

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

[R05-96]

PREAMBLE

- 1. Sections Affected**

Article 2	<u>Rulemaking Action</u>
R4-16-206	Amend
R4-16-207	Amend
Table 1	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. §§ 32-1403(A)(8) and 32-1404(D)
Implementing statutes: A.R.S. §§ 32-1422 through 32-1433 and 41-1073
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 11 A.A.R. 1198, March 25, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: George R. Pavia, Rules/Policy Analyst
Address: 9545 E. Doubletree Ranch Rd.
Scottsdale, AZ 85258-5514
Telephone: (480) 551-2769
Fax: (480) 551-2828
E-mail: gpavia@azmdboard.org

Please visit the Board web site to track progress of this rule and any other agency rulemaking matters at www.azmdboard.org.
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The agency is amending its licensing time-frame rules to bring them into conformity with current Board licensing procedure. In this action, the Board is amending the Article 2 heading to "Licensure" to complete Chapter renumbering not entirely possible in an earlier Notice of Recodification. The agency will also incorporate global linguistic and stylistic modifications to ensure the rules remain in conformity with current publishing requirements of the Governor's Regulatory Review Council and the Secretary of State's Office.

This rulemaking occurs as a course of action indicated in Five-Year Rule Review (F-02-1003) approved by the Governor's Regulatory Review Council on October 1, 2002.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Board will not rely on any study in this rulemaking.

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

Not applicable

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

The economic impact of agency licensing time-frame provisions involves the following entities and impact factors:

- a. Physicians would normally experience minimal costs for professional licensure or renewal within specified time-frames. Costs could become moderate to substantial for loss of revenue waiting for licensure in cases of application information deficiency or renewal after license expiration. Physicians stand to experience substantial benefits in professional income from correct licensure or renewal. Similarly physicians are able benefit indirectly by being able to avoid late or potential civil penalties for imprudent observation of licensing time-frames.
- b. Clinics or hospitals employing licensed physicians experience no direct costs from physician licensing time-frame requirements. These business entities, however, could experience not-readily-quantifiable costs in staff coverage if the need arises to wait for a physician to become licensed or renew licensure after expiration.
- c. The Arizona Medical Board experiences substantial costs of approximately \$85,000 per year of an aggregate \$4.9 million operating budget to staff and operate its licensing division office function. The agency benefits substantially with total annual revenues of \$5.3 million of which 95% is derived from physician licensure, all sources.
- d. The private consumer of healthcare services experiences no direct costs from the agency's licensing time-frame regulations. The consumer receives not-readily-quantifiable benefits in individual safety from the assurance of healthcare service integrity when practicing physicians are appropriately licensed in a timely fashion.

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

An interested person may communicate with the agency official listed in item #4 concerning the economic impact statement.

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

No oral proceeding is scheduled for this rulemaking. A request for an oral proceeding may be made to the agency officer listed in item #4. If no request for an oral proceeding is received, the public record for this rulemaking will close at 5 p.m. on Friday, April 29, 2005.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

ARTICLE 2. ~~RENUMBERED~~ LICENSURE

Section

R4-16-206. Time-frames for Licenses, Permits, and Registrations

R4-16-207. Time-frames for License Renewal; Expiration

Table 1. Time-frames

ARTICLE 2. ~~RENUMBERED~~ LICENSURE

R4-16-206. Time-frames for Licenses, Permits, and Registrations

A. For each type of license, permit, or registration issued by the Board, the overall time-frame ~~described in~~ defined under A.R.S. § 41-1072(2) is ~~listed in~~ shown on Table 1.

B. For each type of license, permit, or registration issued by the Board, the administrative completeness review time-frame ~~described in~~ defined under A.R.S. § 41-1072(1) is ~~listed in~~ shown on Table 1 and begins on the date the Board receives an application and all required ~~documents~~ documentation and information.

1. If the required application is not administratively complete, the Board shall send a written deficiency notice to the applicant, ~~a deficiency notice~~.

a. ~~The notice shall state each deficiency and the information needed to complete the application and documents.~~

In a deficiency notice, the Board shall state each deficiency and the information required to complete the application or supporting documentation. In any deficiency notice, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional information within the time-frame.

- b. ~~Within the time provided in Table 1 for response to a deficiency notice, beginning on the date of mailing of a deficiency notice, an~~ the applicant shall submit to the Board the missing documents and requested documentation or information specified in the notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant of the notice until the date the Board receives the missing requested documentation and or information from the applicant.
 - e. ~~Under A.R.S. § 32-1427(E), an applicant for an initial license by examination or endorsement who disagrees with the deficiency notice may request a hearing before the Board at its next regular meeting if there is time at that meeting to hear the matter. The Board shall not delay a requested hearing beyond one regularly scheduled meeting. At any hearing granted under this subsection, the applicant shall have the burden of proof to demonstrate that the alleged deficiencies do not exist.~~
 - d. ~~Under A.R.S. § 32-1427(F), if an applicant for initial license by examination or endorsement does not submit the missing documents and information indicated in the deficiency notice within the time frame specified in subsection (B)(1)(b), the Board shall deem the application withdrawn.~~
2. ~~If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.~~
 3. ~~If the application and submitted documents and information do not contain all of the components required by statute and rule, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.~~
 2. Within 30 days after receipt of a deficiency notice, an applicant may submit a written hearing request to the Board.
 3. The Board shall schedule and conduct the applicant's deficiency hearing according to provisions prescribed under A.R.S. § 32-1427(E).
 4. In addition to hearing provisions prescribed under subsection (B)(3), the Board shall send the following to the applicant in writing:
 - a. A notice of a scheduled hearing at least 21 days before the hearing date; and
 - b. The Board's decision within 30 days after the hearing that shall include notice of any applicable right of appeal.
- C. ~~For each type of license, permit, or registration issued by the Board, the substantive review time-frame described in defined under A.R.S. § 41-1072(3) is listed at shown on Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.~~
1. ~~During the substantive review time frame, the Board may make one comprehensive written request for additional information. The applicant shall submit to the Board the additional information identified by the comprehensive written request within the time provided in Table 1, beginning on the date of mailing of the comprehensive written request for additional information. The time frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the additional information.~~
 2. ~~The Board shall issue a written notice of denial of license, permit, or registration if the Board determines that the applicant does not meet all of the substantive criteria required by statute and rule for a license, permit, or registration.~~
 3. ~~The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time frame in Table 1.~~
 4. ~~If the applicant meets all of the substantive criteria required by statute and rule for license, permit, or registration, the Board shall issue a license, permit, or registration to the applicant.~~
1. The Board may request additional information from an applicant according to provisions prescribed under A.R.S. § 41-1075 during the substantive review time-frame. In any request for additional information, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional information within the time-frame.
 2. In response to a single comprehensive written request from the Board under A.R.S. § 41-1075(A), the applicant shall submit the information identified to the Board within the time-frame specified in Table 1. The time-frame for the Board to finish the substantive review is suspended from the date the Board sends the comprehensive written request for additional information until the date the Board receives the additional information from the applicant.
 3. If the Board determines that the applicant does not meet all substantive criteria for a license, permit, or registration as required under A.R.S. Title 32, Chapter 13 or this Chapter, the Board shall send written notice of denial to the applicant. The Board shall include notification of any applicable right of appeal in a denial notice.
 4. If the applicant meets all substantive criteria for a license, permit, or registration required under A.R.S. Title 32, Chapter 13 and this Chapter, the Board shall issue the applicable license, permit, or registration to the applicant.

Notices of Proposed Rulemaking

R4-16-207. Time-frames for License Renewal; Expiration

- A. For ~~renewal of licensure~~ license renewal, the overall time-frame ~~described in~~ defined under A.R.S. § 41-1072(2) is 90 ~~calendar~~ calendar days.
- B. For ~~license renewal of licensure~~ license renewal, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is ~~90 calendar~~ 45 days and begins on the date the Board receives the renewal application.
1. If the required application is not administratively complete, the Board shall send ~~to the applicant~~ a written deficiency notice to the applicant. ~~The notice shall state each deficiency and the documents and information needed to complete the renewal application.~~
 - a. In a deficiency notice, the Board shall state each deficiency and the information required to complete the application or supporting documentation.
 - b. Within 60 days after the Board sends a deficiency notice, the applicant shall submit to the Board the requested documentation or information specified in the notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date of the notice until the date the Board receives the requested documentation or information from the applicant.
 2. ~~The 90 day time frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the needed documents and information.~~
 3. ~~If an applicant does not submit a complete renewal application before May 1, the applicant's license expires, except that the license of a physician who does not renew the license and who has been advised in writing that an investigation is pending at the time the license is due to expire does not expire until the investigation is resolved. The license of a physician for whom an investigation is pending is suspended on the date it would otherwise expire and the physician shall not practice in this state until the investigation is resolved.~~
 4. ~~If the submitted application is administratively complete, the Board shall send a written notice of renewal to the applicant.~~
 2. Due process provisions prescribed under R4-16-206(B)(2) through (B)(4) also apply to this Section.
- C. For license renewal, the substantive review time-frame defined under A.R.S. § 41-1072(3) is 45 days.
1. During the substantive review time-frame, the Board may request additional information according to provisions prescribed under A.R.S. § 41-1075.
 2. The applicant shall submit to the Board information identified by a single comprehensive written request from the Board for additional information allowed under A.R.S. § 41-1075(A) within 60 days after the Board sends its request.
 3. If the applicant meets all license renewal substantive criteria and remits the applicable fee required under A.R.S. Title 31, Chapter 13, and this Chapter, the Board shall issue a license renewal to the applicant.
- D. If a person holding an active license does not apply for license renewal according to the biennial renewal requirement or fails to meet time-frame requirements under this Section, the person's license shall expire according to provisions prescribed under A.R.S. § 32-1430(A) unless the person is under investigation according to provisions prescribed under A.R.S. § 32-3202.

Table 1. Time-frames

Time-frames (in calendar days)

Type of License	Overall Time-frame	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
Initial License by Examination	240	120	365	120	90
Initial License by Endorsement	240	120	365	120	90
Locum Tenens or Pro Bono Registration	120	60	30	60	30
Temporary License	60	30	30	30	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20 30	10	40 30	10	10
Training Permit	40	20	30	20	30
Short Term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30
Registration to Dispense Controlled Substances and Prescription-only Drugs and Devices	150	45	30	105	30

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

[R05-86]

1. **Sections Affected** **Rulemaking Action**
R20-6-1702 Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 20-143, 20-156(A)
Implementing statutes: A.R.S. §§ 20-143, 20-156(A)
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 1200, March 25, 2005
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Margaret McClelland
Address: Department of Insurance
2910 N. 44th St., 2nd Fl.
Phoenix, AZ 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The Director proposes to amend R20-6-1702 to be consistent with A.R.S. § 20-156(A), the statutory authority for that Section. The Arizona Legislature revised A.R.S. § 20-156(A) in 2001 to change the requirement for frequency of examination of insurers from not less than once every "three" years to at least once every "five" years. The proposed amended R20-6-1702 will be consistent with that statutory change. Additionally, the Director proposes stylistic changes to R20-6-1702 to make the rule more clear, concise, and understandable.
Specific Section-By-Section Explanation of This Proposal
R20-6-1702 provides that the Director examine an insurer under A.R.S. § 20-156(A) at least once every five years. Additionally, the rule provides the circumstances under which the Director may accept an examination report prepared by the insurance regulatory authority of another state on any foreign or alien insurer.
6. **A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
8. **The preliminary summary of the economic, small business, and consumer impact:**
The Director is not aware of consumers that will be directly impacted by this rulemaking.
The Department is not aware of small businesses that will be directly impacted by this rule; therefore, the Department does not believe it is necessary to reduce the impact on small businesses.
There will be a minimal economic impact on the Department, the Secretary of State, and the Governor's Regulatory Review Council for costs associated with the rulemaking process.

Notices of Proposed Rulemaking

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

Name: Margaret McClelland
Address: Department of Insurance
2910 N. 44th St., 2nd Fl.
Phoenix, AZ 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452

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

ADOI will hold oral proceedings to receive public comments in accordance with A.R.S. § 41-1023 on Tuesday, April 26, 2005, at 10:00 a.m. at the Department of Insurance, 2910 N. 44th St., Phoenix, Arizona, 3rd floor training room. ADOI will accept written comments that are received by 5:00 p.m. on Friday, April 29, 2005, or that are postmarked by that date. The comment period will end and the record will close at 5:00 p.m. on Friday, April 29, 2005.

ADOI is committed to complying with the Americans with Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADOI at least 72 hours before the hearing.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 17. EXAMINATIONS

Section

R20-6-1702. Authority, Scope, and Scheduling of Examinations

ARTICLE 17. EXAMINATIONS

R20-6-1702. Authority, Scope, and Scheduling of Examinations

~~A.~~ The Director or any of the Director's examiners shall, at a minimum, conduct an examination of every domestic insurer not less than once every three years, except that life and disability reinsurers defined in A.R.S. § 20-1082, service companies defined in A.R.S. § 20-1095, and mechanical reimbursement reinsurers defined in A.R.S. § 20-1096 shall be examined not less than once every five years. The Director or any of the Director's examiners shall examine every other insurer licensed in this state not less frequently than once every five years.

A. The Director shall examine an insurer under A.R.S. § 20-156(A) at least once every five years.

~~B.~~ After January 1, 1994, the Director shall not accept, in lieu of an examination under this Article, an examination report on any foreign or alien insurer prepared by the insurance regulatory authority of another state unless:

- ~~1. Such insurance regulatory authority was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or~~
- ~~2. The examination was performed under the supervision of an accredited insurance regulatory authority or with the participation of one or more examiners who are employed or contracted by such an accredited insurance regulatory authority and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance regulatory authority.~~

B. The Director may accept an examination report prepared by the National Association of Insurance Commissioners insurance regulatory authority of another state on any foreign or alien insurer if:

1. The insurance regulatory authority was accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program at the time of the examination, or
2. A National Association of Insurance Commissioners accredited insurance regulatory authority supervised the examination, or
3. At least one examiner employed or contracted by a National Association of Insurance Commissioners accredited insurance regulatory authority:

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- a. Participated in and reviewed the examination work papers and report, and
- b. Signed an affidavit that states that the examination was performed in a manner consistent with the standards and procedures required by the National Association of Insurance Commissioners accredited insurance regulatory authority.