated as changes occur;
 16. Name, home and work addresses, and telephone numbers of individuals other than parent or guardian to whom the child may be released; and
 17. Written instructions, if any, from the parent or guardian regarding:
 - a. Special dietary needs or formula preparation;
 - b. Toilet training;
 - c. Needs of special children;
 - d. Medications routinely taken by the child;
 - e. If applicable, permission for the child to participate in water activities; and

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- f. If the child is of school age, the name and address of the school attended by the child, the hours of attendance, and a plan for how the child is to go to, and return from, school.
- B. Records included in each enrolled child's file shall be written legibly and in English, or if written in another language shall contain an English translation, and shall be retained at least three calendar years after the child is no longer enrolled. Duplicate records may be maintained in the file in another language.

R9-5-807. Attendance Records; Admission and Release of Children Repealed

- A. The facility shall keep attendance records, on Department-approved forms, indicating the time of arrival and departure for child care personnel on each day of work. The attendance record shall be co-signed weekly by the provider and the child care personnel.
- B. The provider shall require that the parent or guardian sign an attendance record on Department-approved forms indicating the time of arrival and departure for each enrolled child on each day present. The provider shall also maintain a record of the days and hours that non-enrolled children are present at the facility during hours of operation. All attendance records shall be maintained in the facility for a period of two calendar years.
- C. The provider shall require that the parent or guardian designate in writing those individuals 15 years of age and older who are authorized to admit or pick up the child. No child shall be released to a person younger than 15 years of age.
- D. The provider shall require that all authorized individuals, other than the parent or guardian, present picture identification prior to releasing the child from the child care group home.
- E. A child shall not be admitted to the facility if the child's presence will cause the facility to exceed its certified capacity pursuant to A.R.S. § 36-897(1).
- F. A child shall not be allowed to admit or release herself from a child care group home unless the child is of school age and written authorization is provided by the child's parent or guardian when the child is enrolled. If written authorization is brought to the facility by the child, the authorization shall be verified with the parent or guardian upon receipt.

R9-5-808. Insurance Repealed

- A. The applicant or the certificate holder shall secure and maintain general liability insurance covering the enrolled children with minimum limit of \$100,000. Providers who obtain commercial insurance coverage shall be required to have a Certificate of Insurance. If the liability insurance coverage includes a waiver of coverage for physical or sexual abuse, the parents shall be notified at the time of enrollment.
- B. The certificate holder shall obtain and maintain motor vehicle insurance coverage in accordance with A.R.S. § 28-1101 et seq., Uniform Motor Vehicle Safety Responsibility Act, for vehicles used to transport enrolled children.

R9-5-809. Other Businesses on Facility Premises Repealed

No other business shall be conducted at the facility or on the grounds of the facility designated for use by enrolled children during the hours of operation.

ARTICLE 9. PROGRAM AND EQUIPMENT FOR CHILD CARE GROUP HOMES REPEALED

R9-5-901. General Program and Equipment Standards Repealed

- A. A child care group home shall maintain a safe and healthful environment, free from disease and illness.
 - 1. Personnel shall not at any time endanger the health or safety of the children under their care; and
 - 2. Personnel shall ensure that each child is clean and groomed as necessary after meals and activities.
- B. A child care group home shall provide a program that includes a balance of daily activities that meet the age interests and developmental needs of each child including:
 - 1. Indoor/outdoor activities;
 - 2. Quiet/active activities;
 - 3. Supervised free choice/adult-directed activities;
 - 4. Individual, small group, and large group activities;
 - 5. Small/large muscle development activities; and
 - 6. Meals and snacks.
- C. Daily routine activities for each child, including diapering, toileting, eating, dressing, resting, and sleeping shall be incorporated into the program based upon developmental needs of the child.
- D. The program shall be adjusted to the needs of children, to cope with illness, changes in weather or other situations.
- E. If swimming is offered as a part of the facility's program, child care personnel shall be stationed at the pool when the pool is being used by children. At least one of the child care personnel present at the pool shall be able to swim, and one of the personnel present at the pool shall be currently certified in cardiopulmonary resuscitation. Personnel shall be able to see clearly all parts of the pool including the bottom.
- F. Each child care group home shall have sufficient play materials and equipment so that, at any one time, each child who is present can be individually involved in the activities outlined in the activity plan.

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- ~~G.~~ In addition to requirements specified in this rule, a child care group home providing care for 3-, 4-, and 5-year old children shall provide the following play materials and supplies:
 - 1. Art supplies;
 - 2. Blocks and block accessories;
 - 3. Books and posters;
 - 4. Dramatic play areas with toys and dress up clothes;
 - 5. Large muscle equipment;
 - 6. Manipulative toys;
 - 7. Science materials, and
 - 8. Musical instruments.
- ~~H.~~ The facility shall make the following provisions for sleeping children:
 - 1. There shall be a separate bed, cot, floor mat, or crib for each child who needs to nap or rest. Bunked beds are not permitted unless the child sleeps on the bottom bed. No other individual shall nap or rest on the bed, cot, mat, or crib which is being used by an enrolled child;
 - 2. An enrolled child shall not nap or sleep on a bed of a household member;
 - 3. Beds, cots, and cribs shall be of sound construction, of sufficient size to comfortably accommodate the size and weight of the child, and shall be kept clean and in good repair;
 - 4. Mats shall be covered with waterproof material and used only in rooms where close contact with the floor will not bring the sleeping child in contact with draft or dust;
 - 5. Rugs, carpet, blankets, and towels shall not be used as mats;
 - 6. Each bed, cot, or floor mat shall be completely covered with a clean sheet or similar covering which shall be laundered weekly or more frequently as needed. Coverings shall be freshly laundered before use by another child.
- ~~I.~~ No enrolled child shall be locked out of the facility with any locking device.
- ~~J.~~ An enrolled child shall never be placed on a waterbed.

R9-5-902. Supplemental Program and Equipment Standards for Infants and Children 2 Years of Age and Younger Repealed

- A facility which provides child care to enrolled infants and children 2 years of age or younger shall comply with the following:
- 1. Child care personnel shall talk to and hold children 2 years of age and younger frequently throughout the day;
 - 2. Child care personnel shall respond promptly to the infant's and child's distress signals and need for comfort;
 - 3. Infants and children shall spend no more than one hour of consecutive time during waking hours confined in a crib, playpen, high chair or other confining structure or piece of equipment;
 - 4. Each infant and child shall be allowed to maintain individual pattern of sleeping, waking and eating, unless instructed by the parent or guardian in writing to the contrary;
 - 5. Formulas prepared by the provider shall be prepared and stored in accordance with written instructions of the infant's parent or guardian;
 - 6. Infants six months of age or younger, or children who cannot hold their own bottles, shall be held by child care personnel while being fed. Bottles shall never be propped;
 - 7. Bottles shall be individually labeled and properly stored;
 - 8. Plastic bottle liners shall not be reused. Used bottles shall be promptly removed from cribs or beds, emptied and cleaned;
 - 9. Only water shall be used in bedtime or nap time bottles;
 - 10. Children shall not be fed cereal by bottle;
 - 11. Each infant's or child's diaper shall be checked frequently and changed as soon as wet or soiled;
 - 12. The provider shall consult with the parent or guardian to establish a mutual plan regarding individual toilet training and shall not force toilet training on any child;
 - 13. A sturdy adult size chair shall be provided in the infant room for personnel to use when holding and feeding infants;
 - 14. Highchairs shall be equipped with a safety strap and constructed so that the chair will not topple. A safety strap is not required if the design and construction of the chair is such that a safety strap is not necessary. All surfaces shall be smooth, free of cracks, and shall be sanitized prior to each use;
 - 15. A crib of sturdy construction with bars spaced no more than 2 3/8 inches apart shall be available for each infant. Stacked cribs are not permitted;
 - 16. Crib mattresses shall be completely and tightly covered with waterproof material. If plastic materials are used, they shall be durable and safe for children. Plastic bags shall not be used for mattress covers;
 - 17. There shall be no restraining devices of any type used in cribs;
 - 18. Each crib shall have clean, crib size bedding, including sheets and a blanket which is in good repair;
 - 19. Each crib and mattress shall be cleaned and bedding changed daily, or more often if necessary, and always before use by another child;
 - 20. Materials and equipment meeting the interests and needs of infants and one- and two-year olds shall include:

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- a. Books, including some cloth books;
 - b. Medium-size rubber or soft plastic balls;
 - e. Manipulative toys;
 - d. Blocks and block accessories;
 - e. Washable soft toys, stuffed animals and dolls;
 - f. Large muscle equipment; and
 - g. Musical instruments; and
21. Toys to be used by one and two-year-old children shall be durable, clean, movable, nontoxic, too large to swallow, and have no sharp pieces, edges or points. Toys shall be inspected frequently and regularly to ensure they are not hazardous.

R9-5-903. Supplemental Equipment Standards for School-age Children Repealed

In addition to materials and supplies specified in R9-5-901(G), a child care group home shall provide play materials and equipment that meet the interests and developmental needs of children including:

- 1. Arts and crafts;
- 2. Games;
- 3. Sports equipment;
- 4. Books;
- 5. Science materials; and
- 6. Manipulative toys.

R9-5-904. Supplemental Program and Equipment Standards for Special Needs Children Repealed

- A.** The provider may enroll special needs children when the following conditions are met prior to the child's attendance:
- 1. Documented training or consultation is obtained to enhance the ability of the personnel to meet the individual needs of enrolled special needs children;
 - 2. Activities and equipment substitutions are available or necessary activity and equipment adaptations are made to meet the requirements of enrolled special needs children;
 - 3. Modifications are made to the home environment which accommodate the individual needs of special needs children;
 - 4. The Department may require a higher number of adults to supervise special needs children than is specified in R9-5-803 in order to meet their needs; and
 - 5. Prior to the child's enrollment, a conference shall be held between the parent or guardian and the provider, to determine and document the needs of the special needs child. When necessary, and with prior written authorization from the parent or guardian, the provider shall also consult with other qualified individuals regarding the care to be provided to the special needs child.
- B.** Personnel should be familiar with appropriate community resource referral services and shall inform the parent or guardian of them.
- C.** Special needs children shall be integrated into the daily activities of the child care group home whenever possible within the least restrictive environment that meets the individual needs of special needs children in attendance.

R9-5-905. Supplemental Program and Equipment Standards for Night Care Repealed

After consultation with the parent or guardian to establish a written plan regarding night home care, a child care group home providing night home care shall comply with the following:

- 1. The facility shall provide each infant with a crib which meets the requirements of R9-5-902(A)(15) through (19), and each child with an individual, comfortable bed that is not less than a sturdy cot;
- 2. Enrolled children shall be bathed or showered at the facility only with written permission of parent or guardian;
- 3. If enrolled children are bathed at the facility, the bathtub or shower shall be sanitized between uses;
- 4. Facility personnel who provide evening and night child care for enrolled children shall remain awake until all children are asleep;
- 5. During night home care, personnel may sleep only if they maintain unobstructed access to the sleeping enrolled children and unimpaired hearing of them. Personnel or household members shall not share the same bed with an enrolled child;
- 6. An enrolled child shall not sleep in a bed used at other times of the day or night by household members.

R9-5-906. Illness and Infestation Repealed

- A.** Each child shall be observed daily by personnel for signs of illness and infestation upon entry to the facility.
- B.** The provider shall not accept or allow a child to remain at the child care group home if the child shows symptoms of inflammation, fever, rash, diarrhea, vomiting, pinworms, lice, or is suspected of having a contagious or infectious disease or infestation.

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- ~~C.~~ If the child develops symptoms of illness or infestation while at the child care group home, personnel shall isolate the child from others upon discovery and shall immediately notify the child's parent or guardian to arrange for prompt removal of the child.
- ~~D.~~ The provider shall notify the parent or guardian in writing within 24 hours if the child has been exposed to a contagious disease or infestation. In addition, the facility shall notify the local health department of all contagious diseases within 24 hours.

R9-5-907. Emergency Medical Care Repealed

- ~~A.~~ The provider shall immediately notify the child's parent or guardian or the person specified by the parent or guardian to be notified in case of an emergency or serious injury to the child which requires medical attention.
- ~~B.~~ A first aid kit shall be maintained in the child care group home that is accessible to all personnel but out of the reach of children. The first aid kit shall contain at a minimum:
 1. Adhesive bandages;
 2. Antiseptic solution;
 3. Sterile bandages;
 4. Scissors;
 5. Medical tape;
 6. Cotton swabs; and
 7. Syrup of ipecac within expiration limits.

R9-5-908. Medications Repealed

- ~~A.~~ The provider shall develop a medication policy and notify parents or guardians of the policy.
- ~~B.~~ Before medications are administered, the provider shall develop procedures which adhere to the following:
 1. Staff designated by the provider in writing shall be responsible for the administration of medication including the storage, recordkeeping, handling, and overseeing the child's ingestion or application of medication. Only one staff member in the child care group home at any given time shall be designated for administration of medication;
 2. Staff shall not administer medications to a child without specific written authorization from the child's parent or guardian. Such authorizations shall contain at least the following information:
 - a. The name of the child;
 - b. The name and prescription number of the medication to be given;
 - c. Specific instructions for administering the medication including the dosage, method of administration, the dates and time of day medication is to be given;
 - d. Reason the medication is being given;
 - e. Signature of parent or guardian; and
 - f. Date of authorization; and
 3. Injections shall be administered only by individuals licensed to do so by the state;
 4. The provider shall maintain a record of all medications administered to each child by child care group home staff. The record shall contain:
 - a. The name of the child;
 - b. The name and prescription number of the medication;
 - c. The date and time, dosage, and method by which the medication was administered; and
 - d. The signature of the staff member who administered the medication;
 5. The provider shall administer only medications that are provided by the parent or guardian in the original container and are labeled with the individual child's full name;
 6. Medications which have expired or are no longer to be administered shall be returned to the child's parent or guardian within 24 hours;
 7. All prescription and nonprescription medications shall be kept in a locked storage cabinet or in a locked container which is located out of the reach of children;
 8. Medications requiring refrigeration shall be kept in a locked, leakproof container in the refrigerator;
 9. The provider shall not keep stock supplies of any prescription or nonprescription medication.
- ~~C.~~ Medication records shall be maintained for three years and shall be available in the facility for immediate inspection by the Department.

R9-5-909. Discipline and Guidance Repealed

- ~~A.~~ Disciplinary measures shall meet the child's age, intellectual development, and emotional needs. All discipline shall be used to teach a child acceptable behavior, not as punishment or retribution.
- ~~B.~~ Facility personnel shall define and maintain consistent, reasonable rules and set limits for children and shall model and encourage acceptable positive behavior.

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- ~~C.~~ A child whose behavior is uncontrolled may be restrained by being firmly held by child care personnel only when all of the following conditions apply:
 - 1. It is necessary to prevent harm to the child or others,
 - 2. It occurs simultaneously with the uncontrolled behavior,
 - 3. It does not impair the child's breathing, and
 - 4. Personnel shall use only the amount of restraint necessary to bring the behavior under control.
- ~~D.~~ A child may be isolated from other children for unacceptable behavior but shall be kept in full view of child care personnel for periods not longer than three minutes after the child regains composure. Under no circumstances shall a child be isolated for more than ten minutes. No child may be isolated or locked into any closet, laundry room, garage, shed, structure, or room.
- ~~E.~~ Disciplinary and guidance techniques and methods shall not be used which are:
 - 1. Detrimental to the health or emotional needs of the child,
 - 2. Humiliating or frightening to a child,
 - 3. Corporal punishment,
 - 4. Associated with eating, napping, or toileting,
 - 5. Medications or mechanical restraints and devices, or
 - 6. Administered or performed by other children.
- ~~F.~~ If the children of the provider or facility personnel receive discipline inconsistent with that specified above, the discipline may not be performed in the presence or hearing of the enrolled children.
- ~~G.~~ Only child care group home personnel shall be allowed to discipline an enrolled child.

R9-5-910. Nutrition and Meals Repealed

- ~~A.~~ The provider shall serve foods which meet the nutrition standards specified in this Article.
- ~~B.~~ A varied menu of foods from within each food group shall be served.
- ~~C.~~ The provider shall maintain at the facility a one day supply of perishables and a three day supply of staples.
- ~~D.~~ The provider shall maintain records showing that quantities of food purchased, prepared, and served meet minimum nutritional requirements. Acceptable records include the federal Child Care Food Program production sheets, food receipts, and purchasing logs.
- ~~E.~~ Second servings of foods shall be made available to children in addition to the required daily minimum.
- ~~F.~~ Minimum meal components and serving sizes to meet calorie and nutrient requirements for various ages of children, as established by the National Research Council Recommended Daily Allowances (RDA), shall be as prescribed in the following table:

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TABLE OF MEAL PATTERN REQUIREMENTS FOR CHILDREN

Food Component	Ages 1-3	Ages 3-6	Ages 6-15
Breakfast			
1. Milk (fluid)	1/2 cup (4 oz)	3/4 cup (6 oz)	1 cup (8 oz)
2. Vegetables/fruits or juice (full strength)	1/4 cup 1/4 cup (2 oz)	1/2 cup 1/2 cup (4 oz)	1/2 cup 1/2 cup (4 oz)
3. Bread or biscuits, rolls, muffins, etc., or cold dry cereal or cooked cereal or grains or cooked pasta or noodle products	1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup 1/2 cup
Lunch/Supper			
1. Milk (fluid)	1/2 cup (4 oz)	3/4 cup (6 oz)	1 cup (8 oz)
2. and 3. Vegetable(s) and/or fruit(s) (from two sources)	1/4 cup	1/2 cup	3/4 cup
4. Bread or biscuits, rolls, muffins, etc. or cooked pasta or noodle products or cooked cereal or grains	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1 slice 1 serving 1/2 cup 1/2 cup
5. Meat (lean) or poultry or fish or eggs or cooked dry beans, peas lentils or peanut butter or cheese	1 oz 1 oz 1 1/4 cup 2 T 1 oz	1 1/2 oz 1 1/2 oz 1 3/8 cup 3 T 1 1/2 oz	2 oz 2 oz 1 1/2 cup 4 T 2 oz
Snacks			
Select 2 of the following 4 components			
1. Milk (fluid)	1/2 cup (4 oz)	1/2 cup (4 oz)	1 cup (8 oz)
2. Vegetables/fruits or juice (full strength) (except with milk)	1/2 cup	1/2 cup	3/4 cup
3. Bread or biscuits, rolls, muffins, etc. or cold dry cereal or cooked cereal or grains or cooked pasta or noodle products	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1/2 slice—1 slice 1/2 serving 1/3 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup
4. Meat (lean) or poultry or fish or cheese or eggs or cooked dry beans, peas lentils or peanut butter or peanuts	1/2 oz 1/2 oz 1/2 oz 1/2 egg 1/8 cup 1 T 1/3 cup	1/2 oz 1/2 oz 1/2 oz 1/2 egg 1/8 cup 1 T 1/3 cup	1 oz 1 oz 1 oz 1 egg 1/4 cup 2 T 2/3 cup

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R9-5-911. ~~General Food Service and Food Handling Standards~~ Repealed

- ~~A.~~ Children and staff shall wash hands with soap and warm running water before handling, serving or eating food. Hand-washing with washcloths shall be restricted to infants and special needs children.
- ~~B.~~ Children shall be encouraged but not forced to eat.
- ~~C.~~ Children shall be given necessary assistance in feeding and taught self-feeding skills.
- ~~D.~~ The provider shall supply individual drinking and eating utensils and food for each child. Each child shall have an individual, marked bottle, cup or glass and shall not be allowed to drink from bottles, cups or glasses of children or other individuals.
- ~~E.~~ All utensils or equipment used for eating, drinking and food preparation shall be washed in hot water and sanitized either by hand or in an automatic dishwasher after each use or single-use disposable tableware shall be used.
- ~~F.~~ All perishable foods including those in sack lunches shall be covered and stored in a refrigerator at temperatures of 45 degrees F. or less.
- ~~G.~~ Children shall not be allowed to eat food directly off the floor, carpet or ground.
- ~~H.~~ The child's parent or guardian shall be notified when a child consistently refuses to eat or exhibits unusual eating behavior.
- ~~I.~~ Meals prepared by the provider or individual sack lunches supplied by the parent or guardian shall be served to children at customary meal times.
- ~~J.~~ The provider shall not serve the same menu twice in the same day.
- ~~K.~~ Fresh milk shall be served directly from the original, commercially filled container. Unused portions of individual servings shall not be returned to the original container or stored for future consumption.
- ~~L.~~ Reconstituted dry milk shall not be served to enrolled children to meet the fluid milk requirement.
- ~~M.~~ Foods shall be prepared as close to serving time as possible to protect children and personnel from food-borne illnesses.
- ~~N.~~ Foods shall be prepared in a manner to maintain nutrients, proper temperature, flavor, texture, and appearance.
- ~~O.~~ No spoiled food shall be served but shall be discarded as organic waste in the manner specified in these rules.
- ~~P.~~ The provider shall serve milk or full-strength unsweetened juice to children whose sack lunches do not include these items.
- ~~Q.~~ Juices served to children for meals and snacks shall be full-strength vegetable or fruit juice from a can, carton or concentrate. Imitation, powdered, syrup, or concentrated drinks, ades or punches shall not be used in place of full-strength juices.
- ~~R.~~ Menus shall specify foods to be served and shall be planned at least one week in advance, dated and posted prior to the day of service.
- ~~S.~~ Menu substitutions shall be written on the posted menu no later than the morning of the meal service.
- ~~T.~~ When a child requires a modified diet prescribed by the parent, guardian or physician, the provider shall inform personnel of the diet restrictions and serve food that complies with the prescribed dietary regimen.
- ~~U.~~ Children shall receive the following meals or snacks when at the facility for the time periods specified below:
 1. For two to four hours, one or more snacks shall be served unless the child is at the facility during a regular meal time, in which case the child shall be served meals which meet the requirements outlined in R9-5-910;
 2. For four to eight hours, a meal and one or more snacks shall be served;
 3. For nine or more hours, two snacks and one or two appropriate meals shall be served;
 4. A snack shall be served before bedtime;
 5. Breakfast shall be available to children who are scheduled to be in attendance at the facility before 8:00 a.m.;
 6. Lunch shall be served to children who are at the facility between 11:00 a.m. and 1:00 p.m.; or
 7. Dinner shall be available to children who are at the facility from 5:00 p.m. to 7:00 p.m., or upon parent or guardian request.

R9-5-912. ~~Transportation of Children and Field Trips~~ Repealed

- ~~A.~~ Prior to transporting enrolled children for any reason, the provider shall obtain written authorization from the child's parent or guardian.
- ~~B.~~ Vehicle and driver requirements:
 1. The vehicle shall be maintained in a mechanically safe condition which shall be verified by the provider's vehicle maintenance records;
 2. Vehicle drivers for enrolled children shall be 18 years of age or older, hold a current and valid Arizona driver's license, and a current first-aid and cardiopulmonary resuscitation certificate;
 3. Persons with a suspended driver's license or with a record of arrest or conviction for DWI within the past three years shall not transport enrolled children;
 4. Children shall not be transported in vehicles which are not constructed for the purpose of transporting people, such as truck beds, campers, or any trailered attachment to a motor vehicle;
 5. All children shall be seated on seats which are securely fastened to the body of the vehicle and which provide sufficient space for the child's body;

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6. ~~Seat belts or child restraint devices shall be required of all children when they are transported in a vehicle which weighs under 10,000 pounds Gross Vehicle Weight (GVW). In addition, children four years of age or younger and weighing 40 pounds or less must be properly secured in a child safety seat;~~
 7. ~~No personnel or child shall stand or sit on the floor while vehicle is in motion;~~
 8. ~~Vehicles used to transport children shall have operable heating and air conditioning; and~~
 9. ~~A first aid kit which meets requirements specified in R9-5-907(B) and two large clean towels or blankets shall be maintained in each vehicle.~~
- C.** ~~Transport safety requirements:~~
1. ~~The provider shall immediately notify the Department of any traffic accident involving children being transported by the provider and submit a written accident report to the Department within five working days on Department-approved report forms along with the copy of any police report pertaining to the accident;~~
 2. ~~No child shall be allowed to open or close doors of vehicles transporting enrolled children;~~
 3. ~~Headphones or earphones shall not be worn by the driver of a vehicle while transporting enrolled children;~~
 4. ~~The provider shall maintain a safe vehicle loading and unloading area for children which is located away from any hazard;~~
 5. ~~When away from the facility, the vehicle shall be parked at curbside to load and unload children. When a curbside location is not available, an adult shall find or make a safe path for children to enter or exit the vehicle prior to loading and unloading;~~
 6. ~~The vehicle driver shall remove the keys from the vehicle and set the emergency brake before exiting the vehicle;~~
 7. ~~Vehicle doors shall remain locked at all times when the vehicle is in motion; and~~
 8. ~~A child shall not be left unattended in a vehicle.~~
- D.** ~~Field trip requirements:~~
1. ~~The provider shall obtain written permission from the parent or guardian in advance of the child's participation in a field trip. The field trip permission notice shall provide details of the trip including the purpose of the field trip, time of departure and arrival at the child care group home, and the address of the trip destination;~~
 2. ~~A copy of the emergency information record for each child participating in the field trip shall be taken on all field trips;~~
 3. ~~Sufficient water or other beverages shall be available to children as necessary for the entire trip; and~~
 4. ~~Each child shall have on his person, in plain view, the provider's name, address, and telephone number. The child's first and last name shall be placed inconspicuously on his person.~~

ARTICLE 10. ~~ACTIVITY AREAS AND PHYSICAL FACILITY STANDARDS FOR CHILD CARE GROUP HOMES REPEALED~~

R9-5-1001. ~~Child Care Group Home Activity Areas Repealed~~

- A.** ~~There shall be at least 30 square feet of open floor space in the indoor activity area for each child in the facility which shall not include single-use areas such as kitchens, family bedrooms, bathrooms, laundry rooms, shop areas, or garages.~~
- B.** ~~Rooms used by enrolled children shall be maintained at temperatures between 68° F and 82° F.~~
- C.** ~~The facility shall have indoor bathroom facilities, with a toilet and sink available for each 10 individuals in the facility, including children, facility personnel, and household members.~~
- D.** ~~An outdoor activity area shall be available to children which:~~
1. ~~Provides at least 80 square feet of activity space for each child;~~
 2. ~~Includes shaded areas large enough to accommodate each child using the area at any one time;~~
 3. ~~Is accessible by a safe route;~~
 4. ~~Is easily accessible to the indoor activity area and to bathroom facilities;~~
 5. ~~Provides play equipment which is in good repair;~~
 6. ~~Is arranged to eliminate hazards and minimize conflict with other activities;~~
 7. ~~Has both hard surfaces and grass or other resilient surface. Resilient surfaces shall at least extend four feet from climbing structures in every direction, five feet from the bottom of a slide, seven feet plus the length of a swing's chain from the point of its suspension and seven feet from a merry-go-round or other revolving device; and~~
 8. ~~Shall be free of all hazards and totally enclosed by a secure fence which is at least four feet high. Open spaces between upright or parallel posts and poles on fences and gates shall not exceed four inches. Gates shall be equipped with a self-closing latch and kept closed but not locked during hours of operation.~~

R9-5-1002. ~~Swimming Pools Repealed~~

- A.** ~~All swimming pools and equipment shall conform to manufacturer's specifications for installation and operation and shall be maintained and operated in a safe and sanitary manner at all times.~~
- B.** ~~Swimming pools over two feet deep shall have the following:~~
1. ~~A recirculation system including at least one removable strainer, two pool inlets placed on opposite sides of the pool, and one drain located at the pool's lowest point covered by a grating designed to prevent suction of body surfaces;~~

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2. A vacuum cleaning system; and
 3. Two ring buoys, one of which has a minimum of 25 feet of 1/2-inch rope attached and a shepherd's crook.
- C.** Pools two feet deep or less shall meet the requirements of subsection (B) except:
1. The recirculation system shall have at least one pool inlet and bottom drain is not required;
 2. No vacuum cleaning system is necessary; and
 3. No ring buoy is necessary.
- D.** Swimming pools shall be enclosed by a fence which separates it from all other outdoor areas with a minimum height of five feet and a self-closing and self-latching, lockable gate. Open spaces between upright or parallel posts and poles on fences and gates shall not exceed four inches. The gate shall be kept locked whenever the pool is not in use.
- E.** If a community or neighborhood swimming pool is accessible to enrolled children, the swimming pool shall be enclosed by a fence of at least five feet in height with self-closing and self-latching gates. Open spaces between upright or parallel posts and poles on fences and gates shall not exceed four inches. If these requirements are not met, the outdoor play area of the facility shall be entirely fenced as specified in R9-5-1001(D)(8).
- F.** The provider shall ensure that all pool drain grates are in place, are in good repair, and cannot be removed without using tools.
- G.** The provider shall ensure that pool chemicals are in a locked storage area which is inaccessible to the children and that machinery rooms are locked.
- H.** Residential hot tubs, spas, ponds, and portable wading pools shall not be accessible to, or used by, enrolled children.

R9-5-1003. Fire and Safety Repealed

- A.** An annual fire safety self inspection shall be conducted by the provider. The inspection findings shall be recorded on Department approved forms, and a copy of the report shall be timely submitted to the Department. In local fire districts requiring annual inspections by that fire authority, the provider shall also submit to the Department a copy of the local annual fire inspection report.
- B.** Smoke detectors shall be installed in all sleeping areas and hallways of the residential facility and shall be maintained in operable condition.
- C.** Smoke detector batteries shall be tested monthly. A record of the test shall be kept at the facility and shall be available for inspection.
- D.** Portable fire extinguishers which are approved by the State Fire Marshal shall be installed in the kitchen and in the activity areas primarily used for child care. Disposable fire extinguishers shall be discarded when the indicator reaches the red zone and all rechargeable extinguishers shall be serviced annually. The current inspection tag shall be attached to each fire extinguisher.
- E.** An evacuation plan shall be conspicuously posted and fire evacuation drills shall be held at least once a month at varying times of the day.
- F.** At least two unobstructed, usable exterior exits shall be available to enrolled children.
- G.** Enrolled infants and children under the age of 7 years shall not be cared for below or above the facility's ground level unless there is an exit directly to the outside at that level.
- H.** The facility, and facility grounds which are accessible to enrolled children, shall be designed, constructed and maintained in good repair and kept free of hazards.
- I.** Furnishings, equipment, supplies, materials, utensils, toys, and facility grounds shall be maintained in a safe and sanitary condition.
- J.** Firearms and ammunition shall be stored in a locked area, locked cabinet, or locked container inaccessible and out of view of children.
- K.** Stairways to levels or rooms not to be used by enrolled children shall be separated either by a door or gate which shall be kept closed during hours of operation.
- L.** Low glass windows, sliding doors, or other glass partitions shall either be made of tempered glass or have protective markings or other designation at a child's eye level.
- M.** At least one telephone which is not a pay telephone shall be readily available in the facility with emergency telephone numbers conspicuously posted on or beside it. These phone numbers shall include police, fire, 9-1-1, poison control, and the facility's telephone number and address.
- N.** All toxic and corrosive materials shall be kept in locked storage areas, cabinets, or containers;
- O.** Electrical outlets shall be covered when not in use. All appliances, lights, other items, or devices with frayed electrical cords shall be repaired, discarded, or stored in a locked area.
- P.** Extension cords shall not be used in place of permanent wiring. Electrical cords shall not hang in sight or in reach of children.
- Q.** Unused natural gas outlets shall have the valves removed and shall be capped at the wall or floor.
- R.** Gas lines shall be inspected and serviced as needed by a qualified professional but at least annually.
- S.** Heating and cooling equipment shall not be accessible to enrolled children. Unvented or open-flame space heaters and electric portable heaters shall not be used.

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- ~~T.~~ All fireplaces shall be screened.
- ~~U.~~ Fans shall be permanently mounted and placed out of reach of enrolled children.
- ~~V.~~ A child care group home and its grounds shall be well illuminated.
- ~~W.~~ Children shall not be allowed to play with ropes or on rope swings.
- ~~X.~~ Poisonous plants shall be inaccessible to enrolled children.
- ~~Y.~~ All irrigation ditches, abandoned mines, and wells shall be inaccessible to children.

R9-5-1004. Sanitation Repealed

- ~~A.~~ An annual sanitation inspection shall be conducted on Department approved forms, a copy of which is to be submitted to the Department.
- ~~B.~~ The facility, furnishings, equipment, materials, and toys shall be kept clean and free of insects and vermin.
- ~~C.~~ An individual clean space shall be provided for each child's personal toothbrush, comb, washcloth, extra clothing, blanket, etc. Each child's toilet articles shall be separated from the articles used by other children.
- ~~D.~~ All equipment, toys, and materials used by, or accessible to, enrolled children shall be maintained in a clean and usable condition and disinfected as necessary. Fabric toys and toys for enrolled children who are 30 months of age and younger shall be washed and disinfected at least weekly.
- ~~E.~~ Drinking water shall be available to enrolled children at all times.
- ~~F.~~ Insect control shall include screening of all direct openings to the outside. Doors which open to the outside shall not be left open without insect control.
- ~~G.~~ There shall be covered, lined, waterproof, easily cleaned containers for the storage of soiled clothing. The children shall not have access to the containers.
- ~~H.~~ All plumbing fixtures shall be maintained in proper operating condition. There shall be sufficient water pressure at all times to meet the needs of the facility.
- ~~I.~~ In each bathroom at the facility to be used by enrolled children, mounted toilet tissue, soap, and mounted, singly dispensed paper towels shall be available at all times and within easy and safe reach of children.
- ~~J.~~ Toilet bowls, urinals, lavatories, tubs and showers, drinking fountains, and the bathroom, playroom, and kitchen floors shall be scrubbed with a disinfectant cleaning solution as needed but not less than daily.
- ~~K.~~ Organic waste shall be disposed of immediately in a sanitary manner and stored in tightly covered containers lined with plastic bags and secured with tight fitting covers.
- ~~L.~~ Garbage, trash and organic waste shall be placed in secured plastic bags and removed from the facility daily, or more often if necessary, to maintain a sanitary environment.
- ~~M.~~ Tightly covered outdoor containers for garbage and trash, consistent with existing residential codes, shall be available in sufficient quantity to accommodate all waste products. Removal of waste products from the facility and its grounds shall be scheduled to maintain freedom from odor, vermin, and insects and to prevent the intrusion of animals.

R9-5-1005. Diaper Changing Repealed

- ~~A.~~ The diaper changing area shall not be located in the kitchen or eating areas and shall be accessible to soap and warm running water.
- ~~B.~~ The diaper changing surface shall be cleaned, sanitized, and dried before and after each diaper change.
- ~~C.~~ Personnel shall wash their hands with soap and warm running water before and after each diaper change.
- ~~D.~~ Soiled cloth diapers shall not be rinsed but shall be individually bagged in plastic and stored in a covered container out of reach of children. Soiled disposable diapers shall be discarded into tightly covered lined containers which are inaccessible to children.

R9-5-1006. Pets and Animals Kept on the Premises Repealed

- ~~A.~~ The provider shall be responsible for the behavior, maintenance, and cleanliness of pets or other animals at the facility or on the grounds of the facility when enrolled children are present.
- ~~B.~~ All dogs at the facility or on the grounds of the facility shall be vaccinated against rabies.
- ~~C.~~ Pets shall be controlled to assure that proper sanitation at the facility or on the grounds of the facility is maintained and to assure that the animals are not a hazard to enrolled children, personnel, or visitors at the facility.
- ~~D.~~ Pet dishes shall not be left on the floor or in reach of enrolled children.
- ~~E.~~ Farm animals including horses, sheep, cattle, poultry, and fowl shall be kept in an enclosed area which is not accessible to enrolled children.

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TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R9-28-109 | Repeal |
| R9-28-901 | Repeal |
| R9-28-901 | New Section |
| R9-28-902 | Amend |
| R9-28-903 | New Section |
| R9-28-904 | New Section |
| R9-28-905 | New Section |
| R9-28-906 | Repeal |
| R9-28-906 | New Section |
| R9-28-907 | New Section |
| R9-28-908 | New Section |
| R9-28-909 | New Section |
| R9-28-910 | New Section |
| R9-28-911 | New Section |
| R9-28-912 | 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. §§ 36-2932(M) and 36-2935
Implementing statutes: A.R.S. §§ 14-1201, 36-2932, 36-2935, 36-2946, and 36-2956
- 3. The effective date of the rules:**
May 1, 2004
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 4567, October 24, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 5107, November 28, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Barbara Ledder
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4580
Fax: (602) 253-9115
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The rules in 9 A.A.C. 28, Article 9, First- and Third-party Liability and Recoveries, establishes parameters for first- and third-party liability and coordination of benefits for the Arizona Long-term Care Services program. AHCCCS proposes to amend the rules as identified in the November 5, 2002 five-year review report.
- 7. A reference to any study relevant to the rule that the agency reviewed and relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
No studies were reviewed.
- 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:**
AHCCCS anticipates that there will be a nominal impact on the parties involved in the cost avoidance and recovery process. AHCCCS, providers, noncontracting providers, members, and Public Consulting Group, an entity that con-

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tracts with AHCCCS to do first- and third-party recoveries, will benefit from the changes because the rules will be better organized. In particular, the cost recovery process will be easier to understand, as will the use of criteria to determine undue hardship and factors that AHCCCS considers in determining partial recovery.

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

R9-28-911	The Centers for Medicare and Medicaid (CMS) Studies reported that a compromise of the claim amount is not appropriate when the hardship waiver criteria are met. Therefore, the words “or compromise” have been removed from the lead in sentence of the rule. The sentence now reads: “AHCCCS shall waive the recovery of funds when the recovery would cause an undue hardship to a surviving heir or devisee of the member.”
General	AHCCCS made the rules more clear, concise, and understandable by making grammatical and structural changes throughout the rules.

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

No comments have been received.

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:

No incorporations by reference are included within the rules.

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

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 1. DEFINITIONS

Section

R9-28-109. ~~First and Third-party Liability Related Definitions~~ Repealed

ARTICLE 9. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

Section

R9-28-901. ~~First and Third-Party Liability and Coordination of Benefits~~ Definitions
 R9-28-902. ~~First and Third-Party Liability Monitoring and Compliance~~ General Provisions
 R9-28-903. ~~Reserved~~ Cost Avoidance
 R9-28-904. ~~Reserved~~ Member Participation
 R9-28-905. ~~Reserved~~ Collections
 R9-28-906. ~~Recoveries~~ AHCCCS Monitoring Responsibilities
 R9-28-907. Notification for Perfection, Recording, and Assignment of AHCCCS Liens
 R9-28-908. Notification Information for Liens
 R9-28-909. Notification of Health Insurance Information
 R9-28-910. Recoveries
 R9-28-911. Undue Hardship
 R9-28-912. Partial Recovery

ARTICLE 1. DEFINITIONS

R9-28-109. ~~First and Third-party Liability Related Definitions~~ Repealed

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning: “Estate” has the meaning in A.R.S. § 14-1201.

ARTICLE 9. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

R9-28-901. ~~First and Third Party Liability and Coordination of Benefits~~ Definitions

~~General Provisions.~~ The provisions in A.A.C. R9-22-1001 apply to this Section.

In addition to the definitions in A.R.S. §§ 36-2901 and 36-2931, 9 A.A.C. 22, Article 1, and 9 A.A.C. 28, Article 1, the following definition applies to this Article:

“Estate” has the meaning in A.R.S. § 14-1201.

R9-28-902. ~~First and Third Party Liability Monitoring and Compliance~~ General Provisions

~~General provisions.~~ The provisions in A.A.C. R9-22-1002 apply to this Section.

R9-28-903. ~~Reserved~~ Cost Avoidance

The provisions in A.A.C. R9-22-1003 apply to this Section.

R9-28-904. ~~Reserved~~ Member Participation

The provisions in A.A.C. R9-22-1004 apply to this Section.

R9-28-905. ~~Reserved~~ Collections

The provisions in A.A.C. R9-22-1005 apply to this Section.

R9-28-906. ~~Recoveries~~ AHCCCS Monitoring Responsibilities

A. ~~The Administration may recover funds paid for ALTCS benefits including: capitation payments, Medicare Parts A and B premium payments, coinsurance, deductibles, fee-for-service, and any other payments made by the Administration for a member or eligible person from:~~

- ~~1. The estate of the member or eligible person who was 55 years of age or older when the member or eligible person received benefits; or~~
- ~~2. The estate or the property of the member or eligible person according to A.R.S. §§ 36-2935 and 36-2956 and 42 U.S.C. 1396(p), October 1, 1993, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

B. ~~The Administration may waive or compromise the recovery of funds when the recovery would cause an undue hardship to a surviving heir of the member or eligible person. In making the undue hardship decision, the Administration will consider the following:~~

- ~~1. When estate assets include real property or both real and personal property. There is property in the estate, and the property is listed as residential property by the Arizona Department of Revenue or County Assessor’s Office, and the heir:
 - ~~a. Owns a business that is located at the residential property, and
 - ~~i. The business was in operation at the residential property for at least 12 months preceding the death of the member or eligible person;~~
 - ~~ii. The business provides more than 50% of the heir’s livelihood; and~~
 - ~~iii. The recovery of the property would result in the heir losing the heir’s means of livelihood; or~~~~
 - ~~b. Currently resides in the residence, and
 - ~~i. Resided there at the time of the member’s or eligible person’s death;~~
 - ~~ii. Made the residence his or her primary residence for the 12 months immediately preceding the death of the member or eligible person; and~~
 - ~~iii. Owns no other residence.~~~~~~
- ~~2. When the estate assets contain personal property only.
 - ~~a. The heir’s annual gross income for the household size is within 100% of the Federal Poverty Level (FPL). New sources of income (for example, employment, Social Security), which may not have yet been received, will be included in determining the household’s annual gross income; and~~
 - ~~b. The heir does not own a home, land, or other real property.~~~~

C. ~~If the heir’s circumstances meet the conditions in subsections (B)(1) or (B)(2), the Administration shall determine on a case by case basis, to what extent, if any, the claim will be compromised or waived. Factors in making this determination include:~~

- ~~1. Financial and medical hardship to the heir if a compromise or waiver is not granted;~~
- ~~2. Income of the heir and whether the heir’s household’s gross annual income is within 100% of the FPL;~~
- ~~3. Resources of the surviving heir;~~
- ~~4. Value and type of assets in the estate (real and personal);~~
- ~~5. Amount of the Administration’s claim against the estate; and~~
- ~~6. Whether other creditors have filed claims against the estate or have foreclosed on the property.~~

D. ~~A promissory note and deed of trust may be required in cases where a claim against property is compromised or waived, and the heir resides in the residence, maintains a business at the residence, or otherwise relies on the residence for support and means of livelihood. Within 30 days of receiving an undue hardship decision notice from the Administration, the~~

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~~executor of the estate or heir shall secure a promissory note and deed of trust, and provide certified copies to the Administration. The heir shall bear the costs for securing these documents.~~
The provisions in A.A.C. R9-22-1006 apply to this Section.

R9-28-907. Notification for Perfection, Recording, and Assignment of AHCCCS Liens

The provisions in A.A.C. R9-22-1007 apply to this Section.

R9-28-908. Notification Information for Liens

The provisions in A.A.C. R9-22-1008 apply to this Section.

R9-28-909. Notification of Health Insurance Information

The provisions in A.A.C. R9-22-1009 apply to this Section.

R9-28-910. Recoveries

AHCCCS shall recover funds paid for ALTCS benefits including: capitation payments, Medicare Parts A and B premium payments, coinsurance and deductibles paid by AHCCCS, fee-for-service payments, and reinsurance payments from:

1. The estate of a member who was 55 years of age or older when the member received benefits; or
2. The estate or the property of a member under A.R.S. §§ 36-2935, 36-2956 and 42 U.S.C. 1396p.

R9-28-911. Undue Hardship

AHCCCS shall waive the recovery of funds because of undue hardship if either of the following situations exist:

1. When estate assets include real property or both real and personal property. There is property in the estate, and the property is listed as residential property by the Arizona Department of Revenue or County Assessor's Office, and the heir or devisee:
 - a. Owns a business that is located at the residential property, and:
 - i. The business was in operation at the residential property for at least 12 months preceding the death of the member;
 - ii. The business provides more than 50 percent of the heir or devisee's livelihood; and
 - iii. The recovery of the property would result in the heir losing the heir or devisee's means of livelihood; or
 - b. Currently resides in the residence, and:
 - i. Resided there at the time of the member's death.
 - ii. Made the residence his or her primary residence for the 12 months immediately preceding the death of the member; and
 - iii. Owens no other residence; or
2. When the estate assets contain personal property only, and:
 - a. The heir or devisee's annual gross income for the household size is less than 100 percent of the Federal Poverty Level (FPL). New sources of income such as employment or Social Security that may not have yet been received, shall be included in determining the household's annual gross income; and
 - b. The heir or devisee does not own a home, land, or other real property.

R9-28-912. Partial Recovery

AHCCCS shall use the following factors in determining whether to seek a partial recovery of funds when an heir or devisee does not meet the requirements of R9-28-911 and requests a partial recovery:

1. Financial and medical hardship to the heir or devisee;
2. Income of the heir or devisee and whether the heir or devisee's household gross annual income is less than 100 percent of the FPL;
3. Resources of the heir or devisee;
4. Value and type of assets;
5. Amount of AHCCCS' claim against the estate; and
6. Whether other creditors have filed claims against the estate or have foreclosed on the property.

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NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

- 1. Sections Affected**

R9-28-101	<u>Rulemaking Action</u>
R9-28-103	Amend
R9-28-306	Amend

- 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. § 36-2932
Implementing statute: A.R.S. § 36-2932

- 3. The effective date of the rules:**

May 1, 2004

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 4013, September 12, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 5303, December 12, 2003

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

Name: Barbara Ledder
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4580
Fax: (602) 253-9115

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

AHCCCS is amending the rule to clarify the Arizona Long-Term Care System reassessment process and to align it with current practice. The term "family foster home" has been deleted since AHCCCS does not consider these settings to be alternative home and community based services living arrangements but rather the child's home.

- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

AHCCCS reviewed the Auditor General's report on AHCCCS Sunset Factors, report no. 02-09 and is relying on recommendations found on page 8 in amending the rule. The Auditor General's report recommended a change to the rule if AHCCCS continues to exempt certain ALTCS members from medical reassessment. AHCCCS is amending the rule to comply with the recommendation of the Auditor General. The report can be found at <http://www.auditor-gen.state.az.us>.

- 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:**

The contractors, members, providers, and AHCCCS are nominally impacted by the changes to the rule language. These rules define specific terms used in AHCCCS' long-term care rules and list the criteria for reassessing an ALTCS member's eligibility. AHCCCS is amending these rules to remove definitions for terms no longer found in the rule, to provide flexibility in reassessing ALTCS members, and to make the rules more clear, concise, and understandable.

It is anticipated that the private sector, including small businesses or political subdivisions will not be impacted since the proposed rule language changes are intended to clarify the existing rules and to streamline the reassessment process. AHCCCS, contractors, providers, and members will benefit from the increased clarity of the rule language. In

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addition, AHCCCS will benefit from the increased flexibility to direct their staffing resources. Members and their families will benefit as they will not be required to undergo the reassessment process based solely on a time-frame.

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

General	AHCCCS made the rules more clear, concise, and understandable by making grammatical and structural changes throughout the rules.
R9-28-306	<u>An assessor shall refer the assessment for physician consultant review if a member is:</u> For conciseness AHCCCS deleted “One or more of the individuals described in R9-28-301 shall conduct each reassessment and” and inserted “An assessor.”
R9-28-306(C)(3)	<u>3. Seriously mentally ill and no longer has a non-psychiatric medical condition that impacts the member’s ability to function.</u> For clarity, AHCCCS inserted “that impacts the individual’s ability to function.”
General	Other technical and grammatical changes were made at the suggestion of Governor’s Regulatory Review Council staff.

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

The agency did not receive any comments.

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 adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 1. DEFINITIONS

Section

R9-28-101. General Definitions

R9-28-103. Preadmission Screening Related Definitions

ARTICLE 3. PREADMISSION SCREENING (PAS)

Section

R9-28-306. Reassessments

ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation
“Administration”	A.R.S. § 36-2931
“ADHS”	R9-22-112
“Aggregate”	R9-22-107
“AHCCCS”	R9-22-101
“AHCCCS Registered Provider”	R9-22-101
“Algorithm”	R9-28-104
“ALTCS”	R9-28-101
“ALTCS acute care services”	R9-28-104
“Alternative HCBS setting”	R9-28-101

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“Ambulance”	R9-22-102
“Applicant”	R9-22-101
“Bed hold”	R9-28-102
“Behavior intervention”	R9-28-102
“Behavior management services”	R9-20-101
“Behavioral health evaluation”	R9-22-112
“Behavioral health medical practitioner”	R9-22-112
“Behavioral health professional”	R9-20-101
“Behavioral health service”	R9-20-101
“Behavioral health technician”	R9-20-101
“Billed charges”	R9-22-107
“Board-eligible for psychiatry”	R9-22-112
“Capped fee-for-service”	R9-22-101
“Case management plan”	R9-28-101
“Case manager”	R9-28-101
“Case record”	R9-22-101
“Categorically-eligible”	R9-22-101
“Certification”	R9-28-105
“Certified psychiatric nurse practitioner”	R9-22-112
“CFR”	R9-28-101
“Clean claim”	A.R.S. § 36-2904
“Clinical supervision”	R9-22-112
“CMS”	R9-22-101
“Community Spouse”	R9-28-104
“Contract”	R9-22-101
“Contract year”	R9-28-101
“Contractor”	A.R.S. § 36-2901
“County of fiscal responsibility”	R9-28-107
“Covered services”	R9-28-101
“CPT”	R9-22-107
“CSR”	R9-28-104
“Day”	R9-22-101
“Department”	A.R.S. § 36-2901
“De novo hearing”	42 CFR 431.201
“Developmental disability”	A.R.S. § 36-551
“Diagnostic services”	R9-22-102
“Director”	R9-22-101
“Disenrollment”	R9-22-117
“DME”	R9-22-102
“EPD”	R9-28-301
“Eligible person”	A.R.S. § 36-2931
“Emergency medical services”	R9-22-102
“Encounter”	R9-22-107
“Enrollment”	R9-22-117
“Estate”	A.R.S. § 14-1201
“Facility”	R9-22-101
“Factor”	R9-22-101
“Fair consideration”	R9-28-104
“FBR”	R9-22-101
“Grievance”	R9-22-108
“GSA”	R9-22-101
“Guardian”	A.R.S. § 14-5311
“HCBS” or “Home and community based services”	A.R.S. §§ 36-2931 and 36-2939
“Health care practitioner”	R9-22-112
“Hearing”	R9-22-108
“Home”	R9-28-101
“Home health services”	R9-22-102
“Hospital”	R9-22-101
“ICF-MR” or “Intermediate care facility for the	

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mentally retarded”	42 CFR 483 Subpart I
“IHS”	R9-28-101
“IMD”	42 CFR 435.1009 and R9-28-111
“Indian”	42 CFR 36.1
“Institutionalized”	R9-28-104
“Interested Party”	R9-28-106
“JCAHO”	R9-28-101
“License” or “licensure”	R9-22-101
“Medical record”	R9-22-101
“Medical services”	R9-22-101
“Medical supplies”	R9-22-102
“Medically eligible”	R9-28-104
“Medically necessary”	R9-22-101
“Member”	A.R.S. § 36-2931
“Mental disorder”	A.R.S. § 36-501
“MMMNA”	R9-28-104
“Nursing facility” or “NF”	42 U.S.C. 1396r(a)
“Noncontracting provider”	A.R.S. § 36-2931
“Occupational therapy”	R9-22-102
“Partial care”	R9-22-112
“PAS”	R9-28-103
“PASARR”	R9-28-103
“Pharmaceutical service”	R9-22-102
“Physical therapy”	R9-22-102
“Physician”	R9-22-102
“Post-stabilization services”	42 CFR 438.114
“Practitioner”	R9-22-102
“Primary care provider (PCP)”	R9-22-102
“Primary care provider services”	R9-22-102
“Prior authorization”	R9-22-102
“Prior period coverage” or “PPC”	R9-22-107
“Private duty nursing services”	R9-22-102
“Program contractor”	A.R.S. § 36-2931
“Provider”	A.R.S. § 36-2931
“Psychiatrist”	R9-22-112
“Psychologist”	R9-22-112
“Psychosocial rehabilitation”	R9-20-101
“Quality management”	R9-22-105
“Regional behavioral health authority” or “RBHA”	A.R.S. § 36-3401
“Radiology”	R9-22-102
“Reassessment”	R9-28-103
“Redetermination”	R9-28-104
“Referral”	R9-22-101
“Reinsurance”	R9-22-107
“Representative”	R9-28-104
“Respiratory therapy”	R9-22-102
“Respite care”	R9-28-102
“RFP”	R9-22-106
“Room and board”	R9-28-102
“Scope of services”	R9-28-102
“Section 1115 Waiver”	A.R.S. § 36-2901
“Speech therapy”	R9-22-102
“Spouse”	R9-28-104
“SSA”	42 CFR 1000.10
“SSI”	R9-22-101
“Subcontract”	R9-22-101
“Utilization management”	R9-22-105
“Ventilator dependent”	R9-28-102

B. General definitions. In addition to definitions contained in A.R.S. §§ 36-551, 36-2901, 36-2931, and 9 A.A.C. 22, Article

1, the following words and phrases have the following meanings unless the context of the Chapter explicitly requires another meaning:

“ALTCS” means the Arizona Long-term Care System as authorized by A.R.S. § 36-2932.

“Alternative HCBS setting” means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS including:

For a person with a developmental disability specified in A.R.S. § 36-551:

Community residential setting defined in A.R.S. § 36-551;

Group home defined in A.R.S. § 36-551;

State-operated group home under A.R.S. § 36-591;

~~Family foster home under 6 A.A.C. 5, Article 58;~~

Group foster home under R6-5-5903;

Licensed residential facility for a person with traumatic brain injury under A.R.S. § 36-2939;

Adult therapeutic foster home under 9 A.A.C. 20, Articles 1 and 15;

Level 2 and Level 3 behavioral health agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and

Rural substance abuse transitional agencies under 9 A.A.C. 20, Articles 1 and 14; and

For a person who is elderly or physically disabled under R9-28-301, and the facility, setting, or institution is registered with AHCCCS:

Adult foster care homes defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939;

Assisted living home or assisted living center, units only, under A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939;

Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939;

Adult therapeutic foster home under 9 A.A.C. 20, Articles 1 and 15;

Level II and Level III behavioral health agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6;

Rural Substance Abuse Transitional Agencies under 9 A.A.C. 20, Articles 1 and 14; and

Alzheimer’s treatment assistive living facility demonstration pilot project as specified in Laws 1999, Ch. 313, § 35 as amended by Laws 2001, Ch. 140, § 1 and Laws 2003, Ch. 76, § 1.

“Case management plan” means a service plan developed by a case manager that involves the overall management of a member’s care, and the continued monitoring and reassessment of the member’s need for services.

“Case manager” means a person who is either a degreed social worker, a licensed registered nurse, or a person with a minimum of two years of experience in providing case management services to a person who is elderly and physically disabled or has developmental disabilities.

“Contract year” means the period beginning on October 1 and continuing until September 30 of the following year.

“CFR” means Code of Federal Regulations, unless otherwise specified in this Chapter.

“Covered Services” means the health and medical services described in Articles 2 and 11 of this Chapter as being eligible for reimbursement by AHCCCS.

“Home” means a residential dwelling that is owned, rented, leased, or occupied by a member, at no cost to the member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion of any of these that is licensed or certified by a regulatory agency of the state as a:

Health care institution under A.R.S. § 36-401;

Residential care institution under A.R.S. § 36-401;

Community residential setting under A.R.S. § 36-551; or

Behavioral health service under 9 A.A.C. 20, Articles 1, 4, 5, and 6.

“IHS” means the Indian Health Service.

“JCAHO” means the Joint Commission on Accreditation of Healthcare Organizations.

R9-28-103. Preadmission Screening Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Developmental disability” is defined in A.R.S. § 36-551.

“PAS” means preadmission screening, which is the process of determining an individual’s risk of institutionalization at a NF or ICF-MR level of care, as specified in Article 3 of this Chapter.

Notices of Final Rulemaking

“PASARR” means preadmission screening and annual resident review, which is the two-step screening process for mental illness and mental retardation as described in A.R.S. § 36-2936. The level I screening is used to identify potentially mentally ill (MI) or mentally retarded (MR) individuals before nursing facility admission. The level II screening is used to make an in-depth assessment of potentially MI or MR individuals referred through the level I screening and to determine the appropriateness of nursing facility care and the need for special services for the MI or MR individual.

“Reassessment” means the process of redetermining PAS eligibility for ALTCS services on an annual or periodic basis, as appropriate, for all members.

ARTICLE 3. PREADMISSION SCREENING (PAS)

R9-28-306. Reassessments

- ~~A. An assessor shall reassess each ALTCS member to determine continued eligibility. The assessor shall determine continued qualification for ALTCS on the same criteria used for the initial PAS assessment as prescribed in R9-28-303.~~
- ~~B. One or more of the individuals described in R9-28-301 shall conduct each reassessment and may refer the assessment for physician consultant review.~~
- ~~C. An assessor shall conduct a reassessment annually except as follows:
 - 1. An assessor shall reassess a member every four years when:
 - a. A member who is EPD, 80 years of age or older, and has been eligible for at least two consecutive years;
 - b. A member who is EPD, eligible for ALTCS at least two consecutive years, and is diagnosed with Alzheimer’s disease, dementia, or organic brain syndrome;
 - c. A member who is EPD, has been eligible for two or more consecutive years, and has had a skilled nursing facility two level of care on the last two PAS assessments;
 - d. A member who is EPD, has been continuously institutionalized for three or more consecutive years, and has been eligible for ALTCS at least three consecutive years; and
 - e. A member who is DD, is age 12 or older, and is eligible for two or more consecutive years scoring 90 points or more.
 - 2. An assessor shall reassess a member every three years when the member is DD, is age 12 or older, and has been eligible for two or more consecutive years scoring 80 points to less than 90 points;
 - 3. An assessor shall reassess a member every two years when:
 - a. The member is EPD and has been eligible for two or more consecutive years, has had at least three assessments, and has scored 20 or more points on the last assessment;
 - b. The member is DD, has severe or profound mental retardation, and has been eligible for two or more consecutive years; and
 - c. The member is DD, is age 12 or older, eligible for two or more consecutive years, and has scored 61 points to less than 80 points;
 - 4. The Administration identifies another population group within the ALTCS program for which a reassessment period greater than one year is appropriate;
 - 5. In connection with a routine audit of the PAS assessment by the Administration an error affecting eligibility is discovered;
 - 6. In connection with an audit of the PAS assessment requested by a NF, program contractor, case manager, or other party and Administration determines that continued eligibility is uncertain due to substantial evidence of a change in the member’s circumstances or error in the PAS assessment; and
 - 7. At the request of the Administration’s physician consultant.~~
- A. An assessor shall reassess an ALTCS member to determine continued eligibility:
 - 1. In connection with a routine audit of the PAS assessment by AHCCCS;
 - 2. In connection with a request by a provider, program contractor, case manager, or other party, if AHCCCS determines that continued eligibility is uncertain due to substantial evidence of a change in the member’s circumstances or error in the PAS assessment; or
 - 3. Annually when part of a population group identified by the Director in a written report as having an increased likelihood of becoming ineligible.
- B. An assessor shall determine continued eligibility for ALTCS using the same criteria used for the initial PAS assessment as prescribed in R9-28-303.
- C. An assessor shall refer the reassessment to physician consultant review if the member is:
 - 1. Determined ineligible.
 - 2. In the ALTCS Transitional Program under R9-28-307 and resides in a NF or ICF-MR, or
 - 3. Seriously mentally ill and no longer has a non-psychiatric medical condition that impacts the member’s ability to function.