

## NOTICES OF PROPOSED RULEMAKING

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

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

[R05-114]

#### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R2-5-101                           | Amend                           |
| R2-5-416                           | Amend                           |
| R2-5-417                           | Amend                           |
- 2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 38-651, 38-651.01, 38-653, and 41-763(2) and (6)  
Implementing statutes: A.R.S. §§ 38-651.02 and 41-783
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 1397, April 9, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Christine Bronson, Human Resources Consultant  
Address: Department of Administration  
Human Resources Division  
100 N. 15th Ave., Suite 261  
Phoenix, AZ 85007  
Telephone: (602) 364-1693  
Fax: (602) 542-2796  
E-mail: Christine.Bronson@azdoa.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking will update the definitions of the terms "child," "class," "eligible dependent," "essential function," and "knowledge, skills, and abilities" to conform to current usage in Title 2, Chapter 5. The rulemaking will broaden the meaning of "class series" to provide an incumbent retention point protection when a position is reclassified or reassigned to a class series within five years before a reduction in force. The amendments to Article 1 amend existing definitions to provide clarity, to conform to current practice, to include in rule an eligibility provision for a child who is disabled, to reformat the definitions of "child" and "eligible dependent" to enhance readability, and to make technical corrections. The rulemaking adds definitions for the terms "limited position," and "qualified life event."

Language is added to R2-5-416 to clarify the health benefits coverage date for new employees, articulate a requirement that an application must be submitted timely to add an eligible dependent due to a qualified life event, establish program eligibility for a university retiree who returns to work under A.R.S. § 38-766.01, and delineate dependent eligibility in rule.

A.R.S. § 38-651.02 allows the Arizona Department of Administration (ADOA) to offer additional group life and group accidental death and dismemberment insurance to officers and employees at the employee's expense in an

Notices of Proposed Rulemaking

amount up to three times the employee's annual salary. Rule R2-5-417(B) is being amended to provide flexibility and accommodate contractual changes.

**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 proposed rulemaking affects state service employees only and will not have an impact on small businesses and consumers. The impact will be upon employees receiving the benefits of the rules. Any financial impact or administrative expenses should be covered by ordinary operating funds.

**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: Christine Bronson, Human Resources Consultant  
Address: Department of Administration  
Human Resources Division  
100 N. 15th Ave., Suite 261  
Phoenix, AZ 85007  
Telephone: (602) 364-1693  
Fax: (602) 542-2796  
E-mail: Christine.Bronson@azdoa.gov

**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:**

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit comments, please contact the human resources consultant listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except Arizona legal holidays. If a request for an oral proceeding is not made, the public record in this rulemaking will close at 5:00 p.m. on May 16, 2005.

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

None

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

None

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

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION

ARTICLE 1. GENERAL

Section  
R2-5-101. Definitions

ARTICLE 4. BENEFITS

Section  
R2-5-416. Health Benefit Plan  
R2-5-417. Life Insurance and ~~Short-term~~ Disability Income Insurance Plans

ARTICLE 1. GENERAL

**R2-5-101. Definitions**

The following words and phrases have the defined meanings unless otherwise clearly indicated by the context.

1. "Agency" means a department, board, office, authority, commission, or other governmental budget unit of the state.
2. "Agency head" means the chief executive officer of an agency.
3. "Appeal" means a request for a review by the Personnel Board of a disciplinary action under ~~to~~ A.R.S. § 41-782.
4. "Applicant" means a person who seeks appointment to a position in state service.
5. "Appointment" means the offer to and the acceptance by a person of a position in state service.
6. "Base salary" means an employee's salary excluding overtime pay, shift differential, bonus pay, special performance adjustment previously granted, or pay for other allowance or special incentive pay program.
7. "Business day" means the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding observed state holidays.
8. "Candidate" means a person whose knowledge, skills, and abilities (~~KSAs~~) meet the requirements of a position and who may be considered for employment.
9. "Cause" means any of the reasons for disciplinary action provided by A.R.S. § ~~41-774~~ 41-770 or these rules.
10. "Child" means:
  - a. For purposes of R2-5-416(C), pertaining to the health benefit plan, R2-5-418(B), pertaining to the retiree health benefit plan, and R2-5-419(C), pertaining to the health benefit plan for former elected officials, ~~each an unmarried natural, adopted, foster, or stepchild who is less than age 19, or less than age 25 if a full-time student, and who resides, or is placed by court order, in the household of the employee, the retired employee, or the former elected official; person who falls within one or more of the following categories. The term includes:~~
    - i. A natural child, adopted child, or stepchild who is younger than age 19 or younger than age 25 if a full-time student;
    - ii. A child who is younger than age 19 for whom the employee-member, retiree, or former elected official has court-ordered guardianship;
    - iii. A foster child who is younger than age 19;
    - iv. A child who is younger than age 19 who is placed in the employee-member's, retiree's, or former elected official's home by court order pending adoption; or
    - v. A natural child, adopted child, or stepchild who was disabled before age 19 and under the employee-member's, retiree's, or elected official's custody before age 19.
  - b. For purposes of R2-5-417(C), pertaining to the life and disability income insurance plan, and R2-5-421(B), pertaining to the life insurance plan for former elected officials, ~~each an unmarried natural, adopted, foster, or stepchild who is less than age 19, or less than the age of 25 if a full-time student, and who resides or is placed by court order in the household of the employee or the former elected official; person who falls within one or more of the following categories. The term includes:~~
    - i. A natural child, adopted child, or stepchild who is younger than age 19 or younger than age 25 if a full-time student;
    - ii. A child who is younger than age 19 for whom the employee or former elected official has court ordered guardianship;
    - iii. A foster child younger than age 19;
    - iv. A child who is younger than age 19 and placed in the employee's or former elected official's home by court order pending adoption; or
    - v. A natural child, adopted child, or stepchild who was disabled before age 19 and under the employee's or former elected official's custody before age 19; or
  - c. For purposes of R2-5-207(D), pertaining to the employment of relatives, R2-5-404, pertaining to sick leave, R2-5-410, pertaining to bereavement leave, the term includes a natural child, adopted child, foster child, or stepchild; and
  - d. For purposes of R2-5-411, pertaining to parental leave, the term includes a ~~each~~ natural child, adopted child, foster child, or stepchild.
11. "Class" means a group of positions ~~sufficiently similar as to duties performed, scope of discretion and responsibility, knowledge, skills, and abilities required and other characteristics that have the same title and pay grade apply to because each position in the group has similar duties, scope of discretion and responsibility, required knowledge, skills and abilities, or other job related characteristics.~~
12. "Class series" means:
  - a. For purposes of R2-5-902(B), pertaining to the administration of reduction in force, and R2-5-903(A), pertaining to a temporary reduction in force, a group of related classes that is listed in the Arizona Department of Administration, Human Resources Division, Occupational Listing of Classes as a subsection of the occupational group;
  - b. For purposes of R2-5-902(D), pertaining to the calculation of retention points for length of service;

Notices of Proposed Rulemaking

- i. A group of related classes that is listed in the Arizona Department of Administration, Human Resources Division, Occupational Listing of Classes as a subsection of the occupational group, including
  - ii. A position that has been reclassified or reassigned to the class series within five years before the effective date of the reduction in force.
13. "Class specification" means a description of the type and level of duties and responsibilities of the positions assigned to a class.
14. "Clerical pool appointment" means the non-competitive, temporary placement of a qualified individual in a clerical position.
15. "Competition" means the process leading to the identification of candidates for employment or promotional consideration that includes an evaluation of knowledge, skills, and abilities and the development of a hiring list in accordance with these rules.
16. "Covered employee" means an employee in state service who is subject to the provisions of these rules.
17. "Covered position" means a position in state service, as ~~provided by~~ defined in A.R.S. § 41-762.
18. "Days" means calendar days.
19. "Demotion" means a change in the assignment of an employee from a position in one class to a position in another class ~~having with~~ a lower pay grade resulting that results from disciplinary action for cause.
20. "Department" means the Arizona Department of Administration.
21. "Director" means the Director of the Arizona Department of Administration, and the Director's designee with respect to personnel administration.
22. "Eligible dependent" means ~~a dependent eligible for employee benefits under Section 125 of the Internal Revenue Code, the employee-member's, retiree's, or former elected official's spouse under Arizona law or an unmarried child who falls within one or more of the following categories:~~
  - a. A natural child, adopted child, or stepchild who is younger than age 19 or younger than age 25 if a full-time student;
  - b. A child who is younger than age 19 for whom the employee-member, retiree, or former elected official has court-ordered guardianship;
  - c. A foster child who is younger than age 19;
  - d. A child who is younger than age 19 who is placed in the employee-member's, retiree's, or former elected official's home by court order pending adoption; or
  - e. A natural child, adopted child, or stepchild who was disabled before age 19 and under the employee-member's, retiree's, or former elected official's custody before age 19.
23. "Emergency appointment" means an appointment made without regard to the recruitment, evaluation, referral, or selection requirements of these rules in response to a governmental emergency.
24. "Entrance salary" means the minimum rate of the salary plan established for a specific class.
25. "Essential job function" means the ~~physical, mental, and environmental demands of a position's basic job duties that an employee~~ fundamental job duties that an applicant or employee must be able to perform, with or without a reasonable accommodation.
26. "Evaluation" means the procedure used to determine the relative knowledge, skills, and abilities of an applicant.
27. "Flexible or cafeteria employee benefit plan" means a plan providing benefits to eligible employees that meets the requirements of Section 125 of the Internal Revenue Code.
28. "FLSA" means the federal Fair Labor Standards Act.
29. "FLSA exempt" means a position that is not entitled to overtime compensation under the FLSA.
30. "FLSA non-exempt" means a position that is entitled to overtime compensation under the FLSA.
31. "FMLA" means the federal Family Medical Leave Act.
32. "Good standing" means the status of a former employee at the time of separation from state service for reasons other than disciplinary or anticipated disciplinary action.
33. "Grievance" means a formal complaint filed by an employee, using the procedure established in Article 7 of these rules, that alleges discrimination, noncompliance with these rules, or other work-related matters that directly and personally affect the employee.
34. "Human Resources Employment Database" means the database ~~containing~~ that contains the resume of an applicant interested in employment within state service.
35. "Incumbent" means the officer or employee who currently holding holds an office or position.
36. "Institution" means a facility that provides supervision or care for residents on a 24-hour per day, 7-day per week, basis.
37. "Knowledge, skills, and abilities (KSAs)" means ~~familiarity with or possession of information and the capability to perform tasks through a variety of manual, physical, intellectual, or interpersonal activities and a natural talent or acquired expertise to perform the functions of a specific position~~ the qualifications and personal attributes required to perform a job and are generally demonstrated through qualifying service, education, or training.
  - a. Knowledge is a body of information applied directly to the performance of a function;

- b. Skill is an observable competence to perform a learned psychomotor act; and  
c. Ability is competence to perform an observable behavior or a behavior that results in an observable product.
38. "Limited appointment" means an appointment to a position that is funded for at least six months but not more than 36 months.
39. "Limited position" means a position in state service that is established for at least six months but not more than 36 months based on the duration of the funding.
- 39-40. "Manifest error" means an act or failure to act that is, or clearly has caused, a mistake.
- 40-41. "Mobility assignment" means the assignment of a permanent status employee to an uncovered position or to a covered or uncovered position in another state agency.
- 41-42. "Original probation" means the specified period following initial appointment to state service in a regular or limited position for evaluation of the employee's work.
- 42-43. "Original probationary appointment" means the initial appointment to a regular or limited position in state service.
- 43-44. "Parent" means, for purposes of R2-5-403(E), pertaining to ~~donation of~~ annual leave, R2-5-404(A), pertaining to sick leave, and R2-5-410, pertaining to bereavement leave, birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or anyone who can be considered "in loco parentis."
- 44-45. "Participant" means an employee who is enrolled in the state's insurance programs.
- 45-46. "Part-time" means, for purposes of R2-5-402, pertaining to holidays, R2-5-403, pertaining to annual leave, R2-5-404, pertaining to sick leave, R2-5-902, pertaining to reduction in force, and R2-5-903, pertaining to temporary reduction in force, employment scheduled for less than 40 hours per week.
- 46-47. "Pay grade" means a salary range in a state service salary plan.
- 47-48. "Pay status" means an employee is eligible to receive pay for work or for a compensated absence.
- 48-49. "Permanent status" means the standing an employee achieves after the completion of an original probation or a promotional probation.
- 49-50. "Plan" means a flexible or cafeteria employee benefit plan.
- 50-51. "Plan administrator" means the Director, of the Arizona Department of Administration.
- 51-52. "Promotion" means a permanent change in assignment of an employee from a position in one class to a position in another class ~~having that has~~ a higher pay grade.
- 52-53. "Promotional probation" means the specified period of employment following promotion of a permanent status employee for evaluation of the employee's work.
- 53-54. "Qualified" means ~~possessing an individual possesses~~ the knowledge, skills, and abilities required of a specific position, as described in the class ~~specifications~~ specification, plus and any unique characteristics required for the position.
55. "Qualified life event" means a change in an employee's family or employment status, such as marriage, divorce, legal separation, annulment, death of spouse or dependent, birth, adoption, placement for adoption, dependent eligibility due to age, marriage, or student status, changes in employment status or work schedule that affect benefits eligibility for the employee, spouse, or dependent, or changes in residence that affect available plan options for the employee, spouse, or dependent, and other similar life events, that may allow the employee to make benefit changes.
- 54-56. "Reclassification" means changing the classification of a position ~~when~~ if a material and permanent change in duties or responsibilities occurs.
- 55-57. "Reduction" means the non-appealable movement of an employee from one position to another in a lower pay grade as a result of a reduction in force.
- 56-58. "Reemployment" means the appointment of a former permanent status employee who was separated by a reduction in force.
- 57-59. "Regular position" means a full-time equivalent (FTE) position in state service.
- 58-60. "Reinstatement" means the appointment of a former permanent status employee who resigned, was separated in good standing, or was separated without prejudice within two years from the effective date of separation.
- 59-61. "Repromotion" means the promotion of an employee who was reduced in grade due to a reduction in force to the grade held before the reduction in force or to an intervening grade.
- 60-62. "Reversion" means the return of an employee on promotional probation to a position in the class in which the employee held permanent status immediately before the promotion.
- 61-63. "Rules" means the rules contained in the Arizona Administrative Code, Title 2, Chapter 5.
- 62-64. "Separation without prejudice" means ~~the a~~ non-disciplinary removal from state service, without appeal rights, of an employee in good standing ~~from state service~~.
- 63-65. "Special detail" means the temporary assignment of a permanent status employee to a covered position in the same agency.
- 64-66. "State service" ~~means the same as at is defined in~~ A.R.S. § 41-762.
- 65-67. "Surviving spouse" means the husband or wife, as provided by law, of a current or former elected official, or active or retired officer or employee who survives upon the death of the elected official, officer, or employee.
- 66-68. "Temporary appointment" means an appointment made for a maximum of 1,500 hours in any one position per

agency in each calendar year.

~~67-69.~~“Transfer” means the movement of an employee from one position in state service to another position in state service in the same pay grade.

~~68-70.~~“Uncovered position” means a position that is exempt under A.R.S. § 41-771 and not subject to the provisions of these rules.

~~69-71.~~“Underfill” means the appointment of a person to a class with a pay grade that is lower than the pay grade for the allocated class for that position.

~~70-72.~~“Voluntary pay grade decrease” means a change in assignment, at the request of an employee, to a position in a class with a lower pay grade.

#### ARTICLE 4. BENEFITS

##### R2-5-416. Health Benefit Plan

###### A. Eligibility.

1. ~~All A state employees~~ employee, except ~~those an employee~~ listed in subsection (A)(2), and ~~their~~ the employee's eligible dependents may participate in the health benefit plan, if ~~they comply~~ the employee complies with the contractual requirements of the selected health benefit plan. An eligible employee may enroll in a health benefit plan at any time within the first ~~30~~ 31 days of employment or during an open enrollment period specified by the Director. The employee's health benefits coverage is effective on the first day of the month after the employee submits a completed enrollment form to the employing agency or enrolls using the self-service option. To add an eligible dependent due to a qualified life event, an eligible employee may shall submit an application for enrollment within 31 days of a the family status qualified life event.

2. The following categories of employees are not eligible to participate in the health benefit plan:

- a. An employee who works fewer than 20 hours per week;
- b. An employee in a temporary, emergency, or clerical pool position;
- c. A patient or inmate employed in a state institution;
- d. A non-state employee, officer, or enlisted personnel of the National Guard of Arizona;
- e. An employee in a position established for rehabilitation purposes;
- f. An employee of any state college or university:
  - i. Who works fewer than 20 hours per week;
  - ii. Who is engaged to work for fewer than six months; or
  - iii. For whom contributions are not made to a state retirement plan. This disqualification does not apply to a non-immigrant alien employee, an employee participating in a medical residency training program, ~~or~~ a Cooperative Extension employee on federal appointment, or a retiree who returns to work under A.R.S. § 38-766.01.

B. Eligibility exception. An employee who is on leave without pay may continue to participate in the health benefit plan under the conditions in:

1. R2-5-405 for employees on leave without pay due to industrial illness or injury;
2. R2-5-413 for employees on medical leave without pay; or
3. R2-5-414 for employees on leave without pay for any other reason.

C. Dependent eligibility. Dependents eligible to participate in the health benefit plan include an ~~employee's employee-member's~~ spouse as provided by law and each qualifying child.

D. Enrollment of dependents. An eligible employee may enroll eligible dependents at the time of the employee's original enrollment, within 31 days of a ~~family status~~ qualified life event, or at open enrollment.

##### R2-5-417. Life Insurance and ~~Short-term~~ Disability Income Insurance Plans

###### A. Eligibility.

1. ~~All A state employees~~ employee, except ~~those an employee~~ listed in subsection (A)(2), may participate in the life insurance and short-term disability income insurance plans.

2. The following categories of employees are not eligible to participate in the life insurance and short-term disability income insurance plans:

- a. An employee who works fewer than 20 hours per week;
- b. An employee in a temporary, ~~or~~ emergency, or clerical pool position;
- c. A patient or inmate employed in a state institution;
- d. A non-state employee, officer, or enlisted personnel of the National Guard of Arizona;
- e. An employee in a position established for rehabilitation purposes;
- f. An employee of any state college or university:
  - i. Who works fewer than 20 hours per week;
  - ii. Who is engaged ~~in~~ to work for fewer than six months; or
  - iii. For whom contributions are not made to a state retirement plan. This disqualification does not apply to an

Notices of Proposed Rulemaking

- employee participating in a medical residency training program, ~~or~~ a Cooperative Extension employee on federal appointment, ~~or~~ a retiree who returns to work under A.R.S. § 38-766.01.
- B. Supplemental insurance coverage. In addition to the basic life insurance provided at no cost to an employee, an eligible employee may elect to purchase additional group life insurance. The employee may purchase in an amount of insurance that does not exceed three times the employee's annual base salary, rounded down to the nearest \$5,000, or \$200,000, whichever is less or the maximum amount established by the Director.
  - C. Dependent coverage. An eligible employee may elect to purchase group life insurance for the employee's spouse and each qualifying child in an amount established by the Director. ~~The employee may contact a representative of the Human Resources Benefits Section or the employee's agency personnel liaison for details.~~
  - D. Long-term disability coverage. The monthly benefit paid under the disability portion of a plan provided under A.R.S. § 38-651 may be reduced by payments the employee receives or is eligible to receive in the same month as determined by the terms and conditions of the plan.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

[R05-117]

**PREAMBLE**

- 1. **Sections Affected** **Rulemaking Action**  
R4-23-301 Amend
- 2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 32-1904(A)(1) and (5) and 32-1904(B)(7) and (10)  
Implementing statutes: A.R.S. §§ 32-1923, 32-1924(B) and (C), 32-1925(A), (B), (C), (E)(3), and (H), 32-1926, and 32-1926.01
- 3. **A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 11 A.A.R. 698, February 11, 2005
- 4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive Ave., Suite 140  
Glendale, AZ 85302  
Telephone: (623) 463-2727, ext. 131  
Fax: (623) 934-0583  
E-mail: rxcop@cox.net
- 5. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
During the January 12, 2005 Board meeting, the Board determined that a clarification was needed regarding intern licensure by foreign pharmacy graduates. Existing rule (R4-23-301) states that to receive a graduate intern license a graduate of an unapproved college or school of Pharmacy (usually a foreign pharmacy graduate) shall pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) given by the Foreign Pharmacy Graduate Examination Committee (FPGEC) or be accepted to take the FPGEE. The Board determined that just being accepted to take the FPGEE is not sufficient because it appears that a large majority of individuals who receive a graduate intern license from Arizona never actually work as interns in Arizona. It appears the individuals are using the intern license received from Arizona to obtain a visa or work permit and actually work in other states that do not give graduate intern licenses. The Board feels that this is not the proper use of a graduate intern license and intends to amend R4-23-301 to require that an applicant for a graduate intern license who graduated from an unapproved college or school of pharmacy shall have completed Foreign Pharmacy Graduate Examination Committee certification. To receive an FPGEC certificate, an applicant has to pass the FPGEE, the Test of English as a Foreign Language (TOEFL), and the Test of Spoken English (TSE). The Board feels this is a necessary clarification to ensure that before working as an intern an individual has basic communication skills and equivalent pharmacy education. The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

Notices of Proposed Rulemaking

The Board believes that approval of this rule benefits the public and the pharmacy community by clearly establishing the standards for intern licensure.

**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 proposed rule will impact the Board and graduate interns. The proposed rules' impact on the Board will be the usual rulemaking-related costs which are minimal. The proposed rule may have an economic impact on a graduate intern license applicant. The proposed rule will require an individual who graduated from an unapproved school or college of pharmacy to complete FPGEC certification before obtaining a graduate intern license. Existing rule allows an individual who graduated from an unapproved school or college of pharmacy to obtain a graduate intern license by showing proof the individual has been accepted to take the FPGEE. An individual impacted by the proposed rule will not be able to work as a graduate intern during the period after the individual is accepted to take the FPGEE and the date the individual completes FPGEC certification. The proposed rule may have a minimal economic impact on individual applicants who graduated from an unapproved school or college of pharmacy. The Board's duty is to ensure that individuals who seek licensure are qualified. The proposed rule ensures that individuals who graduated from an unapproved school or college of pharmacy have basic communication skills and equivalent pharmacy education before licensure. The proposed rule have no economic impact on the public.

The public, Board, pharmacists, and pharmacies benefit from rules that are clear, concise, and understandable. The proposed rule benefits the public, the Board, and the pharmacy community by clearly establishing the standards for intern licensure and specifically the licensure of individuals who graduated from an unapproved school or college of pharmacy.

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

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

**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:**

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, May 16, 2005. An oral proceeding is scheduled for:

Date: May 16, 2005  
Time: 10:00 a.m.  
Location: 4425 W. Olive Ave., Suite 140  
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person in item #9.

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

Not applicable

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

None



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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS**

Section

R4-23-301. Intern Licensure

**ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS**

**R4-23-301. Intern Licensure**

- A.** No change
- B.** The prerequisites for licensure as a pharmacy intern are:
  - 1. Current enrollment, in good standing, in a Board-approved college or school of pharmacy; or
  - 2. Graduation from a college or school of pharmacy that is not approved by the Board; and
  - 3. Proof that the applicant ~~received~~ has completed Foreign Pharmacy Graduate Examination Committee (FPGEC) certification; or
    - ~~a. A passing score on the Foreign Pharmacy Graduate Equivalency Examination (FPGEE); or~~
    - ~~b. Acceptance to take the FPGEE; or~~
  - 4. By order of the Board if the Board determines the applicant needs intern training.
- C.** No change
- D.** No change
  - 1. No change
  - 2. No change
  - 3. No change
- E.** No change
- F.** No change
  - 1. No change
  - 2. No change
- G.** No change
- H.** Intern application. An applicant for licensure as a pharmacy intern or graduate intern shall:
  - 1. Ensure that the applicant's college or school of pharmacy provides documentation to the Board of the applicant's current enrollment or graduation; and
  - 2. File an application on a form furnished by the Board, that includes:
    - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;
    - b. Name and address of college or school of pharmacy attending or attended, degree anticipated or received, and anticipated date or date of graduation;
    - c. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
    - d. Whether the applicant has ever had an intern license revoked, suspended, or denied in this state or any other jurisdiction, and if so, indicate where and when;
    - e. A recent photograph of the applicant that is no larger than 2 1/2" x 3" with the applicant's signature on the front;
    - f. If the applicant graduated from an unapproved college or school of pharmacy, ~~a verification of acceptance to take the FPGEE or~~ an original Foreign Pharmacy Graduate Equivalency Examination Committee (FPGEC) certification document;
    - g. Date signed and applicant's verified signature; and
    - h. The initial licensure fee specified in R4-23-205.
- I.** No change
- J.** No change
- K.** No change
  - 1. No change
  - 2. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R05-113]

PREAMBLE

**1. Sections Affected**

R12-4-101  
R12-4-107  
R12-4-124

**Rulemaking Action**

Amend  
Amend  
New Section

**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. § 17-231

Implementing statutes: A.R.S. §§ 17-231(A)(2), (3), and (8) and 17-234

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

Notice of Public Information: 10 A.A.R. 3093, August 6, 2004

Notice of Rulemaking Docket Opening: 10 A.A.R. 3762, September 10, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 4157, October 15, 2004

Notice of Rulemaking Docket Opening: 11 A.A.R. 586, January 28, 2005

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

Name: Carlos Ramirez, Rulewriter

Address: Arizona Game and Fish Department  
2221 W. Greenway Rd DORR  
Phoenix, AZ 85023-4399

Telephone: (602) 789-3288, ext. 206

Fax: (602) 789-3677

E-mail: rulemaking@azgfd.gov

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

The Department is amending existing rules and proposing to add a new rule in order to establish a "conservation bonus point" program. This program will allow an individual to receive an additional bonus point to be used in the Department's seasonal random hunt permit-tag drawing if the individual participates in a Department-authorized volunteer activity. In order to receive the point, an individual has to complete 48 hours of volunteer activity in a project that is authorized by the Department for conservation bonus points, and have that activity recorded by a Department-certified record keeper. Organizations and individuals may also submit projects to the Department to be authorized for conservation bonus points, but these projects must be "based upon or [support] the Department's mission statement". Projects organized by a group or individual other than the Department must also allow all individuals, regardless of membership, to participate. To ensure this, the proposed rules require that all activities not sponsored by the Department obtain participants through "first-come, first-served" enrollment. A participant may be required to attend an orientation session or safety training before participating in a project if the project requires it for successful completion. A participant must complete the 48 hours of volunteer service within 3 consecutive calendar years to earn the point. A bonus point received through this program is not permanent, but shall be applied to each wildlife genus for which a bonus point may be issued.

The objective of this rulemaking is primarily to reward those individuals that volunteer to assist the Department in the execution and achievement of its wildlife management objectives, and also to maintain resident hunting opportunity in the state.

NOTE: This rulemaking does not reflect recent changes made to the text of R12-4-101 and R12-4-107 approved by the Governor's Regulatory Review Council at its February 1 and March 1, 2005, meetings. However, any amendments noticed in this proposed rulemaking do not conflict with revisions made to the base text nor do any amendments qualify as substantive changes.

**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 proposed rulemaking will directly impact the Department by creating new implementation costs to administer the program, and to procure or sponsor volunteer programs to meet the demands of the regulated community; but the proposed rulemaking will also benefit the Department by rewarding volunteers for assisting in the completion of wildlife management projects and thus improving wildlife management in the state, and by using donated volunteer time as an in-kind match for grants. The proposed rulemaking will directly benefit those individuals that are able to volunteer, costing them time; but conversely will negatively affect those individuals who cannot participate, because they will not earn additional bonus points to improve their hunt permit-tag draw odds. Ultimately, it is the resource that will benefit; but depending on the types of projects for which conservation bonus points may be issued, the proposed rulemaking may benefit other agencies or entities that share responsibility for the conservation of those resources, such as land or wildlife. The proposed rulemaking will not impact employment in the state, nor revenues or payroll expenditures for businesses. The proposed rulemaking will not impact the state general fund, but may impact the Department's budget in ways that are yet to be determined. The Department has determined that there are no alternative means of achieving the objective of the proposed rulemaking, and that the benefits of the proposed rulemaking outweigh any costs.

**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: Dana Yost  
Address: 2221 W. Greenway Rd., DOHQ  
Phoenix, AZ 85023  
Telephone: (602) 789-3281  
Fax: (602) 789-3299  
E-mail: dyost@azgfd.gov

**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:**

Date: May 14, 2005  
Time: 9:00 a.m.  
Location: Arizona State Fairgrounds  
Wildlife Building  
1826 W. McDowell Rd.  
Phoenix, AZ 85005

**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 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section  
R12-4-101. Definitions  
R12-4-107. Bonus Point System  
R12-4-124. Conservation Bonus Point Program

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

**R12-4-101. Definitions**

A. In addition to the definitions provided in A.R.S. § 17-101, R12-4-481, and R12-4-501, the following definitions apply to this Chapter, unless the context otherwise requires:

1. "Artificial lures and flies" means man-made devices intended as visual attractants for fish and does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.
  2. "Bonus point" means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.
  3. "Commission order" means a document adopted by the Commission that does any or all of the following: open, close, or alter seasons and open areas for taking wildlife; specify wildlife that may or may not be taken; set bag or possession limits for wildlife; or set the number of permits available for limited hunts.
  4. "Conservation bonus point" means a bonus point awarded to an individual who has completed 48 hours of certified volunteer work on an eligible volunteer work project under the requirements of R12-4-124.
  - ~~4-5.~~ "Crayfish net" means a net not exceeding 24 inches on a side or in diameter that is retrieved by means of a hand-held line.
  - ~~5-6.~~ "Hunt area" means a game management unit, portion of unit, or group of units opened to hunting by a particular hunt number.
  - ~~6-7.~~ "Hunt number" means the number assigned by Commission order to any hunt area where a limited number of hunt permits is available.
  - ~~7-8.~~ "Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission order.
  - ~~8-9.~~ "Hunt permit-tag" means a tag for a hunt for which a Commission order has assigned a hunt number.
  - ~~9-10.~~ "Identification number" means a number assigned to each applicant or licensee by the Department, as described in R12-4-111.
  - ~~10-11.~~ "License dealer" means a business authorized to sell hunting, fishing, and other licenses pursuant to R12-4-105.
  - ~~11-12.~~ "Live baitfish" means any species of live freshwater fish designated by Commission order as lawful for use in taking aquatic wildlife pursuant to R12-4-313.
  - ~~12-13.~~ "Management unit" means an area established by the Commission for management purposes.
  - ~~13-14.~~ "Minnow trap" means a trap with dimensions not exceeding 12 inches in depth, 12 inches in width and 24 inches in length.
  - ~~14-15.~~ "Muzzle-loading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
  - ~~15-16.~~ "Muzzle-loading rifle" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
  - ~~16-17.~~ "Nonpermit-tag" means a tag for a hunt for which a Commission order has not assigned a hunt number and the number of tags is not limited.
  - ~~17-18.~~ "Restricted nonpermit-tag" means a tag issued to a hunter pool applicant for a supplemental hunt under R12-4-115.
  - ~~18-19.~~ "Simultaneous fishing" means the taking of fish by two lines and not more than two hooks or two artificial lures or flies per line.
  - ~~19-20.~~ "Sink box" means a low floating device having a depression affording the hunter a means of concealment beneath the surface of the water.
  - ~~20-21.~~ "Tag" means the authorization that an individual is required to obtain from the Department under A.R.S. Title 17 and 12 A.A.C. 4 before taking certain wildlife.
  - ~~21-22.~~ "Waterdog" means the larval or metamorphosing stage of salamanders.
  - ~~22-23.~~ "Wildlife area" means an area established pursuant to 12 A.A.C. 4, Article 8.
- B. If the following terms are used in a Commission order, the following definitions apply:
1. "Antlered" means having an antler fully erupted through the skin and capable of being shed.
  2. "Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.
  3. "Buck antelope" means a male pronghorn antelope with a horn longer than its ear.
  4. "Bull elk" means an antlered elk.
  5. "Ram" means any male bighorn sheep, excluding male lambs.

**R12-4-107. Bonus Point System**

- A. For the purpose of this Section, "bonus point hunt number" means the hunt number assigned by the Commission in a Commission Order for use by an applicant applying only for a bonus point for a genus identified in this Section.
- B. The bonus point system grants each person one entry in each drawing for elk, buffalo, bighorn sheep, antelope, or deer for

each bonus point which that person has accumulated under this Section or under R12-4-124. Each bonus point entry is in addition to the entry normally granted by R12-4-104. When processing "group" applications as defined in R12-4-104, the Department shall use the average number of bonus points accumulated by the persons in the group, rounded to the nearest whole number. If the average is greater than or equal to .5, the total will be rounded up to the next highest number.

- C. The Department shall award one bonus point to each applicant who submits a valid Hunt Permit-tag Application Form if all of the following apply:
1. The application is unsuccessful in the drawing, or the application is for a bonus point only;
  2. The application is not for hunt permit-tags left over after the drawing which are available on a first-come, first-served basis as prescribed in R12-4-114; and
  3. The applicant, before the drawing, has purchased a hunting license valid for the year that corresponds with the applicable hunt number. The applicant shall either provide the hunting license number on the application, or submit an application and fees for the license with the Hunt Permit-tag Application Form, indicating that the applicant is to be issued the license even if not drawn for a hunt permit-tag.
- D. Each applicant for a bonus point shall:
1. Submit a valid Hunt Permit-tag Application Form, as prescribed in R12-4-104, with the Commission-assigned bonus point hunt number for the particular genus as the first choice hunt number on the application. Placing the bonus point hunt number as a choice other than the first choice invalidates the application;
  2. Include with the application, payment for the applicable hunt permit-tag fee for the particular genus, the permit application fee, and if a license is requested, a fee for the license; and
  3. Submit only one Hunt Permit-tag Application Form for the same genus for each season that bonus points are issued for that season genus.
- E. With the exception of conservation bonus points awarded under the provisions of R12-4-124 and the hunter education bonus point, ~~Each each~~ bonus point accumulated is valid only for the genus designated on the Hunt Permit-tag Application Form.
- F. Except for a permanent bonus points point awarded for hunter education and conservation bonus points that are accrued and expire as prescribed in R12-4-124, all of a person's accumulated bonus points for a genus ~~are forfeited~~ expire if:
1. The person is issued a hunt permit-tag for that genus in a computer drawing; or
  2. The person fails to submit a Hunt Permit-tag Application Form for that genus for five consecutive years.
- G. An applicant issued a first-come hunt permit-tag under R12-4-114(C)(2)(d) after the computer drawing does not lose bonus points for that tag, and a valid but unsuccessful applicant for a first-come hunt permit-tag remaining after the computer drawing does not gain a bonus point.
- H. The Department shall award one permanent bonus point for each genus upon a person's first graduation from the Department's Arizona Hunter Education Course or for serving as a Department hunter education instructor.
1. The Department shall credit a person who graduated after January 1, 1980, but before January 1, 1991, or a person certified by the Department as an active hunter education instructor after January 1, 1980, with one permanent bonus point for each genus if the person provides the following information on a form available from the Department: Department identification number; name; address; residency status and length of Arizona residency, if applicable; date of birth; sex; weight; height; color of hair and eyes; and, for a person other than an instructor, the month and year of graduation from the Department's Arizona Hunter Education Course.
  2. An instructor or a person who has graduated shall submit the required form 30 days before a drawing's application date deadline, specified in the hunt permit-tag application schedule, in order for the bonus point to be counted by the Department in that drawing.
- I. The Department shall make an applicant's total number of accumulated bonus points available on the Department's web site or IVR telephone system. If the applicant disagrees with the total, the applicant shall provide previous notices or proof of compliance with this Section or Section R12-4-124 to prove Department error. In the event of an error, the Department shall correct the applicant's record.
- J. The Department shall record bonus points under an applicant's Department identification number ~~and for~~ for the genus on the application, and in the case of a conservation bonus point, for each genus listed in subsection (B). The Department shall not transfer bonus points between persons or genera.
- K. The Department shall reinstate any bonus points forfeited for a successful hunt permit-tag application for military personnel, military reserve personnel, national guard personnel, or public agency employees who are unable to use a hunt permit-tag due to mobilization, activation, or required duty in response to a declared national or state emergency, or required duty in response to an action by the President, Congress, or a governor of the United States or its territories. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this Section. To request that forfeited bonus points be reinstated under these circumstances, an applicant shall submit the following to the Arizona Game and Fish Department, Draw Section, 2222 W. Greenway Rd., Phoenix, AZ 85023:
1. A letter from the applicant requesting reinstatement of bonus points;
  2. The hunt number for which the tag is valid;

Notices of Proposed Rulemaking

3. Evidence of mobilization or duty status, such as a letter from the public agency or official orders;
4. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable;
5. The valid, unused tag, which must be received before the beginning date of the hunt for which the tag is valid, or evidence of mobilization or activation that precluded the applicant from submitting the tag before the beginning date of the hunt.

**R12-4-124. Conservation Bonus Point Program**

- A.** For the purpose of this Section, the following definitions apply:
1. “Certified Record Keeper” means a Department-approved volunteer or Department employee who shall be responsible for certifying completion of volunteer work hours on projects that the Department has certified as eligible for the Conservation Bonus Point Program.
  2. “Conservation Bonus Point Program” means a program administered by the Department that provides an eligible participant with an opportunity to earn and accumulate additional bonus points to be used under the bonus point system as prescribed in this Section and R12-4-107.
  3. “Eligible participant” means an individual who, if required, has attended and completed any project-related orientation or safety training before beginning work on an eligible project.
  4. “Eligible project” means a project that is either Department sponsored, or that has been preapproved by the Department as prescribed by this Section and is based upon or in support of the Department’s written mission statement.
- B.** The certified record keeper shall be responsible for verifying an eligible participant’s volunteer hours, and compiling and certifying all records and reporting requirements for eligible projects, including a volunteer’s hours of service. Certified record keepers shall complete a Department approved training course as a part of the certification process before being approved to perform verification and recordkeeping responsibilities for an eligible project.
- C.** At the completion of an eligible project, the project’s certified record keeper shall submit an original Certified Volunteer Record Form to the Department. The certified record keeper shall submit the form to the Department at the Department address printed on the form.
- D.** The Department has the authority to revoke a certified record keeper’s certification if there is substantial evidence that the certified record keeper has failed to perform the duties prescribed by this Section.
- E.** An individual may participate in an eligible project on a first-come, first-served basis coordinated through the project’s certified record keeper or the Department’s designated project contact.
- F.** The Department shall award an eligible participant a conservation bonus point per calendar year for 48 certified hours of volunteer work on an eligible project or projects. An eligible participant volunteer shall have up to 3 consecutive calendar years to complete the 48 certified hours of volunteer work necessary to accrue one conservation bonus point.
- G.** An individual’s accumulated conservation bonus points are valid for all genera listed in R12-4-107, but shall expire for any one genus, if:
1. The individual is issued a valid hunt permit-tag for that genus in an automated drawing; or
  2. The individual fails to submit a hunt permit-tag application form for that genus for five consecutive years.
- H.** To be credited with a conservation bonus point, an individual shall complete the required 48 certified hours of volunteer work on an eligible project or projects, as prescribed by this Section, and shall apply to the Department on a Department approved form or by a Department approved method, providing the following information:
1. Name, home mailing address, residency status, and date of birth; and
  2. The applicant’s Department identification number.
- I.** An applicant for a conservation bonus point shall submit the required application form and fee prescribed in R12-4-102 no later than 30 days before an application deadline date for a hunt permit-tag, as specified in the hunt permit-tag application schedule, for the Department to credit an accrued conservation bonus point for the hunt permit-tag application.
- J.** The Department shall credit a conservation bonus point under an applicant’s Department identification number and apply the bonus point to each genus listed in R12-4-107.
- K.** An individual or organization that is sponsoring a project and seeking designation of a project as an eligible project for the conservation bonus point program shall submit the following project details to the Department on a Department approved form no later than 45 days before the project start date:
1. Start and end dates of the project.
  2. Location of the project.
  3. Number of volunteers required.
  4. A description of the project activity.
  5. A description of how the project supports the mission of the Department.
  6. Name and contact information for the Certified Conservation Bonus Point Record Keeper who will serve as the project contact, and
  7. Estimated number of hours the project will take to complete.
- L.** The Department shall approve or deny an application for a conservation bonus point project within 15 days after an appli-

cant submits a project application. The Department shall publish and maintain a list of eligible projects and project contacts, either through the Department's web site or through printed materials.

**M.** Eligible project service hours shall not include travel time to or from project locations. Eligible project services hours shall include time spent in orientation or safety training, if applicable.