

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 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Sections Affected

Article 1
R2-8-101
R2-8-102
R2-8-103
R2-8-105
R2-8-124
R2-8-125

Rulemaking Action

Amend
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal

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

Authorizing statute: A.R.S. § 38-714(F)(5)

Implementing statute: A.R.S. § 38-714(F)(5)

3. The effective date of the rules:

February 3, 2004. This immediate effective date is allowed under A.R.S. § 41-1032(A)(4), which allows rules to become effective immediately when it provides a benefit to the public and a penalty is not associated with a violation of the rule. Because the rules that are being repealed are preempted by federal law, are unnecessary, or are obsolete and are not being used as explained in item #6, it benefits the public to remove them as soon as possible. This reduces any confusion that may come from having unenforceable, unnecessary, or obsolete rules published as active, enforceable rules. Because these are rules that are being repealed, there obviously is no penalty associated with a violation of the rule.

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 4455, October 17, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 4600, October 31, 2003

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

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E-mail: SusanneD@asrs.state.az.us

or

Name: Nancy Johnson, Rules Coordinator

Address: Arizona State Retirement System
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Telephone: (602) 308-5172
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6. An explanation of the rules, including the agency's reasons for initiating the rules:

The heading of Article 1 is changed to more accurately reflect the contents of the Article.

R2-8-101, R2-8-102, R2-8-103 and R2-8-105: In 1951, the state of Arizona entered into an agreement with the federal government (now the Social Security Administration) to allow for social security contributions by political subdivisions. On January 1, 1987, the federal Omnibus Budget Reconciliation Act (OBRA) became effective. The OBRA changed social security provisions to require the Internal Revenue Service to collect social security contributions. The ASRS is repealing these rules because the Board no longer performs the responsibilities required in the rules.

ASRS is repealing R2-8-124 because it is unnecessary. Applicable fixed benefit plan members are already entitled to the benefits in Laws 1974, Ch. 167. Additionally the rule is inconsistent with A.R.S. § 38-757, which currently contains the provisions for entitlement of benefits upon retirement.

ASRS is repealing R2-8-125 because it is obsolete. All modifications to the membership agreement occurred over 25 years ago. Additionally, the rule cites A.R.S. §§ 38-749 and 38-752, which were repealed in 1995, and A.R.S. § 38-748, which was repealed in 1995, and added as a new section by Laws 2001, Ch. 380, § 5 (enacting a deferred retirement option plan.)

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules 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 ASRS did not review any study relevant to the rule.

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:

Other than the minimal cost to the ASRS to prepare the rule package, there is no economic, small business, or consumer impact. The ASRS is repealing the rules because they have either been preempted by federal law, are unnecessary, or are obsolete, and are not being used by the ASRS.

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

No changes were made between the proposed rules and the final rules.

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

No comments were received on the proposed rules.

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 made as emergency rules?

No

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. ~~SOCIAL SECURITY DIVISION;~~ RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

Section

R2-8-101. ~~Records required of political entities~~ Repealed
R2-8-102. ~~Contributions due from political entities~~ Repealed
R2-8-103. ~~Reimbursement for administrative costs~~ Repealed
R2-8-105. ~~Responsibility of state departments for reports and contributions~~ Repealed

- R2-8-124. ~~Interpretation of Chapter 54, Section 1(A), Laws of 1975 Repealed~~
R2-8-125. ~~Employee and employer contributions for System members Repealed~~

ARTICLE 1. SOCIAL SECURITY DIVISION; RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

R2-8-101. ~~Records required of political entities Repealed~~

- A.** Each political entity shall maintain records containing the following information:
1. The name, address, and Social Security number of each employee.
 2. The amount and date of each payment of remuneration to an employee and the period of service covered by such payment.
 3. The amount of such remuneration payment which constitutes wages subject to contributions.
 4. The amount of employees' contributions withheld or collected with reference to such payment, and if collected at a time other than the time such payment was made, the date collected.
- B.** All copies of returns, reports, schedules, statements, or other documents.
- C.** All records required by these regulations shall be kept at convenient locations accessible for inspection by representatives of the Arizona State Retirement System Board. All such records shall be kept and maintained for a period of at least four years after the date the contributions to which they relate became due or after the date contributions were paid, whichever is later.

R2-8-102. ~~Contributions due from political entities Repealed~~

- A.** A political entity's first annual wage report and contributions due thereon shall be reported and paid to the Arizona State Retirement System Board within 80 days after the agreement entered into between the Board and the political entity has been approved by the Secretary of Health and Human Services, except reports for wages paid in the year of approval shall be due on the regular due date of the first day of January of the following year or 80 days from the date of approval, whichever is later. Effective for contributions due on wages paid after December 31, 1983, employee and employer contributions are due as follows:
1. Contributions on wages paid during the first 15 days of each calendar month will be due on the 5th business day after the 15th day of each such month and will be delinquent on the next succeeding business day.
 2. Contributions on wages paid from the 16th through the last day of each calendar month will be due on the fifth business day after the last day of each such month and will be delinquent on the next succeeding business day.
- B.** Interest shall be charged on delinquent payments at an annual rate determined monthly as the weighted average annual rate of return on all repurchase agreement or other short-term investment transactions in the investment fund of the State Retirement System during the preceding month.
- C.** If contributions required by the law are not paid within 30 days after their delinquent date, appropriate action shall be taken by the Arizona State Retirement System Board to enforce their payment, as provided by the law, either by deductions from state monies due to the political subdivision or by civil action.
- D.** The purpose of this item of R2-8-102 is to enable reduction of cost assessments resulting from state agency administration of A.R.S. §§ 38-701 through 38-707.
1. The administrative cost reduction will be accomplished by the voluntary remittance of Social Security employee contributions and/or matching employer deposits at the earliest convenient date following each payroll period and by the prompt investment, pursuant to Attorney General Opinion 63-106-L, of such deposits in short-term securities to mature, or be sold, before funds are remitted, as required, to the Federal Reserve Bank for deposit in the Social Security trust funds.
 2. All interest earned from the investment of deposits will be applied against the administrative costs assessed each reporting entity pursuant to state's Social Security regulation R2-8-103. Reporting entities not participating in the current deposit opportunity will continue to be billed for their pro rata share of administrative costs; reporting entities making voluntary advance deposits will receive credit on OASI Statement of Account for the approximate amount earned from the investment of the entity's deposits.
 3. If earnings exceed the pro rata cost, the participating entity will be credited with its share of such income. The cost offsetting opportunity herewith established shall be available to reporting entities by deposits of amounts withheld each payroll period.

R2-8-103. ~~Reimbursement for administrative costs Repealed~~

- A.** Payments of a political entity's pro rata share of the cost of administering A.R.S. Title 38, Chapter 5, Article 1 shall be made on a monthly basis. Administrative costs shall become due and payable 30 days after notice has been sent to a political entity of its pro rata share of such cost.
- B.** Charges to political entities to defray administrative costs shall be calculated as follows: Effective January 1, 1984, the administrative costs for each month will be charged to a political entity in the ratio that the number of individuals reported by it bears to the total number of individuals reported by all political subdivisions and the state of Arizona during the most recent period for which an individual count is available. These payments of administrative costs shall likewise be deposited in the revolving fund to reimburse the fund for withdrawals for administrative purposes.

- ~~C.~~ Payment of administrative costs will become delinquent 30 days after notice has been sent to the political entity of its pro rata share. If a political entity does not pay its pro rata share of administrative costs when due and payable, it shall be subject to an interest penalty calculated upon a monthly basis as stipulated in R2-8-102(B) and a delinquency of a portion of a month shall be subject to the penalty for the entire month.
- ~~D.~~ In the event payment has not been made after one month's delinquency, the appropriate state officer charged with the duty of making payment of excise revenue taxes or payments to school districts shall be requested to deduct from such payments the full amount of the delinquency, together with interest and penalties. In the event a political subdivision does not receive such payments from the state officer, then action to recover the delinquency shall be brought in the appropriate court for the recovery of a money judgment against the political subdivision or for the recovery of the delinquency on the bond filed by such political subdivision with the Secretary of State if such has been required by the governor of the state.

R2-8-105. Responsibility of state departments for reports and contributions Repealed

A. Definitions:

1. "Department" means any state board, commission, office, department, or agency.
2. "Services subject to Agreement with the Social Security Administration" includes all services performed by all employees of the state, including elected and appointed officials except:
 - a. Employees in positions eligible for coverage under a retirement system existing on November 25, 1952, except as provided by section 218 of the federal Social Security Act, as amended;
 - b. Employees who perform services in a state hospital or other state institution as patients or inmates thereof;
 - e. Employees paid on a fee basis (see R2-8-104(F));
 - d. Part-time appointive officers;
 - e. Employees of instrumentalities of the state government which instrumentalities are covered under separate agreements other than the Agreement of November 25, 1952.
3. "Wages" means all remuneration paid in a calendar year not in excess of the maximum on which Social Security contributions are due. The value of meals and lodging furnished by, or on behalf of an employer to an employee, the employee's spouse, or any of the employee's dependents is not wages for Social Security purposes if:
 - a. The meals or lodging are furnished on the business premises of the employer, and
 - b. The meals or lodging are furnished for the convenience of the employer, and
 - e. The employee is required to accept such lodging as a condition of employment.The value of "wages", paid other than by cash, shall be subject to contribution payments if the conditions under (a), (b), and (e) are not met as provided herein. Wages do not include subsistence allowance for employees in travel status.
4. "Contributions" means amounts paid by employees of a department with respect to wages received for services equal to the amount of tax which would be imposed by section 1400 of the Federal Insurance Contribution Act if such services constituted employment within the meaning of that Act.

B. Wage reports: Each department shall be responsible for preparing calendar annual reports of wages paid employees of such department for services subject to the Agreement entered into between the state and the Social Security Administration November 25, 1952. Such annual reports will be submitted on forms supplied the department or approved for use by the Arizona State Retirement System Board. Annual reports are due on the first day of January following the end of the calendar year.

C. Payment of contributions:

1. Each department shall be responsible for deducting contributions from the wages due each of its employees for each pay period, until wages paid to such employee exceed the reportable maximum in a calendar year. If wages paid an employee are the reportable maximum or less during the entire calendar year, the deduction shall be made for each pay period in the calendar year. If wages paid exceed the reportable maximum in a calendar year, then payments after the reportable maximum in wages have been made shall not be subject to the deduction of contributions.
2. The employer contributions, and matching deductions from employee wages, are required from state departments and agencies. Effective for contributions due on wages paid after December 31, 1983, these employer payments, either by Division of Finance warrants or direct departmental drafts, shall be transmitted with the wage deduction warrants to the Arizona State Retirement System as follows:
 - a. Contributions on wages paid during the first 15 days of each calendar month will be due on the 5th business day after the 15th day of each such month and will be delinquent on the next succeeding business day.
 - b. Contributions on wages paid from the 16th through the last day of each calendar month will be due on the fifth business day after the last day of each such month and will be delinquent on the next succeeding business day.

D. Personal liability of employee: If for any reason a department fails to collect the amount due from an employee, whether the amount due is for the retroactive period or for the contributions on wages up to the reportable maximum paid in a calendar year, and such employee leaves the employ of the state and there are no funds, either wages or otherwise, against which such obligation may be paid by assignment by the employee, the department shall notify the attorney general of the state and request appropriate action be taken by him for recovery of the amount due and owing from the former employee. Such recoveries shall be transmitted to the Retirement Board for deposit in the Contribution Fund.

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R2-8-124. Interpretation of Chapter 54, Section 1(A), Laws of 1975 Repealed

All participants in the Fixed Benefit Plan whose first retirement benefit payment is made July 1, 1974, or later shall be entitled to the benefits provided by Chapter 167, Laws of 1974.

R2-8-125. Employee and employer contributions for System members Repealed

For all employee members of the System, effective July 1, 1975, contributions by such employee members and by the employers of such employee members shall be an amount equal to seven percent of total wages paid such employees, in accordance with provisions of A.R.S. §§ 38-748 and 38-749, provided that, with respect to employees whose membership in the system is established by § 38-752, the political subdivision employers of such employees shall have, on or before August 1, 1975, submitted to the Arizona State Retirement System Board a modification of the membership agreement between such political subdivision and the Retirement Board with an effective date of July 1, 1975, further provided that if a political subdivision employer does not modify the membership agreement between the political subdivision and the Retirement Board to provide for a seven percent contribution rate by August 1, 1975, then, as to such political subdivision and its employees, the modification of the membership agreement may not be made until July 1, 1976, or on any succeeding July 1 thereafter.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

PREAMBLE

1. Sections Affected

R3-2-1004
R3-2-1005
R3-2-1007
R3-2-1008

Rulemaking Action

Amend
Amend
Amend
Repeal

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

Authorizing statute: A.R.S. § 3-107(A)(1)
Implementing statute: A.R.S. § 3-2903

3. The effective date of the rules:

April 3, 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. 4393, October 10, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 4422, October 17, 2003

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

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

This rulemaking is in response to the Division's Five-year Review Report approved by the Council on August 6, 2002.

Persons seeking an aquaculture facility license, a fee fishing facility license, or a special license to culture or possess aquatic plants or animals will be required to provide a description of the structural and operational methods that would be used to prevent escape of the species requested. A transporter will be permitted to deliver aquatic animals to facilities licensed by either the Department or by the Arizona Department of Game and Fish, as well as to retail outlets prescribed at A.R.S. § 3-2907(J).

Language usage is conformed to the current publication standards of the Office of the Secretary of State.

7. **A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules 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:**

A. *The Arizona Department of Agriculture.*

The Department will incur modest expenses related to educating staff and the regulated community on the amendments.

B. *Political Subdivision.*

Other than the Department, no political subdivision is affected by this rulemaking.

C. *Businesses Directly Affected by the Rulemaking.*

Persons seeking an aquaculture facility license, a fee fishing facility license, or a special license to culture or possess aquatic plants or animals are required to provide a description of the structural and operational methods that will be used to prevent escape of the species requested. A transporter will be permitted to deliver aquatic animals to facilities licensed by the Department or by the Arizona Department of Game and Fish, as well as to retail outlets prescribed at A.R.S. § 3-2907(J).

Clarification of language in the amended rules should enhance a person's ability to comply with regulations.

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

Minor technical and grammatical changes have been made to the rule based on suggestions from Department and G.R.R.C. staff.

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

Roger Sorenson, Hatchery Program Manager, Arizona Department of Game and Fish, called on October 20, 2003 to express his support of the rulemaking and state that he thought the rules were especially well-written.

The Arizona Department of Agriculture's Advisory Council supported the rulemaking by motion during a meeting held on November 18, 2003. The Department thanks the Council and members of the regulated community for their support of this rulemaking.

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. **Were these rules previously made as emergency rules?**

No

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

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

ARTICLE 10. AQUACULTURE

Section

R3-2-1004. Specific Licensing Provisions; Aquaculture Facility License; Fee Fishing Facility; Special License Facility

R3-2-1005. Fee Fishing Facility License

R3-2-1007. Transporter License; Transport; Delivery

R3-2-1008. Special Licenses Repealed

Notices of Final Rulemaking

ARTICLE 10. AQUACULTURE

R3-2-1004. Specific Licensing Provisions; Aquaculture Facility License; Fee Fishing Facility; Special License Facility

- A. In addition to ~~complying with~~ the application requirements of ~~in~~ R3-2-1003, ~~applicants~~ an applicant for a license to operate an aquaculture facility as defined in A.R.S. § 3-2901(1), a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form ~~furnished~~ provided by the Department:
1. Water sources, transmission, and conveyances;
 2. Method used to dispose of tailing waters and solid wastes;
 3. Number and size of ponds, raceways, and tanks, if applicable;
 4. Whether hatchery facilities are included;
 5. A list of all animals and plants to be authorized ~~pursuant to~~ under the license by genus, species, and common name.
- B. ~~Applications~~ An application to culture aquatic animals or plants which have or possess an aquatic animal or plant that has not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. ~~The recommendations of the Arizona Game and Fish Department shall be considered, pursuant to A.R.S. § 3-2903, by the Department in determining whether to issue or deny an import permit as defined in R3-2-1010.~~ The applicant's proposal shall include:
1. Anticipated benefits from introducing the species;
 2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
 3. Anticipated diseases inherent to ~~introduced~~ introducing the species;
 4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
 5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C. ~~All bodies~~ Each body of water serving an aquaculture a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D. ~~An aquaculture~~ A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E. An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
 2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F. The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

R3-2-1005. Fee Fishing Facility License

- A. In addition to ~~complying with~~ the application requirements of R3-2-1003, an applicant for a license to operate fee fishing facility as defined in A.R.S. § 3-2901(8) shall provide the following information on a form furnished by the Department:
1. ~~Water sources, transmission, and conveyances;~~
 2. ~~Method used to tailing waters and solid wastes; dispose of~~
 3. ~~Number and size of ponds and tanks;~~
 4. ~~Whether hatchery facilities are included;~~
 5. A list of all aquatic animal and plants by genus, species, and common name to be authorized pursuant to the license.
- B. ~~Applications~~ to possess aquatic animals or plants which have not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. ~~The recommendations of the Arizona Game and Fish Department shall be considered, pursuant to A.R.S. § 3-2903, by the Department in determining whether to issue or deny an import permit. The applicant's proposal shall include:~~
1. ~~Anticipated benefits from introducing species;~~
 2. ~~Anticipated adverse effects from introducing species, as it may affect indigenous or game fish, including hybridization;~~
 3. ~~Anticipated diseases inherent to introduced species;~~
 4. ~~Suggestions for post-introduction evaluation of status and impact of introduced species.~~
- C. ~~All bodies of water serving a fee fishing facility shall be contained within the boundaries of the land owned or leased by the licensee. A fee fishing facility using public waters having natural or artificial inlets, rivers, creeks, washes or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals or plants, including eggs and fry, from escaping beyond the facility boundaries or into public bodies of water.~~
- D. ~~Aquatic animals removed from a fee fishing facility shall be dead and accompanied by written evidence of sale identifying the:~~

Notices of Final Rulemaking

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and
2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
 - 1-a. Facility, by name, address, and Department establishment number as described in R3-2-1003(H) issued under R3-2-1003(B);
 - 2-b. Date of harvest; and
 - 3-c. Number and species of aquatic animals transported from the facility.

R3-2-1007. Transporter License; Transport; Delivery

- A. In addition to ~~complying with the application requirements of in R3-2-1003, applicants~~ an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15), ~~with exception of aquatic plants, shall provide the following information on a form furnished provided by the Department:~~
 1. ~~Designation of~~ Designate whether the license will be is for interstate or intrastate transport, or both;
 2. ~~A list of~~ List aquatic transporting equipment to be used, ~~both including~~ tanks and vehicles, and vehicle license number; and
 3. ~~Prior State~~ prior year volume or anticipated annual tonnage of live aquatic animals transported.
- B. ~~Transporting~~ A transporter shall ensure that the aquatic transporting equipment shall provide for has adequate water and oxygen at ~~temperatures and quantities a temperature and in a quantity normal for the health of the live aquatic animals in transit and shall be clearly marked, "Live Fish."~~
- C. In addition to a copy of the ~~certificate of aquatic health~~ Certificate of Aquatic Health, ~~as defined in R3-2-1001, all containers a transporter shall transport each container of live aquatic animals being transported within the state shall be accompanied by~~ with a document identifying:
 1. ~~The consignor's~~ Consignor's name, address, and telephone number;
 2. ~~The consignee's~~ Consignee's name, address, and telephone number;
 3. ~~The quantity~~ Quantity and size of the aquatic animals animal being transported;
 4. ~~The genus~~ Genus, species, and common name of the aquatic animals animal being transported;
 5. ~~The date~~ Date of shipment; and
 6. ~~The~~ Department establishment number.
- D. A transporter shall ~~not~~ deliver live aquatic animals only to a ~~destination other than a facility licensed by the Department, and with the exception of retail outlets outlet,~~ as prescribed by at A.R.S. § 3-2907(J), ~~unless the transporter has a valid aquatic wildlife stocking permit issued by the Arizona Game and Fish Department or to a person listed in R3-2-1010(B).~~

R3-2-1008. Special Licenses Repealed

- A. In addition to complying with the application requirements of R3-2-1003, applicants for a special license for the purpose of education and research shall provide the following information on a form furnished by the Department:
 1. ~~Water sources, transmission and conveyances;~~
 2. ~~Method used to dispose of tailing waters and solid wastes;~~
 3. ~~Number and size of ponds and tanks;~~
 4. ~~Whether hatchery facilities are included.~~
- B. The following information shall also be provided to the Department at the time of application:
 1. ~~A typed narrative describing the project in detail, the project purpose, the hypothesis, and the project duration;~~
 2. ~~A list of live aquatic animals or plants to be authorized under the license by genus, species and common name;~~
 3. ~~The proposed disposition of the research aquatic animals or plants upon completion of the project.~~
- C. ~~The Department shall deny the application for a special license when it determines the proposal does not meet the intent of A.R.S. § 3-2908.~~
- D. Applications to possess aquatic animals or plants which have not previously occurred or have not been cultured in the drainage where the aquatic animals or plants will be held shall be accompanied by a written proposal. The recommendations of the Arizona Game and Fish Department shall be considered, pursuant to A.R.S. § 3-2903, by the Department in determining whether to issue or deny the license. The applicant's proposal shall include:
 1. ~~Anticipated benefits from introducing species;~~
 2. ~~Anticipated adverse effects from introducing species, as it may affect indigenous or game fish, including hybridization;~~
 3. ~~Anticipated diseases inherent to introduced species;~~
 4. ~~Suggestions for post-introduction evaluation of status and impacts of introduced species.~~
- E. ~~All bodies of water serving a special license facility shall be contained within the boundaries of the land owned or leased by the licensee. A facility using public waters having natural or artificial inlets, rivers, creeks, washes or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals or plants, including eggs and fry, from escaping beyond the facility boundaries or into public bodies of water.~~

Notices of Final Rulemaking

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

PREAMBLE

- | | |
|-----------------------------|--------------------------|
| 1. Sections Affected | Rulemaking Action |
| R3-4-708 | Amend |
| R3-4-717 | Amend |
- 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. §§ 3-487 and 3-527.02
Implementing statute: A.R.S. § 3-487(B)
- 3. The effective date of the rules:**
February 3, 2004. Under the provisions of A.R.S. § 41-1032(A)(4) and (5), these rules provide a benefit to the public by standardizing language to meet the current publication standards of the Office of the Secretary of State and adopting less stringent regulation of bulk container use. No penalties for violations are associated with the changes in these rules nor is there an impact on public health, safety, welfare, or the environment.
- 4. A list of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 4818, November 7, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 4807, November 7, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Sherry D. Blatner, Rules Analyst
Address: Arizona Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: sherry.blatner@agric.state.az.us
- 6. An explanation of the rules, including the agency's reasons for initiating the rules:**
The rulemaking repeals requirements for bulk size containers for the melon industry. Language that duplicates provisions in statutes and other rules is deleted. Language use is conformed to the rulewriting standards of the Office of the Secretary of State.
- 7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules 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:**
Under the provisions at A.R.S. § 41-1055(D)(3) this rulemaking is exempt from an economic, small business, and consumer impact statement. The rulemaking removes regulations from the melon industry that set requirements for bulk size containers. With the removal of the requirements on industry, the Department's monitoring activities are reduced. The rulemaking also clarifies language and removes redundant language that exists in statute or in other rules, making compliance with the rules easier.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
Minor technical and grammatical changes have been made to the rules based on suggestions from Department and G.R.R.C. staff.

Notices of Final Rulemaking

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

No written comments were received. The Citrus, Fruit, and Vegetable Advisory Council supported the rulemaking by motion at its November 18, 2003 meeting. The Arizona Department of Agriculture's Advisory Council supported the amendments by motion during a meeting held on November 18, 2003. The Department thanks both Councils for their support of this rulemaking.

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. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

Section

R3-4-708. Cantaloupe Standards; Maturity Sampling; ~~and~~ Packing Arrangements

R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons); Maturity Sampling

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

R3-4-708. Cantaloupe Standards; Maturity Sampling; ~~and~~ Packing Arrangements

A. Definitions.

1. "Mature" means that a cantaloupe has reached the stage of development that ensures the completion of the normal ripening process, the arils that surround the seed during development of maturity are absorbed, and the juice of the edible portion contains not less than nine percent soluble solids as determined by the standard hand refractometer.
2. "Serious damage" ~~includes~~ means damage caused by bruises, sunburn, growth cracks, cuts, sponginess, flabbiness, or wilting.

B. Cantaloupes shall be:

1. Mature but not overripe;
2. Fairly well-netted;
3. Free from mold, decay, and insect damage that penetrates or damages the edible portion of the cantaloupe; and
4. Free from serious damage.

C. If a preliminary inspection of ~~the~~ cantaloupes as prescribed at R3-4-738(A) indicates that further testing for maturity is required, ~~as prescribed in R3-4-739(A) and (B)~~ the inspector shall randomly select melons for testing and average the results to determine the percent of soluble solids for each lot. The minimum number of cantaloupes selected from a lot for maturity sampling is as follows:

Melons Per Container	Min. Melons Per Container Tested
9 or less	7
12	8
15	11
18	13
22	15
23	16
24 or more	2/3 of the melons, not to exceed 30 melons

Notices of Final Rulemaking

- D. The Department shall not permit more than five percent, by count, of the cantaloupes in any one lot for any one defect and not more than 10 percent, by count, to fail the total requirements prescribed in this Section. ~~The owner or holder of a lot in violation of these tolerance standards may recondition the lot as prescribed in R3-4-739. If the lot is not reconditioned, the provisions of A.R.S. § 3-486 apply.~~
- E. All cantaloupes in each container shall be of one variety or of similar varietal characteristics.
- F. Cantaloupes packed in containers shall be uniform in size and packed in a compact arrangement.

R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons); Maturity Sampling

A. Definitions.

- 1. "Mature" means that ~~the~~:
 - a. ~~A~~ melon has reached the stage of development that ensures ~~the~~ proper completion of the normal ripening process; and the arils that surround the seed during development of maturity are absorbed;
 - b. The juice of the edible portion of honeyball and honeydew melons contains not less than 10% percent soluble solids as determined by the standard hand refractometer; and ~~if a preliminary inspection of the melons indicates that further testing is required, as prescribed in R3-4-739(A) and (B), the inspector shall conduct the following maturity sampling and tolerance tests and average the results to determine the percent of soluble solids:~~
 - a- When sampling honeydews and honeyball melons for maturity in lot containers more than 600, three melons shall be added for each additional 500 melons or fraction thereof. The minimum number of melons selected from a container for maturity sampling of honeydews in containers is as follows:

Containers in Lot	Containers Sampled
Up to 400	7
401 to 600	9

- b. ~~When sampling honeydews and honeyball melons for maturity in bulk containers, seven honeydews or honeyballs shall be selected at random from the top of the bulk container. The minimum number of melons selected from a container for maturity sampling of honeydews or honeyballs in bulk containers is as follows:~~

No. of Bulk Containers	Containers Sampled
Less than 10	2
10 to 30	3
31 to 50	4
51 or more	5

- c. ~~Except for yellow flesh watermelons, the~~ The flesh of a watermelon, ~~except for yellow flesh watermelon,~~ shall be colored to a degree not less than that indicated by Hue 4, Chrome H, in Plate 1, of A₂ Maerz and M. Rea Paul Dictionary of Color, 1st Edition, published 1930, ~~which is incorporated by reference and does not include any later amendments or editions of the incorporated matter. This color standard is on file with the Office of the Secretary of State or may be examined in the Fruit and Vegetable Standardization Offices, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250. This material is incorporated by reference and is on file with the Department. This incorporation by reference contains no future editions or amendments.~~
- 2. "Serious damage" ~~includes means~~ means damage to a melon caused by:
 - a. ~~Damage to a melon caused by growth~~ Growth cracks, cuts, bruises, ~~sunburn,~~ or softness;
 - b. ~~Damage to a melon caused by growth~~ cracks, cuts, bruises, sunburn, beetle damage, whiteheart, rindrot, or softness:
 - i. ~~b. Beetle damage is serious damage~~ when it affects an area of more than 10% percent of the total surface of a watermelon;
 - ii. ~~c. Whiteheart is serious damage~~ if apparent on internal examination;
 - iii. ~~d. Sunburn is serious damage~~ when the sunburned area, regardless of size, is devoid of green coloration and is turning brown; or
 - iv. ~~e. Rindrot is serious damage~~ when the distinct brown color or decay in the edible flesh of at least one inch in aggregate occurs in the edible portion of ~~the~~ a watermelon.

Notices of Final Rulemaking

- B. All melons, except watermelons, when packed or offered for sale, shall be:
 - 1. Mature but not overripe;
 - 2. Free from mold, decay, and insect damage ~~which has penetrated or damaged~~ that penetrates or damages the edible portion of the melon; and
 - 3. Free from serious damage.
- C. Watermelons, when packed or offered for sale, shall be:
 - 1. Fairly well-shaped;
 - 2. Mature but not overripe;
 - 3. Free from mold, decay, insect and beetle damage; and
 - 4. Free from serious damage.
- D. If a preliminary inspection of honeydew or honeyball melons as prescribed at R3-4-738(A) indicates that further testing for maturity is required, the inspector shall randomly select melons for testing and average the results to determine the percent of soluble solids for each lot:
 - 1. When sampling honeydew or honeyball melons for maturity in lot containers that are not bulk containers, the minimum number of melons to be sampled is as follows:

<u>Containers in Lot</u>	<u>Melons Sampled</u>
Up to 400	7
401 to 600	9
Over 600	Add 3 melons for every additional 500 containers or fraction of 500 additional containers

- 2. When sampling honeydew or honeyball melons for maturity in bulk containers, seven honeydew or honeyball melons shall be selected at random from the top of the bulk container. The minimum number of bulk containers to be sampled is as follows:

<u>No. of Bulk Containers</u>	<u>Containers Sampled</u>
Less than 10	2
10 to 30	3
31 to 50	4
51 or more	5

- ~~D.E.~~ Not ~~The Department shall not permit more than 5% five percent, by count, of the melons in any one lot shall be allowed for any one defect and not more than 10% percent, by count, shall to fail the total requirements prescribed in this Section.~~
- E. Standard containers in which melons are packed shall have the following information appearing in plain sight and in plain letters on one outside end:
 - 1. ~~The name of the person who first packed or authorized the packing of the melons, or the name under which the packer does business; and~~
 - 2. ~~The address of the person or business.~~
- F. ~~Bulk containers in which melons are packed shall be 18", 24", 36", or 42" in depth.~~

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS

PREAMBLE

1. Sections Affected

R4-12-101
Table 1
R4-12-109
R4-12-121
R4-12-123
R4-12-125
R4-12-126
R4-12-210
R4-12-211
R4-12-212
Article 4
R4-12-413
R4-12-414
R4-12-415
R4-12-416

Rulemaking Action

Amend
Amend
Amend
Amend
New Section
Amend
Amend
New Section
New Section
New Section
Amend
Amend
Amend
Amend
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. §§ 32-1307(A)(5) and 32-1391.01

Implementing statutes: A.R.S. §§ 32-1307(B)(2), 32-1307(A)(4), 32-1307(B)(3), 32-1309(A)(10), 32-1309(C)(6), 32-1309(D), 32-1331, 32-1332, 32-1338, 32-1367, 32-1386, 32-1390.01, 32-1391.01, 32-1391.12(B), 32-1391(13), 32-1394.01, 32-1391.14(B), 32-1391.15, 32-1394, 32-1396, 32-1398, and 41-1072 through 41-1079

3. The effective date of the rules:

April 3, 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. 733, February 28, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 2148, July 3, 2003

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

Name: Rudolfo R. Thomas, Executive Director

Address: Board of Funeral Directors and Embalmers
1400 W. Washington, Room 230
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

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

Legislation was passed in the 2002 legislative session that requires the Board to license and regulate cremationists. As a result, the Board is writing rules that specify application requirements for cremationists and provide time-frames for Board action on the applications. The Board is also providing application requirements for reinstatements and renewals of licenses, registrations, and endorsements and time-frames for Board action on the applications. The Board is amending Article 1 by addressing issues identified in its 2002 Five-year Review Report approved by the Governor's Regulatory Review Council on March 5, 2002 and to conform the rules to current rulewriting style and format requirements. The Board is amending Article 4 to update its continuing education requirements.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules 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 Board did not review any study relevant to the rules.

Notices of Final Rulemaking

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 the state:

Not applicable

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

Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

The Board will bear the costs of the rules for meeting the time-frames for approving or denying initial cremationist licenses, continuing education determinations, and renewals. Rule-related costs involve writing the rules and related economic, small business, and consumer impact statement, mailing the new rules to interested persons, and notification of administrative completeness or incompleteness. If the Board fails to meet the time-frames set forth in the rules, it is required to send the application fee back to the applicant resulting in a small cost-savings for the applicant. The Board would also be required to pay a penalty into the general fund resulting in a small increase in revenue for the state. The Board does not anticipate non-compliance with the time-frames.

An applicant for an initial cremationist license will bear minimal costs to complete and submit the application required in R4-12-210.

Although the renewal requirements apply to all types of licensees, registrants, and endorsees, the rules should impose no additional costs to these persons because the Board currently requires a renewal application and renewal fee.

The rules increase the number of continuing education credit hours required each year from five to 12 for a funeral director or embalmer. The cost for obtaining the continuing education is minimal. The Board has required licensed funeral directors and embalmers to complete 12 hours of continuing education for the past five years. The proposed rules are also being amended to reflect the Board's current requirement for six hours of continuing education for a registered embalmer's assistant. The annual cost for a registrant to obtain the continuing education is minimal. A licensee or registrant will bear minimal costs of a request for waiver of the continuing education requirements and for documenting continuing education.

A licensee or registrant benefits from gaining approval for continuing education before submitting a renewal application because the licensee or registrant will not take a course that does not meet the Board's continuing education requirements.

Licensees, registrants, endorsees, the public, and the Board benefit from the general provisions in Article 1 that clarify the requirements for investigation procedures, informal interviews, hearing procedures, and rehearing or review of Board decisions. Licensees, registrants, endorsees, and the Board also benefit from clear and concise standards for applications and continuing education.

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

The Board made technical and grammatical changes suggested by G.R.R.C. staff. Because determinations regarding continuing education are not a form of permission required by law, the licensing time-frame in Table 1 pertaining to continuing education has been removed. In R4-12-121(B) language was inserted to clarify that the 15-day time period begins on the date the Board mails the request. In R4-12-415(A) and (C) substituted "determination" for "approval" and made corresponding corrections to clarify that the Board is determining whether continuing education satisfies the requirements of A.R.S. § 32-1338 and R4-12-413.

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

The Board received one comment requesting the Board to adopt a 50-minute credit hour requirement for continuing education instead of a 60-minute requirement. The commenter stated that many college and professional groups that provide continuing education programs use a 50-minute hour. Additionally, a 50-minute credit hour may provide a more accurate counting of the time spent receiving instruction. Recognizing that the change might constitute a substantial change of the rule and delay approval of all of the rules, the commenter withdrew his request. Thus, the Board did not make this change.

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. Were these rules previously adopted as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-12-101. Definitions
- Table 1. Time-frames (in days)
- R4-12-109. Enforcement Advisory Committee
- R4-12-121. Investigation Procedures
- R4-12-123. ~~Reserved~~ Informal Interview
- R4-12-125. Hearing Procedures
- R4-12-126. Rehearing or Review of Board's ~~Decisions~~ Decision

ARTICLE 2. LICENSING PROVISIONS

Section

- R4-12-210. ~~Reserved~~ Application for a Cremationist License
- R4-12-211. ~~Repealed~~ Renewal
- R4-12-212. ~~Repealed~~ Reinstatement

~~ARTICLE 4. FUNERAL SERVICE CONTINUING EDUCATION~~

Section

- R4-12-413. ~~Continuing education~~ Education ; ~~hours required; reporting~~ Hours Required
- R4-12-414. ~~Waiver of Continuing education; exemptions~~ Education
- R4-12-415. ~~Continuing education~~ Education Determinations ~~approval of courses~~
- R4-12-416. Documentation of Continuing Education

ARTICLE 1. GENERAL PROVISIONS

R4-12-101. Definitions

In this Chapter:

1. "Applicant" means:
 - a. An individual requesting to take a state equivalent examination;
 - b. An individual requesting a reinstatement or an initial or renewal license or registration issued by the Board; or
 - c. One of the following if requesting a an interim permit or an initial or renewal funeral establishment license, crematory license, ~~an interim permit~~, or prearranged funeral sales establishment endorsement:
 - i. The individual, if a sole proprietorship;
 - ii. Any two of the corporation's officers, if a corporation;
 - iii. The managing partner, if a partnership or limited liability partnership; or
 - iv. The designated manger, or if no manger is designated, any two members of the limited liability company, if a limited liability company.
2. "Application packet" means the documents, forms, and additional information ~~the Board requires to be submitted by an applicant or on behalf of an applicant~~ required by the Board for an initial or renewal application for a license, registration, endorsement, or reinstatement.
3. No change
4. No change
5. No change
6. ~~"Cremation" means the same as in A.R.S. § 32-1301.~~ "Continuing education" means a workshop, seminar, lecture, conference, class, or instruction related to funeral practices.
7. "Credit hour" means 60 minutes of participation in continuing education.
- ~~7-8.~~ No change
- ~~8-9.~~ No change
- ~~9-10.~~ No change
- ~~10-11.~~ No change
- ~~11-12.~~ No change
- ~~12-13.~~ No change
- ~~13-14.~~ No change
15. "Party" has the meaning in A.R.S. § 41-1001.
- ~~14-16.~~ No change

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17. “Registrant” means an individual authorized by the Board to act as an embalmer’s assistant or a prearranged funeral salesperson.
 15-18.No change
 16-19.No change

Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Application for Approval to take a state equivalent examination R4-12-201	A.R.S. §§ 32-1309, 32-1327, 32-1329	50	20	30
Application for an Approval to take an Embalmer Assistant Practical Examination R4-12-201	A.R.S. §§ 32-1309, 32-1325.01	50	20	30
Application for an intern, <u>Intern, an embalmer, or a</u> funeral director license R4-12-202	A.R.S. §§ 32-1309, 32-1322, 32-1323	110	20	90
Application for an embalmer <u>Embalmer</u> or funeral director license by an applicant who holds an out-of-state-license R4-12-202(E)	A.R.S. §§ 32-1309, 32-1335	110	20	90
Application for a multiple <u>Multiple</u> funeral director license R4-12-202(F)	A.R.S. §§ 32-1309, 32-1335	110	20	90
Application for an embalmer’s <u>Embalmer’s</u> assistant registration R4-12-203	A.R.S. §§ 32-1309, 32-1325.01	110	20	90
Application for a funeral <u>Funeral</u> establishment license R4-12-204	A.R.S. §§ 32-1309, 32-1383	110	20	90
Application for a prearranged <u>Prearranged</u> funeral sales establishment endorsement R4-12-205	A.R.S. §§ 32-1309, 32-1391.12	60	20	40
Application for a prearranged <u>Prearranged</u> funeral salesperson registration R4-12-207	A.R.S. §§ 32-1309, 32-1391.14	110	20	90
Application for a crematory <u>Crematory</u> license R4-12-207	A.R.S. §§ 32-1309, 32-1395	110	20	90
<u>Cremationist license</u> R4-12-210	<u>A.R.S. § 32-1394.01</u>	<u>110</u>	<u>20</u>	<u>90</u>

Notices of Final Rulemaking

<u>License, registration, or endorsement renewal</u> <u>R4-12-211</u>	<u>A.R.S. §§ 32-1331, 32-1338, 32-1386, 1391.12, 1391.14, 32-1394.02, 32-1396</u>	<u>60</u>	<u>30</u>	<u>30</u>
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R4-12-109. Enforcement Advisory Committee

A. ~~The Board may appoint a citizen an enforcement advisory committee concerning enforcement matters. The committee shall consist that consists of nine seven members of which four as follows:~~

- ~~1. Four members shall be from representing the funeral industry, and~~
- ~~2. four Three members shall be lay members having that have no affiliation with a funeral establishment or cemetery; and one member shall be a representative of another state or local government agency involved with final disposition matters.~~

B. ~~The enforcement advisory committee shall may:~~

- ~~1. review Review and evaluate investigative files matters referred to it by the Board, hold voluntary informal interviews, and~~
- ~~2. make advisory Make recommendations to the Board concerning possible about settlement, dismissal, or other disposition the disposition of investigative matters.~~

C. ~~The Board, in its sole discretion, may accept, reject, or modify the enforcement advisory committee's advisory recommendations.~~

R4-12-121. Investigation Procedures

A. ~~The Board shall investigate violations of Title 32, Chapter 12, A.R.S. and of these rules, including violations involving deceptive practices, failure to provide price disclosures and professional negligence. Investigations shall be conducted in accordance with procedures established by the Board. At the conclusion of an investigation, the Board may enter into a settlement of the matter with the funeral establishment, licensee, or registrant if it determines that the settlement adequately protects the public safety, health and welfare.~~

~~After receiving a complaint, the Board shall send a written notice of the complaint to the licensee or registrant within 15 days of its receipt and may include a request for information or documents related to the complaint. The licensee or registrant shall provide a written response and the requested information or documents no later than 15 days from the date the Board mails the notice of the complaint.~~

B. ~~Complaints, investigative reports, documents, exhibits and other materials relating to an investigation shall remain confidential until the matter is closed, until the issuance of a hearing notice pursuant to A.R.S. § 32-1364, or until the matter is settled by consent order. During an investigation the Board may, after notifying the subject of the complaint, release the name of the complainant and the general nature of the complaint to the public. The funeral establishment, licensee or registrant which is the subject of the complaint shall be informed of the name of the complainant within 30 days after the initiation of the investigation if the investigation was initiated as a result of a complaint.~~

~~In addition to the information or documents requested by the Board under subsection (A), the Board may request that a complainant, licensee, or registrant reply to or provide the Board with additional information relating to the complaint. The complainant, licensee, or registrant shall provide the Board with additional information within 15 days from the date the Board mails the request.~~

R4-12-123. Reserved Informal Interview

A. ~~The Board shall conduct an informal interview under A.R.S. § 32-1367 as follows:~~

~~1. The Board shall send a written notice of the informal interview to each party by personal service or certified mail, return receipt requested, at least 20 days before the informal interview. The notice shall contain:~~

- ~~a. The time, place, and date of the informal interview;~~
- ~~b. An explanation of the procedures to be followed at the informal interview;~~
- ~~c. A statement of the subject matter or issues involved;~~
- ~~d. A statement of the licensee's or registrant's right to appear with or without counsel;~~
- ~~e. A notice that if a licensee, registrant, or complainant fails to appear at the informal interview, the informal interview may be held in the licensee's, registrant's, or complainant's absence; and~~
- ~~f. A statement of the licensee's or registrant's right to a formal hearing according to A.R.S. § 32-1367 instead of attending the informal interview.~~

~~2. During the informal interview, the Board may:~~

- ~~a. Swear in the licensee or registrant and all witnesses;~~
- ~~b. Question the licensee or registrant and all witnesses; and~~
- ~~c. Deliberate.~~

Notices of Final Rulemaking

3. After completing the informal interview the Board may dismiss the complaint or take any of the actions listed in A.R.S. § 32-1367(D):

B. The Board shall issue written findings of fact, conclusions of law, and Board order no later than 60 days from the date the informal interview is completed.

C. A licensee or registrant may seek a Board rehearing or review of a Board decision or the Board may grant rehearing or review on its own motion as stated in A.R.S. § 32-1367(I).

R4-12-125. Hearing Procedures

A. ~~Notice procedures: Notice of a formal disciplinary hearing shall be given at least 20 days prior to date set for the hearing. Notice shall be served personally or by mailing a copy, by certified mail to the address last known by the Board. The Notice shall include the following information:~~

- ~~1. Statement of time, place and nature of hearing.~~
- ~~2. Statement of legal authority and jurisdiction under which hearing is to held.~~
- ~~3. Statement giving reference to particular sections of the statutes and rules involved.~~
- ~~4. Statement of matters asserted. Initial notice may be limited to a statement of the issues involved. Upon application, a more definite and detailed statement shall be furnished.~~

If a formal hearing under A.R.S. § 32-1367 is to be held before an administrative law judge, the requirements in A.R.S. §§ 41-1092 through 41-1092.11 apply.

B. ~~Conduct at hearings: Disciplinary hearings may be conducted without adherence to the rules of evidence required in judicial proceedings:~~

If a formal hearing under A.R.S. § 32-1367 is to be held before the Board, the requirements in A.R.S. §§ 41-1092 through 41-1092.11 and the following apply:

1. The Board shall provide a written complaint and notice of formal hearing to a licensee or registrant at the licensee's or registrant's last known address of record, by personal service or certified mail, return receipt requested at least 30 days before the date set for the formal hearing.
2. A licensee or registrant served with a complaint and notice of hearing shall file an answer by the date specified in the notice of hearing admitting or denying the allegations in the complaint.
3. The Board may amend a complaint and notice of hearing at any time. The Board shall send written notice of any changes in the complaint and notice of hearing to the licensee or registrant at least 20 days before the formal hearing.
4. A licensee or registrant may appear at a formal hearing with or without the assistance of counsel. If the licensee or registrant fails to appear, the Board may hold the formal hearing in the licensee's or registrant's absence.
5. The Board may conduct a formal hearing without adherence to the rules of procedure or rules of evidence used in civil proceedings. At the formal hearing the Board shall rule on the procedure to be followed and admissibility of evidence.
6. The Board shall send a written decision that includes written findings of fact, conclusions of law, and order of the Board to the licensee or registrant and all parties within 60 days after the formal hearing is concluded. A licensee, registrant, or the Board may seek rehearing or review of the order according to A.R.S. § 32-1367(I).

C. ~~Opportunity to respond: All parties shall be afforded the opportunity to respond and present evidence and argument on all issues involved.~~

D. ~~Failure to appear: Failure of parties to appear for a hearing shall leave the Board free to act upon the evidence and argument on all issues involved.~~

E. ~~Findings of fact: Findings of fact shall be based exclusively on the evidence and matters officially noticed.~~

F. ~~Records: A record of the hearing shall be made and kept by the Board and, where requested by a party or ordered by the Board, a transcript shall be prepared and filed with the Board. If the transcript is prepared at the request of a party, the cost of the transcript shall be paid by the party making the request, unless the Board for good cause shown waives assessment of such costs. The Board records in a contested case shall include the following:~~

- ~~1. All pleadings, motions, interlocutory rulings.~~
- ~~2. Evidence received or considered.~~
- ~~3. Statement of matters officially noticed.~~
- ~~4. Objections and offers of proof and rulings thereon.~~
- ~~5. Proposed findings and exceptions.~~
- ~~6. Decision, opinion or report by the Board or proceeding.~~
- ~~7. All staff memoranda, other than privileged communications, or data submitted to the Board.~~

R4-12-126. Rehearing or Review of Board's Decisions Decision

A. ~~Except as provided in subsection (G), any a party to a disciplinary action before the Board who is aggrieved by a decision rendered in such case may file with issued by the Board; may file with the Board, not no later than 40 30 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds therefor for rehearing or review. For purposes of this subsection Section, a decision shall be deemed is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party at his last known residence or place of business or the party's attorney.~~

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- B. A party filing a motion for rehearing or review under this rule may be amended amend the motion at any time before it is ruled upon by the Board. ~~Another party~~ A response may be filed within ten file a response within 15 days after ~~service of such the date the~~ the motion or amended motion by any other party for rehearing is filed. The Board may require ~~the filing of~~ written briefs upon the issues raised in the motion and may provide for oral argument a party to file supplemental memoranda explaining the issues raised in the motion or response and may permit oral argument.
- C. ~~The Board may grant~~ A rehearing or review of the decision ~~may be granted~~ for any of the following ~~causes~~ reasons materially affecting the moving party's rights:
1. Irregularity in the Board's or administrative law judge's administrative proceedings ~~of the agency or its hearing officer or the prevailing party~~; or any order or abuse of discretion that ; whereby the moving party was deprived the party of a fair hearing;
 2. Misconduct of the Board, administrative law judge, or the prevailing party;
 3. Accident or surprise which that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which that could not, with reasonable diligence, have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties or disciplinary action;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 7. That the decision is not justified supported by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review ~~to all or any of the parties and on all or part of~~ the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify with particularity the each ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified for the rehearing or review.
- E. ~~Not~~ No later than ~~40~~ 30 days after a decision is ~~rendered~~, issued by the Board, ~~the Board~~ may, on its own initiative, order grant a rehearing or review of its decision for any reason ~~for which it might have granted a rehearing on motion of a party in subsection (C)~~. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify three grounds therefore. An order granting a rehearing or review shall specify the grounds for the rehearing or review.
- F. ~~When~~ If a motion for rehearing or review is based upon affidavits, ~~they shall be served with the motion~~ a party shall serve the affidavits with the motion. An opposing party may, within 10 days after ~~such~~ service, serve opposing affidavits, which period ~~The Board may be extended for an additional period~~ extend the time for serving opposing affidavits for not exceeding no more than 20 days by the Board for good cause shown or by written stipulation of the parties. The Board may permit Reply ~~reply~~ affidavits may be permitted.
- G. ~~If in a particular decision~~ the Board makes specific findings that the immediate effectiveness of ~~such a~~ decision is necessary ~~for the immediate preservation of~~ to preserve the public peace, health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the ~~decision~~ Board may be issued issue the decision as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an aggrieved party who wishes to seek judicial review shall make any an application for judicial review of the decision shall be made within the time limits permitted ~~for applications~~ for judicial review of the Board's final ~~decisions~~ decision at A.R.S. § 12-904.
- H. ~~To the extent that the provisions of this Rule are in conflict with the provisions of any statute providing for rehearing of the decisions of the Board, such statutory provisions shall govern.~~

ARTICLE 2. LICENSING PROVISIONS

R4-12-210. Reserved Application for a Cremationist License

An applicant for a cremationist license shall submit an application packet to the Board that contains all of the following:

1. An application form provided by the Board, signed and dated by the applicant that contains:
 - a. The applicant's name, mailing address, telephone number, and social security number;
 - b. The applicant's date and place of birth;
 - c. Any prior name or alias of the applicant;
 - d. The name, address, and telephone number of the crematory or funeral establishment employing the applicant, if applicable;
 - e. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsections (A)(1)(f)(i) through (A)(1)(f)(vi) for each felony;
 - f. Whether the applicant, within the five years before the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure and the:
 - i. Charged felony or misdemeanor;
 - ii. Date of conviction;
 - iii. Court that has jurisdiction over the felony or misdemeanor;

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- iv. Probation officer's name, address, and telephone number, if applicable;
- v. A copy of the notice of expungement, if applicable; and
- vi. A copy of the notice of restoration of civil rights, if applicable;
- g. Whether the applicant, within five years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to the applicant's proposed area of licensure;
- h. Whether the applicant is currently incarcerated, on community supervision after a period of incarceration in a local, state, or federal penal institution, or on criminal probation;
- i. Whether the applicant, within five years from the date of the application, has had an application for a license, registration, certificate, or endorsement denied or rejected by any state funeral licensing authority and the:
 - i. Reason for the denial or rejection,
 - ii. Date of the denial or rejection, and
 - iii. Name and address of the agency that denied or rejected the application;
- j. Whether the applicant has, within five years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority and the:
 - i. Reason for the suspension or revocation,
 - ii. Date of the suspension or revocation, and
 - iii. Name and address of the state licensing authority that suspended or revoked the license;
- k. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any other state funeral licensing authority; and
- l. A notarized statement by the applicant verifying that the information on the application is true and correct.
- 2. A copy of a certificate of completion of a crematory certification program issued by:
 - a. The manufacturer of a retort, or
 - b. An accredited organization that provides instruction for crematory operation;
- 3. A completed and legible fingerprint card; and
- 4. The fee required by the Board under A.R.S. § 32-1309.

R4-12-211. ~~Renewed~~ Renewal

- A.** An applicant for a renewal of a license, registration, or endorsement shall file a renewal application so the Board receives it on or before the following dates:
 - 1. July 1 for an intern, embalmer, funeral director, funeral establishment, cremationist, or crematory license;
 - 2. July 1 for an embalmer's assistant registration; or
 - 3. July 31 for a prearranged funeral sales establishment endorsement or prearranged funeral salesperson registration.
- B.** An applicant for a renewal license, registration, or endorsement shall submit to the Board:
 - 1. A renewal form, provided by the Board, that is signed and dated by the applicant and contains the applicant's:
 - a. Name,
 - b. Social security number,
 - c. Residence and practice addresses, and
 - d. Telephone number; and
 - 2. The fee required by the Board under A.R.S. § 32-1309.
- C.** In addition to the requirements in subsection (B), an applicant renewing an intern, embalmer, or funeral director license or an embalmer's assistant registration shall submit to the Board a list of continuing education completed by the licensee or registrant or a continuing education waiver statement that meets the requirements in Article 4 of this Chapter.

R4-12-212. ~~Renewed~~ Reinstatement

- A.** An applicant requesting reinstatement under A.R.S. §§ 32-1331, 32-1391.12(C), or 32-1391.14(C) shall submit to the Board:
 - 1. An application form that contains the applicant's:
 - a. Name,
 - b. Social security number,
 - c. Residence and practice addresses,
 - d. Telephone number, and
 - e. Signature, and
 - 2. The renewal and reinstatement fees required by the Board under A.R.S. § 32-1309.
- B.** In addition to the requirements in subsection (A), an applicant requesting reinstatement of a prearranged funeral sales endorsement shall submit to the Board the information required in A.R.S. § 32-1391.12(C).
- C.** The Board shall send written notice of approval or denial of reinstatement within seven days of receiving the fees and application for reinstatement.

ARTICLE 4. FUNERAL SERVICE CONTINUING EDUCATION

R4-12-413. Continuing education ~~Education~~ ~~5 hours required, reporting~~ **Hours Required**

- A. Each person licensed as a funeral director, embalmer or both shall complete no fewer than five hours of approved continuing education per calendar year unless exempt under R4-12-414.
Unless a funeral director or embalmer obtains a waiver under R4-12-414, the funeral director or embalmer shall complete 12 credit hours or more of continuing education every calendar year as follows:
1. At least three credit hours in mortuary sciences;
 2. At least three credit hours in ethical considerations in business practices and state and federal laws; and
 3. At least six other credit hours intended to enhance professional development or competence.
- B. Each funeral establishment's owner and responsible funeral director shall provide to each employee subject to this rule time sufficient to complete the continuing education requirements.
Unless an embalmer's assistant obtains a waiver under R4-12-414, the embalmer's assistant shall complete six credit hours or more of continuing education every calendar year as follows:
1. At least three credit hours in mortuary sciences, and
 2. At least three credit hours covering compliance with state and federal laws.
- C. ~~Beginning February 1, 1992, and each year thereafter, each licensee shall submit an affidavit to the Board affirming that the licensee has completed five hours or more of continuing education as required. The affidavit shall identify the courses and the number of credit hours completed and shall include documentation as follows:~~
1. ~~If the course is a mortuary school or college accredited course, a copy of the transcript showing completion of the course or a letter from the school or college certifying completion of the course and the number of semester credits earned.~~
 2. ~~If the course is part of an event, a certificate of completion issued by the sponsor which identifies each part completed.~~
 3. ~~For any other course, a certificate of completion issued by the sponsor or presenter.~~
 4. ~~If the licensee cannot obtain the above documentation, any other documents, affidavits or testimony which provides reasonable assurance that the licensee has completed the requirements.~~
- C. A licensee who has been licensed for less than 12 months during a calendar year shall complete one credit hour of continuing education for each month of licensure.
- D. A registrant who has been registered for less than 12 months during a calendar year shall complete one credit hour of continuing education for every two months of registration.

R4-12-414. ~~Waiver of Continuing education; exemptions~~ **Education**

- A. A funeral director or embalmer may apply to the Board for exemption from the requirements if any of the following conditions occur after August 31 of the year in which continuing education is required:
1. Reinstatement of license, if lapse occurred in a preceding year;
 2. Initial licensure in Arizona;
 3. Resumption of residency in Arizona after at least one year on nonresidency. Living in or practicing funeral directing or embalming in Arizona shall be deemed residency.
- The Board shall waive the continuing education requirements in R4-12-413 for a funeral director or an embalmer whose license or registration has been placed on inactive status or who was serving in the United States Armed Forces in time of war.
- B. The provisions of subsection (A)(1) and (2) do not authorize application for exemption by a person who is required to complete continuing education to maintain a license not covered by those paragraphs.
The Board may waive the continuing education requirements in R4-12-413 upon request and for good cause, which includes:
1. For an embalmer's assistant, that the embalmer's assistant:
 - a. Was serving in the United States Armed Forces in time of war, or
 - b. Has not practiced as an embalmer's assistant during the year in which continuing education is required;
 2. That the funeral director, embalmer, or embalmer's assistant was prevented from completing continuing education due to extreme hardship, a disability, or a mental or physical illness; or
 3. That the funeral director, embalmer, or embalmer's assistant was prevented from completing continuing education because of absence from the United States.
- C. A licensee who demonstrated to the Board an inability to fulfill the continuing education requirements due to extreme hardship, illness, disability or military service shall be exempt from the continuing education requirements.
A funeral director, embalmer, or embalmer's assistant who is unable to complete the continuing education required in R4-12-413 may submit, before a renewal application is due or with a renewal application, a written request to the Board for a waiver from the continuing education required in R4-12-413 that contains:
1. The name, address, and telephone number of the licensee or registrant,

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2. An explanation of why the licensee was unable to meet the Board's continuing education requirements that includes one of the reasons in subsection (A) or (B);
3. Any documents that support the explanation; and
4. The signature of the licensee or registrant.

D. A licensee who resides outside Arizona and who has not practiced funeral directing or embalming in Arizona during the year in which the continuing education is required is exempt from the continuing education requirements.

The Board shall send written notice of approval or denial of the request for waiver within seven days of receipt of the request.

E. ~~For each year that a licensee seeks exemption, the licensee shall apply in writing to the Board for exemption. The application shall include a notarized affidavit stating the reason for exemption and documentation supporting the affidavit.~~

R4-12-415. Continuing ~~education~~ Education Determinations ~~approval of courses~~

An individual or organization seeking credit for or approval of a continuing education course shall apply to the Board. The application shall contain the following information on the course:

1. ~~Title and description of course content for each course;~~
2. ~~Time, date and place;~~
3. ~~Number of credit hours requested;~~
4. ~~Name of the sponsor and presenter;~~
5. ~~Brief curriculum vitae of the presenter.~~

A. To obtain a Board determination that continuing education satisfies the requirements of A.R.S. § 32-1338 and R4-12-413, a licensee or registrant shall submit a written request to the Board before submission of a renewal application.

B. A request under subsection (A) shall contain:

1. A brief summary of the continuing education;
2. The date and place where the continuing education was provided;
3. The number of credit hours of the continuing education;
4. The name of the individual providing the continuing education, if available; and
5. The name of the organization providing the continuing education, if applicable.

C. In making the continuing education determination, the Board shall consider whether the continuing education:

1. Is designed to provide current developments, skills, and procedures related to funeral practices;
2. Is developed and provided by an individual with knowledge and experience in the subject area; and
3. Contributes directly to the professional competence of the licensee or registrant.

R4-12-416. Documentation of Continuing Education

A licensee or registrant shall submit a written document of completed continuing education with a renewal application that includes:

1. The name of the licensee or registrant;
2. The title of each continuing education;
3. A brief summary of the content of each continuing education;
4. The date of completion of each continuing education;
5. The number of credit hours of each continuing education; and
6. A statement, signed and dated by the licensee or registrant, verifying that the information in the document is true and correct.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES
CHILDREN'S REHABILITATIVE SERVICES

PREAMBLE

1. Sections Affected

Rulemaking Action

Chapter 7	New Chapter
Article 1	New Article
R9-7-101	New Section
Article 2	New Article
R9-7-201	New Section
R9-7-202	New Section
R9-7-203	New Section
Article 3	New Article
R9-7-301	New Section
R9-7-302	New Section
R9-7-303	New Section
R9-7-304	New Section
R9-7-305	New Section
R9-7-306	New Section
Article 4	New Article
R9-7-401	New Section
R9-7-402	New Section
R9-7-403	New Section
R9-7-404	New Section
R9-7-405	New Section
R9-7-406	New Section
R9-7-407	New Section
R9-7-408	New Section
R9-7-409	New Section
R9-7-410	New Section
R9-7-411	New Section
R9-7-412	New Section
R9-7-413	New Section
R9-7-414	New Section
R9-7-415	New Section
R9-7-416	New Section
R9-7-417	New Section
R9-7-418	New Section
R9-7-419	New Section
R9-7-420	New Section
R9-7-421	New Section
Article 5	New Article
R9-7-501	New Section
R9-7-502	New Section
R9-7-503	New Section
R9-7-504	New Section
R9-7-505	New Section
R9-7-506	New Section
Article 6	New Article
R9-7-601	New Section
R9-7-602	New Section
R9-7-603	New Section
R9-7-604	New Section

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

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(1), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-143, 36-261 through 36-265, 36-797.43, and 36-797.44

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3. The effective date of the rules:

February 3, 2004

An immediate effective date will provide a benefit to the public, especially children currently enrolled in the children's rehabilitative services program (CRS) and children who may be eligible for CRS, and a penalty is not associated with a violation of the rule. A.R.S. § 36-261 requires the Department to establish and administer a program to provide care and services to children who are crippled or who are suffering from conditions that lead to crippling. In addition, it requires the Department to adopt rules and policies for the operation of CRS. CRS currently has policies that provide guidance but does not have rules that establish requirements. (Outdated rules were allowed to expire.) These rules provide a benefit to children enrolled in CRS and children who may be eligible for CRS by establishing clear and consistent operating requirements for CRS including eligibility requirements, and a listing of services provided by the CRS. There are no penalties associated with a violation of the rules.

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 3522, August 8, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 4274, October 10, 2003

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

Name: Kathleen Phillips, Rules Administrator

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

Telephone: (602) 542-1264

Fax: (602) 364-1150

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

or

Name: Cathryn Echeverria, Office Chief

Address: Department of Health Services
Bureau of Community & Family Health Services
Office of Children with Special Health Care Needs
150 N. 18th Avenue, Suite 330
Phoenix, AZ 85007

Telephone: (602) 542-2584

Fax: (602) 542-2589

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

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

Arizona Administrative Code, Title 9, Chapter 7, Department of Health Services, Children's Rehabilitative Services was adopted under an exemption from the Administrative Procedure Act pursuant to Laws 1991, Ch. 140, § 4, and was effective June 30, 1992. Because the rules did not reflect current Department policy or current practice, the Department allowed the rules to expire on August 31, 2002. The rulemaking is necessary to establish new rules for CRS as required in A.R.S. § 36-261(A)(3). The rules provide definitions for terms and establish the medical and non-medical eligibility requirements for CRS, including the medical conditions that make an individual medically eligible for CRS; requirements for referring an individual to the Department; application requirements for enrollment in CRS; redetermination requirements for continued enrollment in CRS; the conditions under which the Department will terminate a member's enrollment in CRS; the medical services and support services covered by CRS; and the method the Department uses for calculating net income and determining a member's payment responsibility.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules 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:

A.R.S. § 36-261 requires the Department to establish and administer a program to provide care and services to children who are crippled or who are suffering from conditions that lead to crippling. The Department has entered into

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intergovernmental agreements with the Department of Economic Security (DES) and the Arizona Health Care Cost Containment System (AHCCCS) to ensure a continuum of cost-effective care for children enrolled with more than one agency. The Department does not provide services directly to children but contracts with four regional providers to furnish medical and support services to CRS members. The Department does provide administration, coordination, and oversight functions for the program.

Cost bearers

Regional contractors

Although a regional contractor may charge any rate for services provided by the regional contractor to a CRS member with a 100% payment responsibility, regional contractors currently do not charge a CRS member more than the fee-for-service established by AHCCCS. The rules limit what the regional contractor may charge a CRS member to the current practice of charging the established AHCCCS fee-for-service and eliminate the regional contractor's discretion to charge more. Although this should not affect a regional contractor's revenue because the regional contractors currently charge the fee-for-service established by AHCCCS, it does restrict the regional contractor from changing current practice when establishing future charges.

CRS members over 21 years of age (not including CRS members with cystic fibrosis or sickle cell anemia)

A CRS member is provided treatment and care until the CRS member is 21 years of age. In addition, if a specific treatment is started before a CRS member is 21 years of age and not completed, CRS currently provides the specific treatment to the CRS member until the CRS member is 22 years of age. The rules do not allow CRS to provide the continuing treatment because the Department does not have the statutory authority to provide treatment to an individual over 21 years of age. An individual over 21 years of age will experience increased costs to complete treatment.

Beneficiaries

CRS members with 100% payment responsibility

Currently, CRS members with 100% payment responsibility may be charged any rate for covered services provided to a CRS member by a regional contractor. The rules limit charges for covered services provided to a CRS member to the fee-for-service established by AHCCCS. Although regional contractors currently charge the established AHCCCS fee-for-service, the rules benefit CRS members by prohibiting a regional contractor from establishing future charges that are different than the AHCCCS fee-for-service.

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

The Department made technical and grammatical changes suggested by G.R.R.C. staff.

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

Comment:

One commenter questioned whether children, who are CMDP (Comprehensive Medical and Dental Plan for children in foster care) eligible but not citizens, are also eligible for CRS.

Response:

The rule states that a child must be a citizen or an eligible alien in order to be in CRS. A child who is CMDP eligible would only be eligible for CRS if the child is a citizen or an eligible alien.

Comment:

One commenter asked how a medical condition gets included in the list of medical conditions that make a child eligible for CRS?

Response:

The Department has conducted an analysis of the medical conditions currently listed in the rules. When a person contacts the Department and requests the addition of a medical condition, the Department will conduct an analysis of the necessity of adding the medical condition and determine if funding is available before adding a medical condition.

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. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

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TITLE 9. HEALTH SERVICES

CHAPTER 7. ~~EXPIRED~~ DEPARTMENT OF HEALTH SERVICES
CHILDREN'S REHABILITATIVE SERVICES

ARTICLE 1. ~~EXPIRED~~ DEFINITIONS

Section

R9-7-101. ~~Expired~~ Definitions

ARTICLE 2. ~~EXPIRED~~ ELIGIBILITY

Section

R9-7-201. ~~Expired~~ Eligibility Requirements

R9-7-202. ~~Expired~~ Medical Conditions

R9-7-203. ~~Expired~~ Medical Ineligibility

ARTICLE 3. ~~EXPIRED~~ REFERRAL; ENROLLMENT; APPLICATION; REDETERMINATION; TERMINATION

Section

R9-7-301. ~~Expired~~ Referral

R9-7-302. ~~Expired~~ Enrollment

R9-7-303. ~~Expired~~ Initial Evaluation; Further Diagnostic Testing

R9-7-304. ~~Expired~~ Enrollment Application

R9-7-305. ~~Expired~~ Redetermination

R9-7-306. ~~Expired~~ Termination of Enrollment

ARTICLE 4. ~~EXPIRED~~ COVERED MEDICAL SERVICES

Section

R9-7-401. ~~Expired~~ General Requirements

R9-7-402. ~~Expired~~ Prior Authorization

R9-7-403. ~~Expired~~ Audiology Services

R9-7-404. ~~Expired~~ Dental and Orthodontia Services

R9-7-405. ~~Expired~~ Diagnostic Testing and Laboratory Services

R9-7-406. ~~Expired~~ Home Health Services

R9-7-407. ~~Expired~~ Inpatient Services

R9-7-408. ~~Expired~~ Medical Equipment

R9-7-409. ~~Expired~~ Nursing Services

R9-7-410. ~~Expired~~ Nutrition Services

R9-7-411. ~~Expired~~ Outpatient Services

R9-7-412. ~~Expired~~ Pharmaceutical Services

R9-7-413. Physical Therapy and Occupational Therapy

R9-7-414. Physician Services

R9-7-415. Prosthetic and Orthotic Devices

R9-7-416. Psychological Services

R9-7-417. Psychiatric Services

R9-7-418. Social Work Services

R9-7-419. Speech/Language Pathology Services

R9-7-420. Transplants

R9-7-421. Vision Services

ARTICLE 5. ~~EXPIRED~~ COVERED SUPPORT SERVICES

Section

R9-7-501. ~~Expired~~ General Requirements

R9-7-502. ~~Expired~~ Advocacy Services

R9-7-503. ~~Expired~~ Child Life Services

R9-7-504. ~~Expired~~ Education Coordination

R9-7-505. ~~Expired~~ Transition Services

R9-7-506. Transportation Services

ARTICLE 6. ~~EXPIRED~~ MEMBER PAYMENT

Section

- R9-7-601. ~~Expired~~ General Requirements
R9-7-602. ~~Expired~~ Identification of Household Income Group
R9-7-603. ~~Expired~~ Calculating Net Income
R9-7-604. Member Payment Responsibility

ARTICLE 1. ~~EXPIRED~~ DEFINITIONS

R9-7-101. ~~Expired~~ Definitions

In this Chapter, unless otherwise specified:

1. “Activity of daily living” means ambulating, dressing, bathing, showering, grooming, preparing food, toileting, eating, drinking, communicating, or moving into or out of a bed or chair.
2. “Acute” means requiring immediate medical treatment.
3. “Adult” means an individual 21 years of age or older.
4. “AHCCCS” means the Arizona Health Care Cost Containment System.
5. “Ambulation assistive device” means a walker, cane, or crutch.
6. “Applicant” means an individual requesting enrollment who is:
 - a. A child, or
 - b. An adult with cystic fibrosis or sickle cell anemia.
7. “Application packet” means an application form containing the information in R9-7-304(1) and additional documentation required by the Department to determine:
 - a. Whether an individual is eligible for CRS; and
 - b. If the individual is eligible for CRS, the payment responsibility of the individual or, if the individual is a minor, the individual’s parent.
8. “Behavioral health service” has the same meaning as in A.A.C. R9-20-101.
9. “Biologicals” means medicinal compounds prepared from living organisms and the product of living organisms such as serums, vaccines, antigens, and antitoxins.
10. “Business day” means Monday, Tuesday, Wednesday, Thursday, or Friday excluding state and federal holidays.
11. “Child” means an individual less than 21 years old.
12. “Chronic” means expected to persist over an extended period of time.
13. “Communication disorder” means an abnormality of functioning related to the ability to express or receive ideas.
14. “Co-payment” means the amount the Department requires a member to pay to a CRS provider for a medical service.
15. “Covered” means authorized and provided by or through the Department.
16. “Crisis intervention service” means a behavioral health service provided for a limited period of time to a member who is a danger to others as defined in A.A.C. R9-20-101 or a danger to self as defined in A.A.C. R9-20-101.
17. “CRS” means Children’s Rehabilitative Services, a program administered by the Department to provide covered medical services and covered support services.
18. “CRS clinic” means outpatient evaluation and treatment provided by more than one specialist at a specific location for a scheduled period of time.
19. “CRS condition” means any of the medical conditions in Article 2 of this Chapter that make an individual medically eligible for CRS.
20. “CRS provider” means a person who is authorized by employment or written agreement with the Department or a regional contractor to provide covered medical services to a member or covered support services to a member or a member’s family.
21. “Dental services” means treatment provided by a dentist or a dental hygienist.
22. “Dental hygienist” means an individual licensed under A.R.S. Title 32, Chapter 11, Article 4.
23. “Dentist” means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
24. “Department” means the Arizona Department of Health Services.
25. “Dependent care” means supervision and guidance provided to an individual by a person other than the individual’s parent.
26. “DES” means the Arizona Department of Economic Security.
27. “Diagnosis” means a determination or identification of a CRS condition made by a physician.
28. “Earned income” means monies or other compensation received as wages, tips, salary, or commissions by an individual or profit from activities in which a self-employed individual is engaged.
29. “Eligibility interview” means an interaction between a Department representative and an applicant or member or, if the applicant or member is a minor, the applicant’s or member’s parent to review the documentation in R9-7-304(2) through (11).

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30. "Eligible" means:
 - a. Meeting the medical and non-medical eligibility requirements in A.R.S. Title 36, Chapter 2, Article 3 and this Chapter; or
 - b. Meeting the requirements for obtaining Title XIX or Title XXI health care insurance.
31. "Emergency" means an immediate threat to the health or life of a member.
32. "Emergency services" has the same meaning as in A.A.C. R9-10-201.
33. "Enrollment" means the Department's approval for an eligible individual to be a member.
34. "Evaluation" means an analysis of an individual's emotional, mental, physical, psychological, or social condition to make a diagnosis or to determine the individual's need for medical services or social services.
35. "Expiration date" means:
 - a. The date on which a member's enrollment ends, or
 - b. The date on which an individual's Title XIX or Title XXI health care insurance ends.
36. "Facility" means a building or portion of a building.
37. "Family" means a member's parent and each individual included in the member's household income group.
38. "Federal Poverty Level" means the current level of income set by the United States government, based on family size, that is used to determine whether an individual may receive low income federal assistance.
39. "Fee-for-service" means reimbursement for a medical service at an established rate.
40. "Functional improvement" means an increase in an individual's ability to perform an activity of daily living.
41. "Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a specialist.
42. "Gross income" means the total of earned income and unearned income.
43. "Health care insurance" means a contractual arrangement for a person to provide, directly or indirectly, all or a portion of the medical, dental, or behavioral health care needs of an individual.
44. "Health care insurance premium" means compensation or monies paid by an individual to a person for the individual's health care insurance.
45. "Hearing aid" means a small, electronic device that amplifies sound.
46. "Hearing evaluation" means testing of an individual's hearing and an analysis of the testing to determine the type and degree of an individual's hearing loss.
47. "Hearing impairment" means any type or degree of hearing loss that interferes with an individual's development or adversely affects an individual's ability to perform activities of daily living.
48. "Hearing screening" means testing to determine whether an individual has a hearing loss.
49. "Home health services" has the same meaning as in A.R.S. § 36-151.
50. "Hospital" has the same meaning as in A.R.S. § 36-2351.
51. "Household income group" means all of the individuals whose income the Department includes when calculating payment responsibility for covered services.
52. "Initial evaluation" means an examination of an applicant by a CRS provider to determine whether the applicant meets the medical eligibility requirement for enrollment.
53. "Inpatient services" means "hospital services" as defined in A.A.C. R9-10-201 that are provided to an individual who is anticipated to receive hospital services for 24 consecutive hours or more.
54. "Medical expenses" means charges incurred by an individual for medical equipment, medication or biologicals prescribed by a physician or specialist, dental services, treatment by a physician or specialist, inpatient services, outpatient services, or health care insurance premiums for the individual.
55. "Medically eligible" means meeting the medical eligibility requirements of A.R.S. Title 36, Chapter 2, Article 3 and this Chapter.
56. "Medically necessary" means essential for ameliorating or preventing the development or progression of a medical condition.
57. "Medical service" means evaluation or treatment of a member by a physician or specialist who is a CRS provider.
58. "Medication" has the same meaning as "drug" in A.R.S. § 32-1901.
59. "Member" means an individual who receives covered medical services and covered support services from the Department through CRS.
60. "Minor" means an individual who is:
 - a. Under the age of 18 years,
 - b. Incompetent as determined by a court of competent jurisdiction, or
 - c. Incapable of giving consent for medical services due to a limitation in the individual's cognitive function as determined by a physician.
61. "Nursing services" has the same meaning as in A.R.S. § 36-401.
62. "Nutrition" means food and liquid required for a human body's maintenance and growth.
63. "Occupational therapy" has the same meaning as in A.R.S. § 32-2001.

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64. “Orthotic device” means equipment used by an individual to preserve, restore, or develop the individual’s musculoskeletal system including the individual’s extremities or spine.
65. “Outpatient services” means evaluating, monitoring, or treating an individual at a facility, physician’s office, regional clinic, or outreach clinic for less than 24 hours.
66. “Outreach clinic” means a facility or a specific location in a facility designated by a regional contractor to provide covered medical services or covered support services in a setting other than a regional clinic.
67. “Parent” means a biological or adoptive mother or father of a child, or an individual who is a court-appointed legal guardian or custodian of an individual.
68. “Payment agreement” means a form containing a member’s signed, written promise to pay for covered medical services according to the terms on the form.
69. “Payment responsibility” means that portion of the cost for medical services that a member is required to pay and has agreed to pay according to a signed written agreement.
70. “Person” has the same meaning as in A.R.S. § 1-215 and includes a governmental agency.
71. “Pharmaceutical services” means medications and biologicals ordered by a physician, dentist, physician’s assistant, or nurse practitioner.
72. “Physical therapy” has the same meaning as in A.R.S. § 32-3401.
73. “Physician” means an individual licensed under A.R.S. Title 32, Chapter 13 or Chapter 17.
74. “Physician services” has the same meaning as “practice of medicine” in:
 - a. A.R.S. § 32-1401, for a physician licensed under A.R.S. Title 32, Chapter 13;
 - b. A.R.S. § 32-1800, for a physician licensed under A.R.S. Title 32, Chapter 17.
75. “Prior authorization” means a written approval signed by a regional contractor or the regional contractor’s designee before a covered service is provided to a member.
76. “Prosthetic device” means equipment used as a substitute for a diseased or missing part of the human body.
77. “Provide” means to directly or indirectly under the terms of a contract make available or furnish medication, medical equipment, or services in this Chapter to an applicant or a member.
78. “Psychiatrist” has the same meaning as in A.R.S. § 36-501.
79. “Psychiatric services” means physician services provided by a psychiatrist.
80. “Psychologist” means an individual licensed under A.R.S. Title 32, Chapter 19.1.
81. “Psychological services” has the same meaning as in A.R.S. § 32-2061.
82. “Psychosocial evaluation” means an analysis of an individual’s mental and social conditions to determine the individual’s need for social services.
83. “Qualified alien” has the same meaning as in A.R.S. § 36-2903.03(G).
84. “Refer” means to inform CRS in writing of an individual who may be eligible for CRS.
85. “Referral source” means a person who refers an individual.
86. “Redetermination” means a decision made by the Department regarding whether a:
 - a. Member continues to be eligible for CRS, or
 - b. Member’s payment responsibility is changed.
87. “Regional clinic” means a facility or specific location in a facility designated by a regional contractor:
 - a. To provide covered medical services and covered support services, and
 - b. As the location for the regional contractor’s administrative office.
88. “Regional contractor” means a person who has a written agreement with the Department to provide covered medical services and covered support services.
89. “Regional medical director” means a physician employed by a regional contractor to make:
 - a. Medical determinations about members, and
 - b. Prior authorizations for medical services provided to members.
90. “School” means a:
 - a. Charter school as defined in A.R.S. § 15-101,
 - b. Private school as defined in A.R.S. § 15-101,
 - c. School as defined in A.R.S. § 15-101, or
 - d. Child care facility as defined in A.R.S. § 36-881.
91. “Session” means a period of time during which a member continuously receives a specific treatment from a CRS provider.
92. “Social worker” means an individual certified under A.R.S. Chapter 33, Article 5.
93. “Social work services” has the same meaning as “practice of social work” in A.R.S. § 32-3251.
94. “Specialist” means:
 - a. A physician who is a CRS provider with professional education, knowledge, and skills related to a specific service or procedure, age category of patients, body system, or type of disease; or
 - b. A CRS provider, other than a physician, who requires specific professional education, knowledge, and skills to deliver a medical service or support service.

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95. "Supervision and guidance" means assistance provided to an individual to safeguard the individual's health and safety or to perform an activity of daily living.
96. "Support service" means non-medical assistance provided by a CRS provider to a member or a member's family without charge to the member or the member's family.
97. "Title XIX" means the Federal Medicaid Program, a health care insurance program through which eligible individuals receive health care, that is administered jointly by the U.S. Department of Health and Human Services and, in Arizona, by AHCCCS.
98. "Title XXI" means the State Children's Health Insurance Program, through which eligible children receive health care insurance that is administered by AHCCCS.
99. "Total parenteral nutrition" means the intravenous infusion of nutrients required by an individual into the individual through a catheter.
100. "Treatment" means a procedure or method used to cure, improve, or palliate an injury, an illness, or a disease.
101. "Unearned income" means monies received by an individual for which the individual did not perform labor.

ARTICLE 2. EXPIRED ELIGIBILITY

R9-7-201. Expired Eligibility Requirements

- A.** An individual is eligible to enroll for CRS if the individual:
1. Has one of the medical conditions in R9-7-202;
 2. Except as provided in subsection (B), is a child;
 3. Is one of the following:
 - a. A U.S. citizen, or
 - b. A qualified alien who meets the requirements of A.R.S. § 36-2903.03(B), and
 4. Is living in Arizona and intends to continue living in Arizona.
- B.** The Department may enroll an adult, who is not eligible for Title XIX health care insurance, in CRS if:
1. The adult has cystic fibrosis and monies are appropriated to the Department under A.R.S. § 36-143, or
 2. The adult has sickle cell anemia and monies are appropriated to the Department under A.R.S. § 36-797.44.
- C.** The Department shall continue a member's enrollment in CRS if the member:
1. And, if the member is a minor, the member's parent comply with the requirements in this Chapter;
 2. Meets the requirements in subsections (A)(1), (A)(2), and (A)(4); and
 3. Meets the requirements in subsection (A)(3) or has continuously been a member since August 5, 1999.

R9-7-202. Expired Medical Conditions

- An individual is medically eligible for CRS, only if the individual has:
1. One or more of the following cardiovascular system medical conditions:
 - a. Congenital heart defect,
 - b. Cardiomyopathy,
 - c. Valvular disorder,
 - d. Arrhythmia,
 - e. Conduction defect,
 - f. Rheumatic heart disease that is not in the acute phase,
 - g. Renal vascular hypertension,
 - h. Arteriovenous fistula, and
 - i. Kawasaki disease with coronary artery aneurysm;
 2. One or more of the following endocrine system medical conditions:
 - a. Hypothyroidism;
 - b. Hyperthyroidism;
 - c. Adrenogenital syndrome;
 - d. Addison's disease;
 - e. Hypoparathyroidism;
 - f. Hyperparathyroidism;
 - g. Diabetes insipidus;
 - h. Cystic fibrosis;
 - i. For an individual who was a member before November 1, 1995, panhypopituitarism with a deficiency of growth hormone; and
 - j. For an individual who became a member or applies for enrollment after November 1, 1995, panhypopituitarism with a deficiency of growth hormone and two other pituitary hormones;
 3. One or more of the following genitourinary system medical conditions:
 - a. Vesicoureteral reflux, with at least mild or moderate dilatation and tortuosity of the ureter and mild or moderate dilatation of renal pelvis;
 - b. Ectopic ureter;

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- c. Ambiguous genitalia;
 - d. Ureteral stricture;
 - e. Complex hypospadias;
 - f. Hydronephrosis;
 - g. Deformity and dysfunction of the genitourinary system secondary to trauma after the acute phase of the trauma has passed;
 - h. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required;
 - i. Multicystic dysplastic kidneys;
 - j. Nephritis associated with lupus erythematosus; and
 - k. Hydrocele associated with a ventriculo-peritoneal shunt;
4. One or more of the following ear, nose, or throat medical conditions:
- a. Cholesteatoma;
 - b. Chronic mastoiditis;
 - c. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, after the acute phase of the trauma has passed;
 - d. Neurosensory hearing loss;
 - e. Congenital malformation;
 - f. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels, that despite medical treatment, requires a hearing aid;
 - g. Craniofacial anomaly that requires treatment by more than one specialist; and
 - h. Microtia that requires multiple surgical interventions;
5. One or more of the following musculoskeletal system medical conditions:
- a. Achondroplasia;
 - b. Hypochondroplasia;
 - c. Diastrophic dysplasia;
 - d. Chondrodysplasia;
 - e. Chondroectodermal dysplasia;
 - f. Spondyloepiphyseal dysplasia;
 - g. Metaphyseal and epiphyseal dysplasia;
 - h. Larsen syndrome;
 - i. Fibrous dysplasia;
 - j. Osteogenesis imperfecta;
 - k. Rickets;
 - l. Enchondromatosis;
 - m. Juvenile rheumatoid arthritis;
 - n. Seronegative spondyloarthropathy;
 - o. Orthopedic complications of hemophilia;
 - p. Myopathy;
 - q. Muscular dystrophy;
 - r. Myoneural disorder;
 - s. Arthrogryposis;
 - t. Spinal muscle atrophy;
 - u. Polyneuropathy;
 - v. Chronic stage bone infection;
 - w. Chronic stage joint infection;
 - x. Upper limb amputation;
 - y. Syndactyly;
 - z. Kyphosis;
 - aa. Scoliosis;
 - bb. Congenital spinal deformity;
 - cc. Congenital cervical spine abnormality;
 - dd. Developmental cervical spine abnormality;
 - ee. Hip dysplasia;
 - ff. Slipped capital femoral epiphysis;
 - gg. Femoral anteversion and tibial torsion that is:
 - i. For an individual less than eight years of age, associated with a neuromuscular disorder that is a CRS condition; or

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- ii. For an individual eight years of age or older, causing significant functional impairment, as determined by a CRS provider:
- hh. Legg-Calve-Perthes disease;
- ii. Lower limb amputation, including prosthetic sequelae of cancer;
- jj. Metatarsus adductus;
- kk. Leg length discrepancy of five centimeters or more;
- ll. Metatarsus primus varus;
- mm. Dorsal bunions;
- nn. Collagen vascular disease;
- oo. Benign bone tumor;
- pp. Deformity and dysfunction secondary to musculoskeletal trauma if:
 - i. The patient was 15 years of age or younger at the time of initial injury, and
 - ii. The deformity and dysfunction is not in the acute phase;
- qq. Osgood Schlatter's disease that requires surgical intervention; and
- rr. Complicated flat foot, such as rigid foot, unstable subtalar joint, or significant calcaneus deformity;
- 6. One or more of the following gastrointestinal system medical conditions:
 - a. Tracheoesophageal fistula;
 - b. Anorectal atresia;
 - c. Hirschsprung's disease;
 - d. Diaphragmatic hernia;
 - e. Gastroesophageal reflux that has failed treatment with drugs or biologicals and requires surgery;
 - f. Deformity and dysfunction of the gastrointestinal system secondary to trauma, after the acute phase of the trauma has passed;
 - g. Biliary atresia;
 - h. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract;
 - i. Cleft lip;
 - j. Cleft palate;
 - k. Omphalocele; and
 - l. Gastroschisis;
- 7. One or more of the following nervous system medical conditions:
 - a. Uncontrolled seizure disorder, in which there have been more than two seizures with documented adequate blood levels of one or more medications;
 - b. If the individual is not eligible for Title XIX or Title XXI health care insurance and does not have other health care insurance, simple or controlled seizure disorders;
 - c. Cerebral palsy;
 - d. Muscular dystrophy or other myopathy;
 - e. Myoneural disorder;
 - f. Neuropathy, hereditary or idiopathic;
 - g. Central nervous system degenerative disease;
 - h. Central nervous system malformation or structural abnormality;
 - i. Hydrocephalus;
 - j. Craniosynostosis of a sagittal suture, a unilateral coronal suture, or multiple sutures in a child less than 18 months of age;
 - k. Myasthenia gravis, congenital or acquired;
 - l. Benign intracranial tumor;
 - m. Benign intraspinal tumor;
 - n. Tourette's syndrome;
 - o. Residual dysfunction after resolution of an acute phase of vascular accident, inflammatory condition, or infection of the central nervous system;
 - p. Myelomeningocele, also known as spina bifida;
 - q. Neurofibromatosis;
 - r. Deformity and dysfunction secondary to trauma in an individual 15 years of age or less at the time of the initial injury;
 - s. Sequelae of near drowning, after the acute phase; and
 - t. Sequelae of spinal cord injury, after the acute phase;
- 8. One or more of the following ophthalmological medical conditions:
 - a. Cataracts;
 - b. Glaucoma;
 - c. Disorder of the optic nerve;

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- d. Non-malignant enucleation and post-enucleation reconstruction;
- e. Retinopathy of prematurity; and
- f. Disorder of the iris, ciliary bodies, retina, lens, or cornea;
- 9. One or more of the following respiratory system medical conditions:
 - a. Anomaly of the larynx, trachea, or bronchi that requires surgery; and
 - b. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi;
- 10. One or more of the following integumentary system medical conditions:
 - a. A craniofacial anomaly that is functionally limiting,
 - b. A burn scar that is functionally limiting,
 - c. A hemangioma that is functionally limiting,
 - d. Cystic hygroma, and
 - e. Complicated nevi requiring multiple procedures;
- 11. One or more of the following genetic and metabolic medical conditions:
 - a. Amino acid or organic acidopathy,
 - b. Inborn error of metabolism,
 - c. Storage disease,
 - d. Phenylketonuria,
 - e. Homocystinuria,
 - f. Hypothyroidism,
 - g. Maple syrup urine disease, and
 - h. Biotinidase deficiency;
- 12. Sickle cell anemia or other hemoglobinopathy; or
- 13. A medical condition, other than one of the conditions in R9-7-203, that, as determined by a regional medical director:
 - a. Requires specialized treatment similar to the type and quantity of treatment a medical condition in subsections (1) through (12) requires,
 - b. Is as likely to result in functional improvement with treatment as a medical condition listed in subsections (1) through (12), and
 - c. Requires long-term follow-up of the type and quantity required for a medical condition listed in subsections (1) through (12).

R9-7-203. ~~Expired~~ Medical Ineligibility

An individual who has one or more of the following medical conditions, but does not have one or more of the medical conditions in R9-7-202, is not medically eligible for CRS:

- 1. The following cardiovascular system medical conditions:
 - a. Essential hypertension;
 - b. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance;
 - c. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function; and
 - d. Benign heart murmur;
- 2. The following endocrine system medical conditions:
 - a. Diabetes mellitus,
 - b. Isolated growth hormone deficiency,
 - c. Hypopituitarism encountered in the acute treatment of a malignancy, and
 - d. Precocious puberty;
- 3. The following genitourinary system medical conditions:
 - a. Nephritis, infectious or noninfectious;
 - b. Nephrosis;
 - c. Undescended testicle;
 - d. Phimosis;
 - e. Hydrocele not associated with a ventriculo-peritoneal shunt;
 - f. Enuresis;
 - g. Meatal stenosis; and
 - h. Hypospadias involving isolated glandular or coronal aberrant location of the urethralmeatus without curvature of the penis;
- 4. The following ear, nose and throat medical conditions:
 - a. Tonsillitis,
 - b. Adenoiditis,
 - c. Hypertrophic lingual frenum,
 - d. Nasal polyp,
 - e. Cranial or temporal mandibular joint syndrome,
 - f. Simple deviated nasal septum,

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- g. Recurrent otitis media.
 - h. Obstructive apnea.
 - i. Acute perforation of the tympanic membrane.
 - j. Sinusitis.
 - k. Isolated preauricular tag or pit, and
 - l. Uncontrolled salivation;
- 5. The following musculoskeletal system medical conditions:
 - a. Ingrown toenail;
 - b. Back pain with no structural abnormality;
 - c. Ganglion cyst;
 - d. Flat foot other than complicated flat foot;
 - e. Fracture;
 - f. Popliteal cyst;
 - g. Femoral anteversion and tibial torsion unless:
 - i. For an individual less than eight years of age, associated with a neuromuscular disorder that is a CRS condition; or
 - ii. For an individual eight years of age or older, causing significant functional impairment as determined by a CRS provider;
 - h. Simple bunion; and
 - i. Carpal tunnel syndrome;
- 6. The following gastrointestinal system medical conditions:
 - a. Malabsorption syndrome, also known as short bowel syndrome.
 - b. Crohn's disease.
 - c. Hernia other than a diaphragmatic hernia.
 - d. Ulcer disease.
 - e. Ulcerative colitis.
 - f. Intestinal polyp.
 - g. Pyloric stenosis, and
 - h. Celiac disease;
- 7. The following nervous system medical conditions:
 - a. Headaches;
 - b. Central apnea secondary to prematurity;
 - c. Near sudden infant death syndrome;
 - d. Febrile seizures;
 - e. Occipital plagiocephaly, either positional or secondary to lambdoidal synostosis;
 - f. Trigonocephaly secondary to isolated metopic synostosis;
 - g. Spina bifida occulta;
 - h. Near drowning in the acute phase; and
 - i. Spinal cord injury in the acute phase;
- 8. The following ophthalmologic medical conditions:
 - a. Simple refraction error.
 - b. Astigmatism.
 - c. Strabismus, and
 - d. Ptosis;
- 9. The following respiratory system medical conditions:
 - a. Respiratory distress syndrome.
 - b. Asthma.
 - c. Allergies.
 - d. Bronchopulmonary dysplasia.
 - e. Emphysema.
 - f. Chronic obstructive pulmonary disease, and
 - g. Acute or chronic respiratory condition requiring venting for the neuromuscularly impaired;
- 10. The following integumentary system medical conditions:
 - a. A deformity that is not functionally limiting.
 - b. Simple nevi.
 - c. Skin tag.
 - d. Port wine stain.
 - e. Sebaceous cyst.
 - f. Isolated malocclusion that is not functionally limiting.

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- g. Pilonidal cyst;
 - h. Ectodermal dysplasia, and
 - i. A craniofacial anomaly that is not functionally limiting;
11. The following medical conditions:
- a. Allergies;
 - b. Anorexia nervosa or obesity;
 - c. Autism;
 - d. A burn other than a burn scar that is functionally limiting;
 - e. Cancer;
 - f. Chronic vegetative state;
 - g. Deformity and dysfunction secondary to trauma or injury if:
 - i. The trauma or injury occurred on or after the individual's 16th birthday, or
 - ii. Three months have not passed since the trauma or injury;
 - h. Depression or other mental illness;
 - i. Developmental delay;
 - j. Dyslexia or other learning disabilities;
 - k. Failure to thrive;
 - l. Hyperactivity;
 - m. Attention deficit disorder;
 - n. Leg length discrepancy of less than five centimeters at skeletal maturity; and
 - o. Immunodeficiency, such as AIDS and HIV.

ARTICLE 3. ~~EXPIRED REFERRAL; ENROLLMENT; APPLICATION; REDETERMINATION; TERMINATION~~

R9-7-301. ~~Expired Referral~~

- A.** To refer an individual, a referral source shall submit to the Department a referral form containing:
- 1. The name, sex, home address, and home telephone number of the individual;
 - 2. If the individual is a minor, the name of a parent of the individual;
 - 3. If applicable, the work telephone number of the parent in subsection (A)(2);
 - 4. The name, address, and telephone number of the referral source;
 - 5. If the individual previously received covered medical services or covered support services, the year in which the individual received the covered medical services or covered support services, and the regional contractor responsible for providing covered medical services or covered support services to the individual;
 - 6. Relationship of the referral source to the individual; and
 - 7. If known to the referral source, the individual's:
 - a. Birth date,
 - b. Diagnosis, and
 - c. Physician.
- B.** If an individual has Title XIX, Title XXI, or other health care insurance, a referral source shall submit to the Department the form in subsection (A) and:
- 1. Documentation from a physician who evaluated the individual, stating the individual's diagnosis made by the physician; and
 - 2. Diagnostic test results that support the individual's diagnosis made by the physician.
- C.** If an individual does not have Title XIX, Title XXI, or other health care insurance, a referral source shall submit to the Department the form in subsection (A) and:
- 1. If the individual has not been evaluated by a physician, the reason the referral source believes that the individual may be eligible for CRS; or
 - 2. If the individual has been evaluated by a physician:
 - a. Documentation from the physician who evaluated the individual, stating the individual's diagnosis made by the physician; and
 - b. If available, diagnostic test results that support the individual's diagnosis made by the physician.
- D.** Within 10 business days from the date of receipt of a referral:
- 1. If the Department determines that a individual may be eligible for CRS, the Department shall notify the referral source and provide the individual or, if the individual is a minor, the individual's parent:
 - a. An application form in R9-7-304(1) and a list of the documentation required in R9-7-304(2) through (11);
 - b. A written notice that the individual may be eligible for CRS and that:
 - i. After the Department receives the application form in R9-7-304(1) from the individual or, if the individual is a minor, the individual's parent, the individual is authorized to receive an initial evaluation to determine whether the individual is medically eligible for CRS;

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- ii. The individual or, if the individual is a minor, the individual's parent is required to participate in a eligibility interview before or during the individual's initial evaluation;
- iii. The Department has scheduled an appointment for the individual's initial evaluation at a CRS clinic, the date of the individual's appointment, the address of the CRS clinic, and the procedure for rescheduling the appointment if the individual is unable to keep the scheduled appointment; and
- iv. The individual is not authorized to receive covered medical services or covered support services other than the initial evaluation until the individual and, if the individual is a minor, the individual's parent comply with the application requirements in R9-7-302(B) and the Department determines that the individual meets the eligibility requirements in R9-7-201; and
- c. Information about CRS, including:
 - i. An overview of CRS;
 - ii. Medical and non-medical eligibility requirements for CRS;
 - iii. The application requirements in R9-7-302(B), and
 - iv. Criteria for determining which individuals are part of a household income group;
- 2. If the Department determines that the individual is not eligible for CRS, the Department shall:
 - a. Notify the referral source; and
 - b. Provide the individual or, if the individual is a minor, the individual's parent a written notice that:
 - i. Informs the individual or, if the individual is a minor, the individual's parent that the Department has determined the individual is not eligible for CRS; and
 - ii. Complies with A.R.S. § 41-1092.03; or
 - 3. If the Department determines the referral source did not submit the information and documentation required in subsection (A), the Department shall provide a written notice to the referral source that:
 - a. Identifies the missing documentation or information;
 - b. Requests the referral source to submit the missing information or documentation within 30 calendar days from the date of the notice; and
 - c. Informs the referral source that, if the Department does not receive the documentation or information within 30 calendar days from the date of the notice, the Department shall consider the referral withdrawn.
- E. If the Department requests information or documents according to subsection (D)(3), and the Department:
 - 1. Receives the requested documentation and information within 30 calendar days from the date of the notice in subsection (D)(3), the Department shall determine whether the individual may be eligible for CRS and notify the referral source and the individual or, if the individual is a minor, the individual's parent according to subsection (D)(1) or (D)(2) within 10 business days from the date of receipt of the requested documentation and information; or
 - 2. Does not receive the requested documentation and information within 30 calendar days from the date of notice in subsection (D)(3), the Department shall consider the referral withdrawn.
- F. If the Department determines that an individual may be eligible for CRS, the Department shall schedule the date of an initial evaluation no more than 30 calendar days after the date of the determination.

R9-7-302. Expired Enrollment

- A. An individual or, if the individual is a minor, the individual's parent may apply for enrollment after the individual or, if the individual is a minor, the individual's parent receives the notice in R9-7-301(D)(1) from the Department that the individual may be eligible for CRS.
- B. To apply for enrollment:
 - 1. An applicant or, if the applicant is a minor, the applicant's parent shall submit to the Department an application form containing the information in R9-7-304(1);
 - 2. An applicant or, if the applicant is a minor, the applicant's parent shall submit to the Department the documentation in R9-7-304(2) through (11):
 - a. Before an applicant's initial evaluation, or
 - b. No later than 10 business days after the date an applicant attends a CRS clinic for an initial evaluation;
 - 3. After submitting the application form in subsection (B)(1):
 - a. An applicant, or if the applicant is a minor, the applicant's parent shall participate in an eligibility interview; and
 - b. An applicant shall attend a CRS clinic for an initial evaluation; and
 - 4. No later than 10 business days after the date an applicant attends a CRS clinic for an initial evaluation, the applicant or, if the applicant is a minor, the applicant's parent shall:
 - a. If the applicant is potentially eligible for Title XIX or Title XXI health care insurance, apply for the health care insurance; and
 - b. Sign the payment agreement in R9-7-601(B).
- C. Except as provided in subsection (H), the Department shall enroll an applicant as soon as:
 - 1. The applicant and, if applicable, the applicant's parent submit the information and documentation and meet the requirements in this Section; and
 - 2. The Department determines the applicant is eligible for CRS.

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- D. If the Department enrolls an applicant, the Department shall provide the applicant or, if the applicant is a minor, the applicant's parent, a written notice that contains:
 - 1. A statement that the applicant is enrolled in CRS; and
 - 2. Information about CRS that includes:
 - a. Covered medical services and covered support services.
 - b. Member payment responsibility, and
 - c. The grievance and appeal process.
- E. The Department shall not enroll an applicant if:
 - 1. The applicant and, if the applicant is a minor, the applicant's parent does not submit the information and documentation or comply with the requirements in this Section; or
 - 2. The Department determines that the applicant is not eligible for CRS.
- F. If the Department does not enroll an applicant, the Department shall provide the applicant or, if the applicant is a minor, the applicant's parent, a written notice of denial that complies with A.R.S. § 41-1092.03.
- G. The Department shall provide the written notice in subsection (D) or subsection (F) within 10 days from the date of an applicant's initial evaluation or the Department's receipt of the applicant's information and documentation in subsection (B)(2) if the applicant did not submit the information and documentation at the applicant's initial evaluation, whichever is later.
- H. If an applicant, who meets the requirements in this Section and is determined to be eligible for CRS, is receiving inpatient services, the Department shall:
 - 1. Provide the applicant or, if the applicant is a minor, the applicant's parent a written notice:
 - a. Stating that the Department will not enroll an applicant while the applicant is receiving inpatient services; and
 - b. Requesting that the Department is notified when the applicant is no longer receiving inpatient services; and
 - 2. When the applicant is no longer receiving inpatient services, enroll the applicant according to subsection (D).
- I. If the Department requests information or documentation to determine if a member remains eligible for CRS, the member or, if the member is a minor, the member's parent shall provide the requested information or documentation to the Department within 30 calendar days of the request.

R9-7-303. Expired Initial Evaluation; Further Diagnostic Testing

If the Department determines from an applicant's initial evaluation that further diagnostic testing is required to determine whether the applicant is medically eligible for CRS, the Department shall:

- 1. If the applicant has Title XIX or Title XXI health care insurance, request that AHCCCS complete the diagnostic testing and send the results of the diagnostic testing to the Department;
- 2. If the applicant has other health care insurance that agrees to pay the Department for the diagnostic testing, complete the diagnostic testing and submit charges for the diagnostic testing to the health insurance company;
- 3. If the applicant has health care insurance that does not agree to pay the Department for the diagnostic testing but provides the diagnostic testing, request that the applicant have:
 - a. The diagnostic testing completed through the applicant's health care insurance company, and
 - b. The results of the diagnostic testing sent to the Department; and
- 4. If the applicant does not have health care insurance or has health care insurance that does not provide or pay for the diagnostic testing, and the applicant:
 - a. Signs the payment agreement in R9-7-601(B), provide the diagnostic testing to the individual; or
 - b. Does not sign the payment agreement in R9-7-601(B), provide to the applicant or, if the applicant is a minor, the applicant's parent a written notice of denial that complies with A.R.S. § 41-1092.03.

R9-7-304. Expired Enrollment Application

An applicant applying for enrollment or, if the applicant is a minor, a parent applying on behalf of the applicant shall submit to the Department an application packet including:

- 1. An application form containing:
 - a. The applicant's name, home address, mailing address, birth date, place of birth, and marital status;
 - b. If the applicant has a social security number, the applicant's social security number;
 - c. If the applicant has a home telephone number, the applicant's home telephone number;
 - d. If the applicant does not have a home telephone number, a telephone number where a message may be left for the applicant;
 - e. Whether the applicant has a court-appointed legal guardian or custodian;
 - f. If the applicant is a minor, the following information for the applicant's parent:
 - i. Name;
 - ii. Home address, mailing address, and home or message telephone number;
 - iii. If the parent has a social security number, the parent's social security number; and
 - iv. If the parent works, the parent's employer, work address, and work telephone number;
 - g. The names and ages of all individuals in the applicant's household income group;

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- h. The annual gross income of the applicant's household income group;
 - i. Whether the applicant has Title XIX, Title XXI, or other health care insurance;
 - j. If the applicant has health care insurance other than Title XIX or Title XXI health care insurance, for each health care insurance company:
 - i. The health care insurance company's name, billing address, and telephone number; and
 - ii. For the applicant's health care insurance, the applicant's policy or plan number, health care insurance identification number, effective or end date, and type of services paid for by the health care insurance;
 - k. Whether the applicant receives services from the:
 - i. DES Adoption Subsidy Program;
 - ii. DES Comprehensive Medical and Dental Program, or
 - iii. DES Division of Developmental Disabilities;
 - l. The signature of the applicant or, if the applicant is a minor, the signature of the applicant's parent in subsection (1)(f); and
 - m. The date the application form is signed;
2. If the applicant has a legal guardian, a copy of the court document indicating the applicant's legal guardian;
 3. If the applicant has Title XIX or Title XXI health care insurance, the applicant's AHCCCS identification number or a copy of the applicant's AHCCCS identification card;
 4. If the applicant has health care insurance other than Title XIX or Title XXI health care insurance, a copy of the applicant's health care insurance card or written documentation that the applicant has health care insurance from the health care insurance company;
 5. As proof of the applicant's age, a copy of one of the following documents that includes the applicant's birth date:
 - a. An Immigration and Naturalization Service document;
 - b. A federal or state census record;
 - c. A hospital record of birth;
 - d. A certified copy of a birth certificate;
 - e. A military record;
 - f. A notification of birth registration;
 - g. A religious record;
 - h. A school record, or
 - i. A U.S. passport;
 6. Except as provided in subsection (7), as proof of the applicant's U.S. citizenship, one of the following:
 - a. A certified copy of a birth certificate;
 - b. A certified copy of a religious record issued within three months of birth;
 - c. A naturalization certificate reflecting U.S. citizenship;
 - d. A current or expired U.S. passport;
 - e. A certificate of U.S. citizenship, or
 - f. Documentation evidencing that the individual currently has Title XIX or Title XXI health care insurance;
 7. If the applicant is a qualified alien, written documentation verifying that the applicant:
 - a. Is a qualified alien, and
 - b. Meets the requirements of A.R.S. § 36-2903.03(B);
 8. As proof that the applicant lives in Arizona, a copy of one of the following documents issued in the name of the applicant, the spouse of the applicant, or an adult with whom the applicant lives:
 - a. The applicant's Title XIX or Title XXI health care insurance identification number or a copy of the applicant's current Title XIX or Title XXI health care insurance card;
 - b. An Arizona rent or mortgage receipt;
 - c. An Arizona lease for where the applicant lives;
 - d. A written statement that the applicant lives at an Arizona nursing care institution licensed under A.R.S. Title 36, Chapter 4 signed by the administrator of the Arizona nursing care institution;
 - e. An unexpired Arizona motor vehicle operator's license;
 - f. A current Arizona motor vehicle registration;
 - g. A pay stub from an Arizona employer;
 - h. An Arizona utility bill for where the applicant lives;
 - i. A current Arizona phone directory listing for where the applicant lives;
 - j. A United States Post Office record reflecting an Arizona address;
 - k. A certified copy of a religious record reflecting an Arizona address;
 - l. A certified copy of a school record reflecting an Arizona address; and
 - m. An affidavit signed by the applicant or, if the applicant is a minor, by the applicant's parent certifying that:
 - i. None of the documents in subsections (B)(8)(a) through (B)(8)(l) are available; and
 - ii. The applicant lives in Arizona;

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9. As proof of an applicant's intent to continue to live in Arizona, an affidavit that contains an attestation by the applicant or, if the applicant is a minor, the applicant's parent of the applicant's intent to remain in Arizona;
10. If the applicant does not have Title XIX or Title XXI health care insurance, copies of the following documentation for each individual in the applicant's household income group, if applicable:
 - a. If an individual in the household income group is employed, the individual's:
 - i. Pay stubs for the 30 calendar days before the date on the applicant's application form.
 - ii. Most recent W-2 form, and
 - iii. Federal tax return most recently filed by the individual;
 - b. If an individual in the household income group is self-employed, the individual's:
 - i. Federal tax return, including a schedule C, most recently filed by the individual; or
 - ii. Most recent quarterly financial statement signed and dated by the individual;
 - c. Documented evidence of all unearned income received by an individual, such as cancelled checks or court orders for child support payments;
 - d. Documented evidence of all medical expenses incurred by an individual and paid during the 12 months before the date on the application form; and
 - e. Documented evidence of all unpaid medical expenses; and
11. If applicable, documented evidence of:
 - a. Any court award or settlement related to the applicant's CRS condition, and
 - b. Expenditures from the court award or settlement made for medical services for the applicant.

R9-7-305. Expired Redetermination

- A.** At any time, the Department may request a member or, if the member is a minor, the member's parent to submit the information and documents in R9-7-304 to redetermine:
 1. Whether a member remains eligible for CRS, or
 2. A member's payment responsibility.
- B.** If the member has Title XIX or Title XXI health care insurance, the Department shall, no later than the member's CRS expiration date:
 1. Verify that the member has Title XIX or Title XXI health care insurance, and
 2. Establish a new CRS expiration date for the member that is the same as the member's Title XIX or Title XXI health care insurance expiration date.
- C.** If the member does not have Title XIX or Title XXI health care insurance and the net income of the member's household income group is more than 200% of the Federal Poverty Level, the member or, if the member is a minor, the member's parent shall submit, before the member's CRS expiration date, a signed payment agreement.
- D.** If the member does not have Title XIX or Title XXI health care insurance and the net income of member's household income group is equal to or less than 200% of the Federal Poverty Level, the member or, if the member is a minor, the member's parent shall, at least 30 calendar days before the CRS expiration date:
 1. Participate in an eligibility interview with a Department representative,
 2. Submit to the Department the information and documentation in R9-7-304(10), and
 3. Submit to the Department a signed payment agreement.
- E.** The Department shall establish a new CRS expiration date for a member who does not have Title XIX or Title XXI health care insurance that is 12 months after the member's CRS expiration date if:
 1. The member and, if the member is a minor, the member's parent comply with the redetermination requirements in this Section before the member's expiration date; and
 2. The Department determines that the member remains eligible for CRS.
- F.** If the Department determines that a member is no longer eligible for CRS, the Department shall provide the member or, if the member is a minor, the member's parent a written notice that:
 1. Informs the member that the member is no longer eligible for CRS, and
 2. Complies with A.R.S. § 41-1092.03.
- G.** At any time, a member or, if the member is a minor, the member's parent may request a redetermination of the member's payment responsibility by submitting to the Department:
 1. A written request for redetermination, and
 2. The documentation and information in R9-7-304(10).
- H.** Within 30 calendar days from the date of the Department's receipt of a member's request for redetermination, the Department shall provide the member or, if the member is a minor, the member's parent:
 1. A written notice of the Department's redetermination;
 2. A new CRS expiration date for the member; and
 3. If applicable, a revised payment agreement.
- I.** If the Department changes a member's payment responsibility as a result of a redetermination, and the member does not have Title XIX or Title XXI health care insurance, the member or, if the member is a minor, the member's parent shall sign and submit a revised payment agreement.

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R9-7-306. ~~Expired~~ Termination of Enrollment

- A.** The Department shall terminate a member's enrollment if:
1. The Department determines the member no longer meets the eligibility requirements in R9-7-201;
 2. A member does not continue to have Title XIX or Title XXI health care insurance while the member is eligible for the Title XIX or Title XXI health care insurance; or
 3. The member or, if the member is a minor, the member's parent:
 - a. Requests a termination of the member's enrollment; or
 - b. Fails to comply with the:
 - i. Submission requirements in R9-7-302(I) or R9-7-305; or
 - ii. Signed payment agreement in R9-7-601(B), if applicable.
- B.** If the Department terminates a member's enrollment, the Department shall:
1. Provide the member or, if the member is a minor, the member's parent a written notice of termination that complies with A.R.S. § 41-1092.03; and
 2. If the Department has the name of the member's physician other than a CRS provider, provide the member's physician a written notice of the member's termination.

ARTICLE 4. ~~EXPIRED~~ COVERED MEDICAL SERVICES

R9-7-401. ~~Expired~~ General Requirements

- A.** The Department shall not provide covered medical services other than an initial evaluation until the individual and, if the individual is a minor, the individual's parent comply with the application requirements in R9-7-302(B) and the Department determines that the individual meets the eligibility requirements in R9-7-201.
- B.** The Department shall provide a covered service in this Section:
1. Through a regional contractor;
 2. At the regional contractor's facility or a facility under contract with the regional contractor; and
 3. Using a CRS provider.
- C.** The Department shall provide a medical service in R9-7-403 through R9-7-421 to a member if:
1. A regional medical director or the regional medical director's designee determines that the medical service:
 - a. Is medically necessary;
 - b. Is related to the member's CRS condition; and
 - c. Except as provided in subsection (D), is not to treat one of the conditions in R9-7-203; and
 2. A CRS provider obtains prior authorization, if applicable according to R9-7-402, for the medical service.
- D.** If the requirements of subsection (C) are met, the Department shall provide a medical service to a member to treat the following medical conditions:
1. Sinusitis for a member with cystic fibrosis;
 2. An ingrown toenail if secondary to a CRS condition;
 3. Strabismus for a member with cerebral palsy, myelomeningocele, a shunt, a cataract, glaucoma, a disorder of the optic nerve, retinopathy of prematurity, or a disorder of the iris, ciliary bodies, retina, lens or cornea;
 4. Enuresis if secondary to a CRS condition;
 5. Otitis media in a member with cleft lip and cleft palate or a sensorineural hearing loss;
 6. Nasal polyps for a member with cystic fibrosis;
 7. Malabsorption syndrome for a member with cystic fibrosis;
 8. Nephritis associated with lupus erythematosus;
 9. Hydrocele associated with a ventriculo-peritoneal (VP) shunt;
 10. A fracture caused by a CRS condition;
 11. Bunions if secondary to a CRS condition;
 12. Carpal tunnel syndrome if secondary to a CRS condition;
 13. Refraction error for a member with an ophthalmologic CRS condition;
 14. Astigmatism for a member with an ophthalmologic CRS condition; or
 15. With medication for no more than 30 calendar days, depression secondary to a CRS condition.
- E.** If a member requires a medical service that meets the requirements of subsection (C) and the medical service is not available in Arizona, the Department shall provide the medical service in another state if:
1. Two physicians, who are CRS providers, practicing a specialty related to the member's CRS condition, each submit in writing to the Department:
 - a. A recommendation that the Department provide the medical service in another state; and
 - b. A statement that:
 - i. The medical service is life-saving for the member, and
 - ii. The member is anticipated to experience, as a result of the medical service, functional improvement and that the physician expects the functional improvement to be significant; and

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2. A regional medical director and a regional contractor provide written authorization to the Department before the provision of the medical service outside the state of Arizona.
- F. If the Department provides a member a medical service in another state, the Department shall not provide transportation or lodging for the member or the member's family.
- G. If a member receives a recommendation for treatment from a CRS provider, the member may obtain a recommendation for treatment from a second CRS provider.
- H. The Department shall provide the following medical services to a member beyond the limit specifically stated in the applicable subsection if approved by a regional medical director:
 1. Home health services in R9-7-406(B).
 2. Oxygen and related supplies in R9-7-408(G).
 3. Nutrition services in R9-7-410(A).
 4. Physical therapy and occupational therapy in R9-7-413.
 5. Psychological services in R9-7-416(A).
 6. Psychiatric services in R9-7-417(A), and
 7. Speech/language pathology services in R9-7-419.

R9-7-402. ~~Expired~~ Prior Authorization

Except in an emergency, a CRS provider shall obtain prior authorization before providing any of the following to a member:

1. Medical equipment in R9-7-408.
2. Prosthetic and orthotic devices in R9-7-415.
3. Physician services in R9-7-414 provided at a physician's office.
4. Dental services in R9-7-404 provided at a dentist's office.
5. Outpatient diagnostic testing and laboratory services in R9-7-411(2) not provided by a CRS provider.
6. Outpatient surgery in R9-7-411(1).
7. An outpatient positive emission tomography scan.
8. An implantable bone conduction device in R9-7-403(B)(7).
9. A tactile hearing aid in R9-7-403(B)(8), and
10. Admission to a hospital for inpatient services in R9-7-407.

R9-7-403. ~~Expired~~ Audiology Services

A. If the requirements of R9-7-401(C) are met, the Department shall provide audiology services to a member who has, as determined by a CRS provider, a:

1. Hearing impairment, or
2. CRS condition that poses a risk for hearing impairment.

B. If the requirements in subsection (A) are met, the Department shall provide the following audiology services:

1. A hearing screening;
2. A hearing evaluation;
3. Audiometric testing;
4. The selection, fitting, and dispensing of hearing aids;
5. After the hearing evaluation in subsection (B)(2), a follow-up hearing evaluation;
6. A replacement hearing aid once every three years, or sooner if the replacement hearing aid is for a member who:
 - a. Experiences a change in hearing level, as determined by a CRS provider;
 - b. Has a hearing aid stolen and submits to the Department a copy of a police report about the theft; or
 - c. Loses a hearing aid, and the Department has not replaced the hearing aid within the previous 12 months due to loss;
7. An implantable bone conduction device; and
8. A tactile hearing aid.

C. The Department shall not provide a cochlear implant to a member.

R9-7-404. ~~Expired~~ Dental and Orthodontia Services

A. If the requirements of R9-7-401(C) are met, the Department shall provide dental services to a member who has one of the following medical conditions:

1. A cleft lip;
2. A cleft palate;
3. A cerebral spinal fluid diversion shunt at risk for subacute bacterial endocarditis;
4. A cardiac condition that causes the member to be at risk for subacute bacterial endocarditis;
5. Dental complications that are a result of treatment for a CRS condition; or
6. A functional malocclusion causing:
 - a. Mastication and swallowing abnormalities that affect the nutritional status of the individual, resulting in growth abnormalities;
 - b. A respiratory problem that restricts the member's breathing, such as dynamic or static airway obstruction; or

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- c. A communication disorder that cannot be further improved by speech therapy alone and that does not have a primary etiology other than the malocclusion, as determined by a CRS provider.

B. If the requirements of R9-7-401(C) are met, the Department shall provide orthodontia services and devices to a member who has one of the following medical conditions:

- 1. A cleft palate; or
- 2. A functional malocclusion causing:
 - a. Mastication and swallowing abnormalities that affect the nutritional status of the individual, resulting in growth abnormalities;
 - b. A respiratory problem that restricts the member's breathing, such as dynamic or static airway obstruction; or
 - c. A communication disorder that cannot be further improved by speech therapy alone and that does not have a primary etiology other than the malocclusion, as determined by a CRS provider.

R9-7-405. Expired Diagnostic Testing and Laboratory Services

A. If the requirements of R9-7-401(C) are met, the Department shall provide the following diagnostic testing to a member:

- 1. Radiology.
- 2. Visual evoked response.
- 3. Computed tomography scan.
- 4. Ultrasound.
- 5. Brainstem auditory evoked response.
- 6. Magnetic resonance imaging.
- 7. Electroencephalogram.
- 8. Electrocardiogram, and
- 9. Echocardiogram.

B. If the requirements of R9-7-401(C) are met, the Department shall provide the following laboratory services to a member:

- 1. A blood bank, accessible to the member.
- 2. Pulmonary function testing.
- 3. Complete blood counts, and
- 4. Urinalysis.

C. The Department shall provide diagnostic testing and laboratory services, as ordered by a physician, to a member to determine if the member has a CRS condition in addition to the CRS condition diagnosed at the member's initial evaluation.

R9-7-406. Expired Home Health Services

A. If the requirements in R9-7-401(C) are met, the Department shall provide total parenteral nutrition to a member for no more than 30 calendar days before the member's hospitalization for surgery related to the member's CRS condition.

B. If the requirements in R9-7-401(C) are met, the Department shall provide home health services to a member after the member's hospitalization:

- 1. If a CRS provider requests that the home health services be provided where the member is located;
- 2. If the need for home health services is related to the member's CRS condition that was treated during the member's hospitalization; and
- 3. Except as provided in R9-7-401(G) for no more than 30 calendar days.

C. If the requirements in subsection (B) are met, the Department shall provide the following home health services:

- 1. An evaluation of the member's need for home health services.
- 2. Intravenous therapy.
- 3. Wound care.
- 4. Administration of medications.
- 5. Monitoring the member's vital signs to determine whether the member's vital signs are within the range established as acceptable for the member by a CRS provider.
- 6. Monitoring oxygen administration to determine whether the member's breathing is within the range established as acceptable for the member by a CRS provider.
- 7. Physical therapy.
- 8. Occupational therapy.
- 9. Enterostomy care.
- 10. Urethral catheter insertion and care, and
- 11. Instruction for the provision of home health services to the member or the member's caregivers.

R9-7-407. Expired Inpatient Services

A. If the requirements in R9-7-401(C) are met, the Department shall provide inpatient services to a member who requires hospitalization related to the member's CRS condition.

- 1. If a member's hospitalization is no longer related to the member's CRS condition, the Department shall not provide inpatient services to the member.

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2. If a member requires inpatient services to determine whether the member has ventricular infection or ventricular shunt failure, the Department shall provide inpatient services until the date the regional medical director or the regional medical director's designee determines that the member does not have ventricular infection or ventricular shunt failure.
- B. If the requirements in R9-7-401(C) are met, the Department shall provide transportation for a member from one hospital that is a CRS provider to another hospital that is a CRS provider if:
 1. Ordered by a CRS provider, and
 2. Authorized in writing by a regional medical director.

R9-7-408. Expired Medical Equipment

- A. If the requirements of R9-7-401(C) are met and subject to the limitations in subsections (B) through (D), the Department shall provide a non-motorized wheelchair or an ambulation assistive device to a member.
- B. The Department shall provide a tilt-in-space wheelchair to a member only if a change in the member's position is necessary to provide medically necessary services such as tracheotomy care or feeding.
- C. The Department shall not provide a member with:
 1. A wheelchair or an ambulation assistive device if the wheelchair or ambulation assistive device is for use at school only.
 2. A second non-motorized wheelchair if the member already has a non-motorized wheelchair that is operational, or
 3. A second ambulation assistive device if the member already has an ambulation assistive device that is operational.
- D. The Department shall provide a tray for a member's wheelchair if a CRS provider states in writing that the member's use of the tray is likely to result in the member's functional improvement.
- E. The Department shall provide a cranial modeling band for a member who:
 1. Is 24 months of age or younger;
 2. Has undergone CRS-approved cranial modeling surgery; and
 3. Demonstrates postoperative progressive loss of surgically achieved correction that, without intervention, may require additional remodeling surgery.
- F. The Department shall provide a stroller for a member if a CRS provider determines that the stroller is medically necessary to provide modified seating for positioning the member.
- G. Except as provided in R9-7-401(G), the Department shall provide oxygen and related supplies for no more than 30 calendar days to a member if ordered by a CRS provider.
- H. The Department shall replace or make a change to the medical equipment provided to a member if the replacement or change is:
 1. Recommended by a CRS provider; and
 2. Necessary due to a change in the member's physical size, functional level, physical safety, or medical condition.
- I. In addition to subsection (H), the Department shall replace medical equipment provided to a member if the medical equipment:
 1. Is not safe to operate and cannot be repaired to be safe to operate as determined by a CRS provider;
 2. Is stolen and the member or, if the member is a minor, the member's parent submits to the Department:
 - a. A written request for replacement medical equipment, and
 - b. A copy of a written police report about the stolen medical equipment; or
 3. Is lost and has not been replaced by the Department within the previous 12 months due to loss.
- J. The Department shall make a repair to a member's medical equipment if:
 1. A written determination by a CRS provider that the repair to the medical equipment is medically necessary for the member is submitted to the Department;
 2. The need for repair is not due to the member's misuse of the medical equipment; and
 3. The repair is to:
 - a. Medical equipment provided by the Department; or
 - b. A wheelchair that, although not provided to the member by the Department, has been determined by a CRS provider to be safe and appropriate for the member.

R9-7-409. Expired Nursing Services

If the requirements of R9-7-401(C) are met, the Department shall provide nursing services to a member.

R9-7-410. Expired Nutrition Services

- A. If the requirements of R9-7-401(C) are met, the Department shall provide the following nutrition services to a member:
 1. An evaluation of the member's nutritional needs;
 2. Total parenteral nutrition according to R9-7-405(A);
 3. If ordered by a CRS provider:
 - a. Nutrition, other than listed in subsection (B), for the treatment of a metabolic disorder; and
 - b. For providing nutrition through a tube:
 - i. Equipment; and

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- ii. Except as provided in R9-7-401(G), a commercial product for no more than 30 calendar days; and
- 4. If ordered by a CRS provider for a member with cystic fibrosis, and not available through a source other than CRS, a commercial product:
 - a. For a member who is not receiving nutrition through a tube, that supplies 50% of the member's daily caloric need;
 - b. For a member who is receiving nutrition through a tube, that supplies 100% of the member's daily caloric need; and
 - c. Except as provided in R9-7-401(G), for no more than 30 calendar days.
- B.** The Department shall not provide:
 - 1. Lactose-free nutrition for galactosemia.
 - 2. A nutrition formula or a milk product used for the purpose of combining with a modified amino acid formula, or
 - 3. Low protein nutrition.

R9-7-411. Expired Outpatient Services

If the requirements of R9-7-401(C) are met, the Department shall provide the following outpatient services to a member:

- 1. Outpatient surgery;
- 2. Diagnostic testing and laboratory services in R9-7-405;
- 3. Emergency services in a hospital;
- 4. CRS clinics;
- 5. Evaluation and treatment at:
 - a. An outreach clinic, or
 - b. A regional clinic.

R9-7-412. Expired Pharmaceutical Services

- A.** If the requirements of R9-7-401(C) are met, the Department shall provide pharmaceutical services to a member.
- B.** The Department shall provide growth hormone therapy ordered by a physician for a member who has been diagnosed by a CRS provider with panhypopituitarism.

R9-7-413. Physical Therapy and Occupational Therapy

- A.** If the requirements of R9-7-401(C) are met, the Department shall provide physical therapy or occupational therapy to a member only:
 - 1. Before a scheduled surgery;
 - 2. After a surgery;
 - 3. After removal of a cast;
 - 4. If a medication used to treat the member's CRS condition causes impairment to a neurologic or orthopedic function;
 - 5. After the member receives an orthotic or prosthetic device;
 - 6. After a hospitalization; and
 - 7. If the member:
 - a. Is unable to obtain physical therapy or occupational therapy through a source other than CRS, and
 - b. Has a strong potential for rehabilitation as determined by a CRS provider.
- B.** Except as provided in R9-7-401(G), the Department shall provide no more than 24 sessions of physical therapy or 24 sessions of occupational therapy for each occurrence in subsection (A).

R9-7-414. Physician Services

If the requirements of R9-7-401(C) are met, the Department shall provide physician services to a member.

R9-7-415. Prosthetic and Orthotic Devices

- A.** If the requirements of R9-7-401(C) are met, and subject to the limitations in subsection (B), the Department shall provide a prosthetic device or an orthotic device to a member to enhance the member's ability to perform an activity of daily living.
- B.** The Department shall not provide:
 - 1. A myoelectric prosthetic device, or
 - 2. Prosthetic shoes.
- C.** The Department shall replace or make a change to a prosthetic device or orthotic device provided to a member if the replacement or change is:
 - 1. Recommended by a CRS provider;
 - 2. Necessary due to a change in the member's physical size, functional level, physical safety, or medical condition.
- D.** The Department shall make a repair to a prosthetic device or orthotic device provided by the Department if:
 - 1. The repair is determined to be medically necessary by a CRS provider, and
 - 2. The need for repair is not due to the member's misuse of the prosthetic device or orthotic device.

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E. In addition to subsection (C), the Department shall replace a prosthetic device or orthotic device provided to the member if the prosthetic device or orthotic device:

1. Is stolen and the member or, if the member is a minor, the member's parent submits to the Department:
 - a. A written request for a replacement prosthetic device or orthotic device, and
 - b. A copy of a police report about the stolen prosthetic or orthotic device; or
2. Is lost and the prosthetic device or orthotic device has not been replaced by the Department within the previous 12 months due to loss.

R9-7-416. Psychological Services

A. If the requirements of R9-7-401(C) are met, the Department shall provide the following psychological services to a member:

1. Crisis intervention services,
2. An evaluation by a psychologist, and
3. Based on a psychologist's evaluation, a recommendation by the psychologist to a psychiatrist for psychiatric services or a psychologist for psychological services.

B. Except as provided in R9-7-401(G), the number of sessions in subsection (A) provided to a member shall not exceed three per calendar year.

R9-7-417. Psychiatric Services

A. If the requirements in R9-7-401(C) are met, the Department shall provide psychiatric services to a member who has received an evaluation and recommendation for psychiatric services from a psychologist who is a CRS provider.

B. Except as provided in R9-7-401(G), the number of sessions provided to a member according to subsection (A) shall not exceed one per calendar year.

R9-7-418. Social Work Services

The Department shall provide the following social work services to a member or the member's family:

1. An initial psychosocial evaluation performed by a social worker within the member's first three visits to a CRS clinic, regional clinic, or outreach clinic;
2. Subsequent psychosocial evaluations of a member and the member's family performed by a social worker based on the initial psychological evaluation; and
3. Recommendations, based on a psychosocial evaluation, to community resources.

R9-7-419. Speech/Language Pathology Services

A. If the requirements of R9-7-401(C) are met, the Department shall provide speech/language pathology services to a member:

1. Before a scheduled surgery;
2. After a surgery;
3. If a medication used to treat the member's CRS condition causes neurological impairment;
4. After a hospitalization; and
5. If the member is not able to obtain speech/language pathology services through a source other than CRS.

B. Except as provided in R9-7-401(G), the Department shall provide no more than 24 sessions of speech/language pathology services for each occurrence in subsection (A).

R9-7-420. Transplants

If the requirements of R9-7-401(C) are met, the Department shall provide a corneal transplant or a bone-grafting transplant to a member.

R9-7-421. Vision Services

If the requirements of R9-7-401(C) are met, the Department shall provide the following vision services to a member:

1. Eye examinations;
2. Eyeglasses;
3. Contact lenses;
4. Lens enhancements such as UV tinting and safety glass; and
5. For broken or lost eyeglasses or contact lenses, one replacement per prescription per calendar year.

ARTICLE 5. EXPIRED COVERED SUPPORT SERVICES

R9-7-501. Expired General Requirements

The Department shall provide a support service in this Section:

1. Through a regional contractor.
2. At the regional contractor's facility or a facility under contract with the regional contractor; and
3. Using a CRS provider.

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R9-7-502. ~~Expired~~ Advocacy Services

The Department shall provide the following advocacy services:

1. Explaining the CRS application requirements in R9-7-302(B) to an applicant or, if the applicant is a minor, the applicant's parent and assisting the applicant or applicant's parent in completing the application;
2. Providing CRS orientation to a member and a member's family;
3. Assisting a member and the member's family in obtaining and understanding information for making decisions about the member's medical care;
4. Assisting the member and the member's family in understanding and accessing available community resources for children and families of children with special health care needs;
5. Explaining to a member and the member's family the member's rights and responsibilities related to CRS; and
6. Collaborating with non-CRS providers, schools, and state or federal agencies on behalf of a member.

R9-7-503. ~~Expired~~ Child Life Services

The Department shall provide the following child life services to a member:

1. Activities in which a member is encouraged to express the member's feelings regarding the member's CRS condition and treatment related to the member's CRS condition;
2. Information provided to the member or the member's family about coping with the member's CRS condition and treatment related to the member's CRS condition;
3. Before the member's surgery and while recovering from surgery, activities designed to decrease the member's fear of surgery;
4. Information provided to the member at the member's comprehension level before a treatment to decrease the member's fears by increasing the member's understanding of the:
 - a. Nature of the treatment;
 - b. Purpose for the treatment; and
 - c. If applicable, the sequence in which treatments may be used; and
5. Emotional support for the member and the member's family before and during surgery or treatment.

R9-7-504. ~~Expired~~ Education Coordination

The Department shall provide the following education coordination:

1. Informing the member's family about schools and instruction that may meet the member's special education needs;
2. Making recommendations to parents and schools regarding the member's special education needs;
3. Consulting with the member, the member's family, and school personnel regarding the member's transition under R9-7-505;
4. Coordinating the member's instruction with the member's teachers while the member is receiving inpatient services and after the member's hospitalization; and
5. Providing information about CRS to school and education personnel.

R9-7-505. ~~Expired~~ Transition Services

A. The Department shall assist a member in the member's transition from receiving covered medical services and covered support services from CRS to receiving services from another source.

B. When a member is 14 years of age, the Department shall develop and implement an on-going plan to transition the member from pediatric care to adult care that:

1. Is developed with the member, the member's family, and the member's physician; and
2. Includes a process for the transition of the member's care to a physician who provides physician services to adults.

R9-7-506. ~~Expired~~ Transportation Services

The Department shall provide transportation to a member:

1. From a regional clinic or an outreach clinic to a hospital that is a CRS provider, if medically necessary to respond to an immediate threat to the life or health of the member; or
2. For a transfer between two hospitals that are CRS providers according to R9-7-406(B).

ARTICLE 6. ~~EXPIRED~~ MEMBER PAYMENT

R9-7-601. ~~Expired~~ General Requirements

A. The Department shall determine an applicant's or member's payment responsibility for covered medical services by:

1. Identifying the applicant's or member's household income group;
2. Calculating the net income of the applicant's or member's household income group by subtracting allowable deductions in R9-7-603 from the gross income of the applicant's or member's household income group; and
3. Determining whether the net income of the member's household income group is:
 - a. At or below 200% of the Federal Poverty Level, or
 - b. More than 200% of the Federal Poverty Level.

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- B.** Before the Department enrolls an applicant, the applicant or, if the applicant is a minor, the applicant's parent, shall sign a payment agreement containing:
1. The applicant's name;
 2. The applicant's date of birth;
 3. The applicant's payment responsibility established according to R9-7-604;
 4. A promise to pay the cost of covered medical services up to the total amount of any:
 - a. Court award or settlement of a claim related to the applicant's CRS condition, less money from the court award or settlement expended by the applicant for medical services;
 - b. Health care insurance payment or reimbursement to which the applicant is entitled for the covered medical services; and
 - c. Other third-party payment or reimbursement to which the applicant is entitled for the covered medical services;
 5. A promise to pay according to the applicant's payment responsibility for covered medical services when subsection (B)(4) does not apply;
 6. An assignment of insurance benefits;
 7. The expiration date of the payment agreement;
 8. The gross income of the applicant's household income group;
 9. Total deductions;
 10. The number of individuals in the applicant's household income group;
 11. The signature of the applicant or, if the applicant is a minor, the applicant's parent and date signed; and
 12. The signature of the Department's representative and date signed.

R9-7-602. Expired Identification of Household Income Group

- A.** At the time of application or redetermination, the Department shall identify a member's household income group as:
1. If the member is living with a parent of the member, that parent's household income group;
 2. If the member is living with an individual other than a parent of the member and a parent of the member claims the member as a dependent for tax purposes for the current tax year, that parent's household income group; or
 3. If the member is living with an individual other than a parent of the member and neither parent claims the member as a dependent for tax purposes, the household income group of the individual with whom the member lives.
- B.** The Department shall consider any of the following, when living together, a household income group:
1. A married couple and children of either or both;
 2. An unmarried couple and children of either or both;
 3. A married couple when both are over the age of 21 years;
 4. A married couple when either one or both are under the age of 21 years with no children;
 5. A single parent and the single parent's children;
 6. An applicant or a member between the ages of 18 years and 21 years; or
 7. If living with an applicant or a member, one of the groups in subsections (B)(1) through (B)(5), the applicant or member, and:
 - a. The applicant's or member's spouse;
 - b. A child of the applicant's or member's spouse;
 - c. A child of the applicant or member, and
 - d. The other parent of the applicant's or member's child.
- C.** In addition to the individuals in subsection (B), the Department shall include in a household income group an individual who is not living with the household if:
1. The individual is absent from the household for 30 calendar days or less.
 2. The individual contributes to the income of the household, or
 3. The parent of the individual claims the individual as a dependent on the parent's income tax.

R9-7-603. Expired Calculating Net Income

- A.** Except as provided in subsection (B), a household income group's gross income includes all the earned income and unearned income of the individuals in the household income group.
1. For an individual in the household income group who is not self-employed, the Department shall calculate an individual's annual income using the pay stubs required in R9-7-304(10)(a)(i); and
 2. For an individual in the household income group who is self-employed, the Department shall calculate an individual's annual income using the individual's federal tax return or most recent quarterly financial statement required in R9-7-304(10)(b).
- B.** Gross income does not include:
1. The items in R9-22-1419(C), and
 2. The first \$50.00 per month per child of child support payments paid by an individual in the household income group.

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- C.** When calculating net income, the Department shall deduct the following from the gross income of the household income group in R9-7-602:
1. For each month the household income group received earned income, a deduction for dependent care that is equal to the AHCCCS allowable deduction in A.A.C. R9-22-1429(E)(2), if the individual who received the earned income and the individual who received dependent care are living in the household;
 2. For each individual in the household income group who earned income, an allowance of \$90.00 for each month the individual earned income; and
 3. The following medical expenses:
 - a. Unpaid medical expenses that are:
 - i. Incurred by any individual in the household income group before an application form is submitted or a redetermination is requested; and
 - ii. Not subject to any applicable third party payment or reimbursement; and
 - b. Medical expenses for any individual in the household income group that are:
 - i. Paid by an individual in the household income group during the 12 months before an application form is submitted or a redetermination is requested, and
 - ii. Not subject to any third party payment or reimbursement.

R9-7-604. Member Payment Responsibility

- A.** A member shall pay the cost for covered medical services provided by the Department up to the total amount of any:
1. Court award or settlement of a claim for the member's CRS condition less money from the court award or settlement expended for medical services for the member;
 2. Health care insurance payment or reimbursement to which the member is entitled for covered medical services; and
 3. Other third-party payment or reimbursement to which the member is entitled for covered medical services;
- B.** Except as provided in subsection (A), the Department shall not require a member whose household income group's net income is equal to or less than 200% of the Federal Poverty Level to pay for a covered medical service, except the Department may charge the member a \$5.00 co-payment for the non-emergency use of a hospital's emergency services to treat a CRS condition.
- C.** A member whose household income group's net income is greater than 200% of the Federal Poverty Level shall pay for a covered medical service an amount not to exceed the AHCCCS capped fee-for-service rate for the covered medical service.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. Sections Affected

R19-2-106
R19-2-109
R19-2-111
R19-2-113
R19-2-114
R19-2-115.06

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
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. § 5-104(A)(2) and (T)
Implementing statutes: A.R.S. §§ 5-104(B), 5-107.01, and 5-108(F)

3. The effective date of the rules:

April 3, 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. 1244, April 18, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 4178, October 3, 2003

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

Name: William J. Walsh
Address: Arizona Department of Racing
1110 W. Washington, Suite 260
Phoenix, AZ 85007
Telephone: (602) 364-1700
Fax: (602) 364-1703

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

The rules changes were initiated at the behest of industry stakeholders to bring the current rules up to date with industry standards. The rules expand the category of licensees eligible for a one-year license, clarify the types of races in which an apprentice jockey may claim a weight allowance, lessen the restrictions on the employment of assistant trainers, allow for the possibility of uncoupled entries in certain types of races, permit spouses who are jockeys or trainers to participate against each other with fewer restrictions, make maidens above the age of six eligible to race, and eliminate the penalty on winning horses in claiming races to run their next race within 30 days at a higher level. Other changes are made to modernize the language in the rules.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules 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 agency did not rely on any study in this rulemaking.

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:

None

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

The rule changes related to the entry of horses in races and who may enter a horse in a race may cause additional runners to be entered in some races or may cause additional betting interests in some races. If this occurs, wagering may increase in those races causing an increase in purse money for the horsemen and additional revenue to the state and the race tracks. The change to permit grooms to be licensed annually may reduce the number of licenses issued. This would decrease revenue to the state but would save those licensees who did not renew their licenses a small amount of money.

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

A proposed change to R19-2-106(D)(7) intended to expand the terms under which a temporary license may be issued was deleted because it was determined that the agency lacked the statutory authority to make the change. There have been numerous non-substantive changes made intended to modernize the language in the rules.

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

The agency did not receive any written comments to the rules.

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

None

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

None

14. Were these rules previously adopted as emergency rules?

No

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section

- R19-2-106. Licensing
- R19-2-109. Jockeys
- R19-2-111. Trainers
- R19-2-113. Entries and Subscriptions
- R19-2-114. Penalties and Allowances
- R19-2-115.06. Claiming Races: Claimed Horse Racing and Ownership Restrictions

ARTICLE 1. HORSE RACING

R19-2-106. Licensing

- A.** No change
 - 1. No change
 - 2. No change
- B.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- C.** No change
- D.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - a. No change
 - b. No change
 - c. No change
 - 5. No change
 - 6. No change
 - 7. Temporary license ~~time frames~~. All licenses are temporary for 90 days under A.R.S. § 5-108(F). Unless the Department denies a license to the ~~an~~ applicant, the ~~a~~ temporary license automatically becomes a ~~the~~ license after 90 days. ~~The administrative completeness review time frame for a temporary license is 1 day, the substantive review time frame is 1 day, and the overall time frame is 2 days, excluding time for mailing. A temporary license is considered administratively complete unless the Department issues a written notice of deficiencies to the applicant.~~

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- E. No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
 - F. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - a. No change
 - b. One-year licenses may be issued for mutuel workers, concession workers, grooms, and peace officers. ~~Such licenses shall expire on the 30th day of June, 1995, and every year thereafter.~~ These licenses expire each year on June 30.
 - 5. No change
 - G. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - H. No change
 - I. No change
 - 1. No change
 - 2. No change
 - 3. No change
- R19-2-109. Jockeys**
- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - 6. No change
 - 7. No change
 - a. No change
 - b. No change
 - B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - C. No Change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 6. No change

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- 7. No change
 - a. No change
 - b. No change
 - c. No change
- 8. No change
- D. No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - 2. No change
 - a. No change
 - b. An apprentice jockey who has not been licensed previously in any country may claim an allowance in all over-night races except handicaps and stakes as follows:
 - i. Five pounds for ~~4~~ one year from the date of the apprentice jockey's ~~5th~~ fifth winner.
 - ii. If an apprentice jockey has not ridden a total of 40 winners within ~~a period of 4~~ one year from the date of the apprentice jockey's ~~5th~~ fifth winner, the Department shall allow the jockey to claim the ~~5~~ five-pound allowance for ~~3~~ three years from the date of the apprentice jockey's ~~4th~~ first winner or until the apprentice jockey has ridden a total of 40 winners, whichever comes ~~4th~~ first.
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
 - i. No change
 - ii. No change
- E. No change
 - ~~1.~~ A jockey shall not ride in a race against a starter of the jockey's contract employer unless both the jockey's mount and the starter of the jockey's contract employer are trained by the same trainer.
 - ~~2.~~1. No change
 - a. No change
 - b. No change
 - ~~3.~~2. A jockey ~~or a jockey's spouse~~ shall not own, either in whole or in part, a horse registered for racing at a track where the jockey is riding.
 - ~~4.~~3. No change
 - ~~5.~~4. No change
 - ~~6.~~5. No change
- R19-2-111. Trainers
 - A. No change
 - B. No change
 - C. No change
 - D. No change
 - 1. No change
 - 2. ~~A Trainers trainer shall not enter start a horse in any race, except handicaps, stakes, futurities, derbies and maturities, if they have the trainer has reason to believe that the owner or owners of such the horse is are not licensed by the Department prior to the time of entry before the race. A trainer may enter a horse for an unlicensed owner or owners in a race. In handicaps, stakes, futurities, derbies and maturities, entries may be taken prior to the time the owner or owners of such horse is licensed; provided, however, that if If there are no horses on the also-eligible list for the race, the owner or owners must be licensed at least 4 one hour before post time of the first race of the day or the trainer shall have the horse scratched. If there is an are horses on the also-eligible list with eligible horses, any a trainer who has entered a horse and does not have the of an owner or owners who remain unlicensed licensed, shall, at the designated scratch time for the race, shall have the horse scratched.~~
 - 3. No change
 - E. No change
 - F. No change
 - G. No change

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- H. ~~Trainers~~ A trainer shall notify the stewards ~~prior to before~~ the transfer of ~~a horses horse~~ to or from ~~a trainers trainer~~ during the ~~a~~ meeting. ~~Any such change shall be approved by the stewards. The stewards shall approve any transfer.~~
- I. ~~No~~ A trainer shall ~~not~~ shoe ~~any a~~ horse ~~which that~~ is not under ~~such the~~ trainer's care except by permission of the stewards.
- J. When a trainer is absent from the grounds where the trainer's horses are racing, ~~such the~~ trainer shall provide a substitute licensed trainer to be responsible for ~~such the~~ horse or horses. ~~Responsibility for any~~ If there is a violation of subsection (C) of this Section or R19-2-112(16), the stewards shall be determined, determine as between the 2 trainers, by the stewards whether the absent or substitute trainer is responsible. No provision of these rules ~~shall be construed to relieve~~ relieves the an absent trainer of responsibility or ~~to limits such the absent~~ trainer's responsibility under subsection (C) ~~of this Section.~~ Both ~~the absent and substitute~~ trainers shall sign a "Trainers' Responsibility Form" provided by the Department and ~~shall~~ be approved by a steward.
- K. ~~No~~ A trainer shall ~~not~~ have ~~any an~~ ownership interest in a horse ~~for which such unless the trainer is not the trainer trains~~ the horse and ~~which the horse~~ is located at the track where ~~such the~~ trainer trains. ~~No trainer shall have any ownership interest in any other horse in the same race.~~ For purposes of this rule, a reversionary interest created ~~pursuant to by~~ an agreement transferring control of a horse is not an ownership interest.
- ~~L. Horses trained by husband or wife, registered at the same track, for entering purposes shall be considered trained by same trainer.~~
- ~~M.L.~~ A trainer who is actively participating in more than one race meeting at one time may employ an assistant trainer with the approval of the stewards. ~~Such An~~ assistant trainer shall comply with all the requirements for a trainer as prescribed by this Section and shall be ~~completely~~ responsible for all horses under ~~their the~~ assistant trainer's care.

R19-2-113. Entries and Subscriptions

- A. No change
1. No change
 2. No change
 3. No change
 4. No change
 5. A person nominating a horse in a stakes race shall write ~~his or her~~ the person's full name, mailing address, and telephone number on the nomination form.
 6. A person shall not enter a horse in more than ~~1~~ one race in ~~1~~ one day.
 7. No change
 8. No change
 9. ~~The An~~ owner or trainer shall sign and certify ~~the a horse's~~ performance record and shall include the following information for the horse's last ~~4~~ four races in the record:
 - a. No change
 - b. No change
 - c. No change
 10. The ~~2nd~~ second half of an entry has no preference over a single entry except in stakes, handicaps, and qualifying races.
 11. An owner entering ~~2~~ two or more horses in a race shall indicate the owner's preference for the horse that is to start if the race overfills. ~~A Horses horse excluded as part of an entry because a race overfills~~ receives no consideration.
 12. Two or more horses that are entered in a race may be uncoupled for wagering purposes in stakes, handicaps, futurities, and maturities if approved by the stewards and:
 - a. Both horses are owned, in whole or in part, by the same person; or
 - b. Both horses are trained by a trainer who owns an interest in one of the horses.
 13. In a race in which spouses who are both licensed trainers have entered horses, the trainers are not required to list an overfill preference unless there is common ownership of the horses entered.
 - ~~12-14.~~ The racing secretary shall decide whether there shall be to use an "also-eligible" list for any meeting.
 - a. No change
 - b. If the number of entries to a race exceeds the number of horses permitted to start, the racing secretary shall determine the starters by lot in a drawing supervised by a steward and witnessed by those making entries. If any of the ~~1st group of~~ starters ~~declares~~ declare out, the racing secretary shall draw, by lot ~~from the "also-eligible" list, an equal the~~ number of horses ~~from the "also-eligibles" needed~~ to fill the vacancies in the race.
 - c. The racing secretary shall assign horses, other than quarter horses, ~~which that~~ gain a position in a race from the "also-eligible" list, to the outside post positions in the order in which they are drawn from the list. The racing secretary shall assign ~~a quarter horses horse~~ to the ~~stalls stall~~ of ~~the a horses horse~~ which that are is declared out.
 - d. If a horse on the "also-eligible" list ~~is not given the opportunity to~~ does not start because of insufficient declarations, the racing secretary shall place ~~the name of~~ the horse on the preferred list. The racing secretary shall not place a horse on the preferred list if the owner ~~did~~ does not accept the opportunity to start the horse.

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- e. No change
 - i. No change
 - ii. No change
- f. No change

~~13-15.~~ A person shall make a claim of preference at the time of entry by noting it on the entry blank or the preference will be lost.

- a. No change
- b. No change

~~14-16.~~ If an owner or trainer does not declare ~~his or her~~ a horse from the “also-eligible” list by the prescribed time, the racing secretary shall consider ~~that the~~ owner or trainer willing to start the horse ~~in the event of a~~ if another horse is ~~scratched~~ scratched from the body of the race. The racing secretary shall not place a horse on the preferred list if the owner ~~did~~ does not accept the opportunity to start a ~~the~~ horse.

~~15-17.~~ A person ~~may~~ shall not alter an entry after the closing of entries. The racing secretary may correct an error in an entry at any time.

~~16-18.~~ If the name of a horse is changed, the racing secretary shall publish the new name and the former name in the official entries for the horse’s ~~1st~~ first 3 ~~three~~ starts after the name change. If the name of an Arizona-bred horse is changed, the racing secretary shall report it to the Department in writing within 30 days, listing the new name and the former name.

B. No change

- 1. No change
- 2. A horse which has reached its 6th birthday or, on the County Fair race meets, a horse which has reached its 7th birthday, and which that has not won a race is ineligible to race in Arizona.
- 3-2. A horse ~~which~~ that has reached its 14th birthday is ineligible to race in Arizona.
- 4-3. The stewards shall not permit a horse to run for a purse or stakes unless it ~~has been~~ is entered in a race and is eligible for the race.
- 5-4. The stewards may summon a person in whose name a horse is entered to produce proof that the horse entered is not the property, either ~~wholly in whole~~ or in part, of a person who is disqualified, or to produce proof of the extent of a person’s interest ~~or property~~ in the horse. Failure to produce satisfactory proof ~~may~~ shall result in the stewards declaring the horse out of the race if the stewards determine that it is necessary to protect the public peace, safety, or welfare.
- 6-5. A horse is not qualified for entry if it is on the stewards’, paddock judge’s, starter’s, or veterinarian’s list, or if it has been ruled off.
- 7-6. The racing secretary shall consider the performance ~~records~~ record of a ~~horses~~ horse racing on the county fair circuit to determine ~~their~~ its eligibility at a commercial meet ~~aces~~. A County county fair racing ~~secretaries~~ secretary shall place ~~all~~ a county fair ~~wins~~ win on the back of the foal ~~certificates~~ certificate.
- 8-7. The owner, trainer, or authorized agent shall ensure that a horse that has not started within 45 days has ~~2~~ one official ~~works~~ workout before starting at a commercial meet.

C. No change

- 1. A person shall not ~~enter~~ start a horse in a race unless it ~~has been~~ is fully identified and tattooed, ~~unless~~ or otherwise authorized by the stewards. A person who participates in any manner in establishing the identity of a horse, including the breeder, owner, trainer, and identifier, is responsible for the accuracy of the information the person provides.
- 2. No change
- 3. No change
- 4. No change
- 5. No change

D. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change

E. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change

Notices of Final Rulemaking

- F. No change
 - 1. No change
 - 2. No change

R19-2-114. Penalties and Allowances

- A. No change
- B. No change
- C. No change
- D. No change
- E. ~~No~~ A horse shall not receive an allowance of weight or be relieved from extra weight as a result of having ~~been beaten in~~ lost 4 or more races. This rule ~~shall~~ does not prohibit a maiden ~~allowances~~ allowance or ~~allowances~~ an allowance to ~~a~~ horses ~~horse~~ that ~~have~~ has not won a race within a specified period or a race of a specified value.
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
 - 1. No change
 - 2. No change
 - 3. No change
- L. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- M. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - 3. ~~Any~~ A horse claimed in a claiming race must ~~be entered~~ subsequently start for a claiming price to establish new eligibility for a starter allowance race.
 - 4. No change

R19-2-115.06. Claiming Races: Claimed Horse Racing and Ownership Restrictions

- ~~A.~~ If a claimed horse is claimed from a winning race, it may not start in a claiming race for a period of 30 days from the day of the claim, for less than 25% more than the amount for which it was claimed. When a race is in dispute, both the horse finishing first and any horse claiming the race shall be liable to this penalty for 30 days from the date of the claim, unless decided beforehand.
- ~~B.~~A. No change
 - 1. No change
 - 2. No change
 - 3. No change
- ~~C.~~B. No change

Notices of Final Rulemaking

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

There were minor changes between the proposed rule and the final rule as follows:

The proposed rule omitted the reference to the date of the Life Table, and that will be inserted into the final rule. In addition, the proposed rule did not have a description of how the discount rate is calculated. Language dealing with the discount rate is in the final rule.

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

There were no comments received regarding the proposed rule.

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

None

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

United States Abridged Life Tables, 2000, National Vital Statistics Reports, Vol. 51, Number 3, Table 1, incorporated by reference in R20-5-121(B).

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

No

15. The full text of the rule follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE

Section

R20-5-121. Present Value and Basis of Calculation of Lump Sum Commutation Awards

ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE

R20-5-121. Present Value and Basis of Calculation of Lump Sum Commutation Awards

- A.** The Commission shall calculate the present value of an award that is commuted to a lump sum under R20-5-122. The Commission shall not include in the present value calculation compensation paid before the filing of a lump sum commutation petition. The Commission shall use the filing date of a lump sum commutation petition to compute the present value of an award.
- B.** The Commission shall calculate the present value of an award, whether payable for a period of months or based upon the life of the employee, using the United States Abridged Life Tables, ~~1996~~ 2000, National Vital Statistics Reports, Vol. 47 51, Number 43, ~~December 24, 1998~~ 3, Table 1 (incorporated by reference, ~~and on file with the Secretary of State~~) and discounted at the rate established by the Commission. This incorporation does not include any later amendment or edition of the incorporated matter. A copy of this referenced material is available for review at the Commission and may be obtained from the U.S. Department of Health and Human Services, Centers for Disease Control. The rate established by the Commission is based on a three-month Treasury Bill rate average at five points in time: for close of business on May 15, for close of business the day before May 15, for close of business on May 15 of the prior year, a 12-month high, and a 12-month low, as shown in the Wall Street Journal for May 15 of the current year and the prior year, and the daily web site quotes of the Treasury Bill secondary market rates. The rate once calculated becomes effective for one year starting the first day of July of the current year. The discount rate is published in the minutes of the Commission meeting establishing the rate and is available upon request from the Commission.