

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

[R05-07]

PREAMBLE

1. Sections Affected

R2-8-121
Article 4
R2-8-401
R2-8-402
R2-8-403
R2-8-404
R2-8-405

Rulemaking Action

Repeal
New Article
New Section
New Section
New Section
New Section
New Section

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

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

Implementing statute: A.R.S. § 38-714(F)(1); Title 41, Ch. 6, Art. 10

3. The effective date of the rules:

January 4, 2005

This rule becomes effective upon filing with the Secretary of State. This immediate effective date is allowed under A.R.S. § 41-1032(A)(4), which allows a rule to become effective immediately when it provides a benefit to the public and a penalty is not associated with a violation of the rule. It is a benefit to the public to have current, up-to-date rules that provide clear direction for appealing a decision of the Director. The current rules were last amended in 1985, and include procedures that violate current statutes. This rule does not impose any additional requirements upon the public, and there is no penalty associated with the violation of this rule.

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 3759, September 10, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 3862, September 17, 2004

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

Name: Nancy O. Johnson, Rules Coordinator

Address: Arizona State Retirement System
3300 N. Central Ave., 14th Floor
Phoenix, Arizona 85012

Telephone: (602) 308-5172

Fax: (602) 240-5303

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

or

Name: Susanne Dobel, Manager, External Affairs

Address: Arizona State Retirement System
3300 N. Central Ave., 14th Floor
Phoenix, Arizona 85012

Telephone: (602) 240-2039

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Fax: (602) 240-5303
E-mail: susanned@asrs.state.az.us

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

On November 7, 2000 the Governor's Regulatory Review Council (G.R.R.C.) approved the ASRS 5-Year-Review Report. Noting that R2-8-121 was last amended in 1985, the report found that the current rule conflicts with current statutes and is not clear, concise, or understandable. The report indicated that R2-8-121 would be amended to conform to statutes, Board policy, and current rulemaking format and style requirements. This rulemaking is in response to the recommendations in that report. R2-8-121 is repealed, and a new Article 4 includes the subject matter that is currently in R2-8-121. Article 4 includes definitions for the Article and provides more specific procedures for the appeal process.

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

The agency did not review any study relevant to the rule.

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

Not applicable

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

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.

The ASRS will bear moderate to substantial costs for promulgating and enforcing the rules. Costs for promulgating the rules include staff time to write, review, and direct the rules through the rulemaking process. The cost of the Office of Administrative Hearings (OAH) handling the hearings is estimated to be \$500 per day. During fiscal year 2004 there were two hearings that lasted a total of four days. Through November of fiscal year 2005 there have been a total of three hearings that lasted a total of one and a half days. However, there are a number of benefits to allowing OAH to preside over the evidentiary hearings. It allows the Board to focus on its other fiduciary duties and responsibilities required to preserve and protect the retirement trust fund, while retaining the ability to accept, modify, or reject the OAH recommended decision. It will take less ASRS staff time to prepare for the Board meetings, because it will not involve preparation for hearings. Additionally, using a third party (OAH) for all appeals removes any argument that the appellant may make that the appellant is not receiving an impartial hearing with the ASRS Board.

The ASRS expects that there is no change in the cost of a hearing for the appellant.

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

Technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

11. A summary of the comments made regarding the rule 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. Incorporation by reference and their location in the rules:

Not applicable

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

No

15. The full text of the rule follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

Section
R2-8-121. Hearings Repealed

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

Section

<u>R2-8-401.</u>	<u>Definitions</u>
<u>R2-8-402.</u>	<u>General Procedures</u>
<u>R2-8-403.</u>	<u>Request for a Hearing of an Appealable Agency Action</u>
<u>R2-8-404.</u>	<u>Board Decisions on Hearings before the Office of Administrative Hearings</u>
<u>R2-8-405.</u>	<u>Rehearing; Review of a Final Decision</u>

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

R2-8-121. Hearings Repealed

- A.** Upon application made, within 90 days of mailing the Board's certification of prior service credit allowance, or receipt of a refund, retirement income, or death benefit payment, or for the purpose of determining any question involving any right, benefit, or obligation of a member, a member may request a hearing limited to the accuracy of the certification or payment, or determination of any question involving any right, benefit, or obligation of such member. Such hearing, if granted, shall be scheduled by the Board upon adequate written notice to the member and may be conducted by the Board or any member thereof. In the event the hearing is held before less than a majority of the Board, a transcript of the record of the hearing shall be made and shall be reviewed by the Board, together with the recommendation of the person conducting the hearing, before a decision is made. The hearing shall be conducted in an informal manner, and the evidentiary rules obtaining in a court of law shall not be adhered to. A decision of the Board adverse to a member may be appealed to the Superior Court of the state of Arizona in accordance with A.R.S. §§ 12-901 through 12-914, providing a hearing had been requested within the time specified.
- B. Rehearing:**
1. Except as provided in paragraph (7), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefore.
 2. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party or the Attorney General. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
 3. A rehearing of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - a. Irregularity in the proceedings before the Board or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - b. Misconduct of the Board, its employees or its hearing officer or the prevailing party;
 - c. Accident or surprise which could not have been prevented by ordinary prudence;
 - d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - e. Excessive or insufficient penalties;
 - f. Error in the admission or rejection of evidence or other error of law occurring at the hearing;
 - g. That the decision is not justified by the evidence or is contrary to law.
 4. The Board may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in paragraph (3). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
 5. The Board, within the time for filing a motion for rehearing under this rule, may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing, timely served, for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the ground therefor.
 6. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party or the Attorney General may within ten days after such service serve opposing affidavits.
 7. If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any 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 decision.

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions

The following definitions apply to this Article unless otherwise specified:

1. “Appealable agency action” has the same meaning as in A.R.S. § 41-1092.
2. “Board” has the same meaning as in A.R.S. § 38-711.
3. “Director” means the Director appointed by the Board as provided in A.R.S. § 38-715.
4. “Party” has the same meaning as in A.R.S. § 41-1001.
5. “Person” has the same meaning as in A.R.S. § 41-1001.

R2-8-402. General Procedures

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

R2-8-403. Request for a Hearing of an Appealable Agency Action

A. A person who is not satisfied with a decision by the Director that is an appealable agency action may file a Request for a Hearing, in writing, with the Director. The request shall include the following:

1. The name and mailing address of the member, employer, or other person filing the request;
2. The name and mailing address of the attorney for the person filing the request, if applicable;
3. A concise statement of the reasons for the appeal.

B. The person requesting a hearing shall file the Request for a Hearing with the ASRS Office of the Director within 30 days after receiving a decision of the Director and a Notice of an Appealable Agency Action. The date the request is filed is established by the Director’s date stamp on the face of the first page of the request.

C. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03.

R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board’s next regular monthly meeting, shall be reviewed by the Board at that monthly meeting. At the monthly meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board’s final decision to the Office of Administrative Hearings within five days after the monthly meeting at which the Board made the final decision.

R2-8-405. Rehearing; Review of a Final Decision

A. Except as provided in subsection (H), any party in an appealable agency action aggrieved by a final decision may file with the Board a written motion for rehearing or review of the final decision specifying the particular grounds not later than 30 days after service of the decision.

B. A party may amend a motion for rehearing or review at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

C. The Board may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party’s rights:

1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
2. Misconduct of the Board, the hearing officer, or the prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. That the decision is not justified by the evidence or is contrary to law.

D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.

E. Not later than 10 days after the decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.

F. When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An

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opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.

- G.** The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- H.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

[R05-08]

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R3-11-502 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. § 32-2207(1)
Implementing statute: A.R.S. § 32-2207(8)
- 3. The effective date of the rule:**
March 5, 2005
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R.1982, May 14, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 2472, June 25, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Jenna Jones, Executive Director
Address: Veterinary Medical Examining Board
1400 W. Washington St., Room 240
Phoenix, AZ 85018
Telephone: (602) 364-1739
Fax: (602) 542-3093
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**
The Arizona Veterinary Medical Examining Board was asked by the State Veterinarian, the State Public Health Veterinarian, and many rural Arizona animal control agencies to change the requirement that an animal receive a full examination before receiving a rabies vaccination. It is believed the change will result in more animals being vaccinated against rabies. According to testimony from the Department of Health Services, there has been an increase in the number of rabies cases in wild animals and therefore, a greater chance that pets may be exposed to rabies, which in turn exposes more citizens to this disease. Vaccinating more pets will reduce the threat of rabies to citizens.

The proposed change affects only the examination requirement before a rabies vaccination. It does not change the requirements if any veterinary medical service other than a rabies vaccination is initiated.
- 7. A reference to any study that the agency reviewed and either did or did not rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

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

The Board does not anticipate any negative economic or small business impact. People who would not normally take their pets to a veterinarian due to the expense of the examination will benefit from the lower cost and may obtain rabies vaccinations that would otherwise not be done. Therefore, the Board does not anticipate an impact on veterinarians in these areas as the people would not likely take their pets for veterinary services. There may also be a reduction in health expenses to citizens because reduced exposure to rabies will reduce the amount spent on treatment.

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

None

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

The Board received no comments

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

None

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

None

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

No

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

ARTICLE 5. STANDARDS OF PRACTICE

Section

R3-11-502. Standards of Practice

ARTICLE 5. STANDARDS OF PRACTICE

R3-11-502. Standards of Practice

- A. Before providing a veterinary medical ~~services~~ service or housing an animal, a responsible veterinarian shall ensure that the animal owner is provided a written notice that states whether personnel will be present on the veterinary medical premises for 24-hour observation of the animal.
- B. Before providing a veterinary medical ~~services~~ service, a veterinarian shall ensure that the animal owner is provided an estimate of the cost for the veterinary medical ~~services~~ service, except in the case of livestock.
- C. Before providing a veterinary medical service, a veterinarian shall ensure that no expired supplies are used.
- ~~C.D.~~ Before an animal is discharged, a veterinarian shall ensure that the animal owner is provided with instructions detailing the care of the animal after discharge.
- ~~D.E.~~ Before euthanizing an animal for which the animal owner is known, a veterinarian shall obtain written authorization from the animal owner or verbal authorization from the animal owner is witnessed by ~~1~~one other individual and documented in the medical record.
- ~~E.F.~~ A veterinarian shall separate an animal with a suspected or diagnosed contagious disease or illness so ~~that~~ neither the animal nor the interior of the animal's compartment comes into contact with another animal or the other animal's compartment.
- ~~F.G.~~ If general anesthesia is administered or surgery is performed on an animal by a veterinarian, the veterinarian shall ensure:
 - 1. Authorization to perform surgery is obtained from the animal owner if the animal owner is known, before surgery is performed;
 - 2. ~~The animal owner is provided the notifications stated in R3-11-502(A) and (B) before anesthesia is administered or surgery is performed;~~
 - 3-2. Within ~~6~~six hours before anesthesia is administered or surgery is performed, the animal is examined and the animal's temperature, heart rate, respiratory rate, diagnosis, and general condition are recorded in the animal's medical record;
 - 4. ~~Expired supplies are not used;~~
 - 5-3. The animal's heart rate and respiratory rate are recorded in the animal's medical record immediately after giving the animal a general anesthetic and monitored and recorded a minimum of every 15 minutes while anesthesia is being administered;
 - 6-4. After the animal is given a general anesthetic, the animal is continuously observed by personnel until the animal is

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extubated and able to swallow; and

~~7.5. For 3 years from the date of the administration of an anesthesia, a written anesthetic log is maintained on the veterinary medical premises that includes:~~

The following information is recorded in a written anesthesia log, which is maintained on the veterinary medical premises for three years from the date the anesthesia is administered:

- a. The animal's name and species,
- b. The name of the animal owner,
- c. The date of administration of the anesthesia,
- d. The recovery status of the animal, and
- e. The name of the veterinarian administering the anesthesia.

~~G.H.~~ A veterinarian shall follow manufacturer's label requirements for the storage and handling of biologics, veterinary supplies, and veterinary medications.

~~H.I.~~ A veterinarian who dispenses a ~~prescription-only drug~~ prescription-only drug shall:

1. Comply with all federal and state laws, including A.A.C. Title 3, Chapter 11, Article 8, regarding the dispensing of ~~prescription-only drug~~ prescription-only drug; and
2. Ensure that a ~~prescription-only drug~~ prescription-only drug or prescription-only device is destroyed or returned to the manufacturer or distributor no later than 30 days ~~from~~ after its expiration date; ~~and~~

~~H.J.~~ A veterinarian who dispenses a ~~controlled substance~~ substance shall:

1. Comply with all federal and state laws including A.A.C. Title 3, Chapter 11, Article 8; ~~and~~
2. Maintain an inventory record on the veterinary medical premises for ~~2~~ two years from the date of entry of each controlled substance purchased by the veterinarian that contains the:
 - a. Name of the controlled substance,
 - b. Strength of the controlled substance,
 - c. Date the controlled substance was received by the veterinarian,
 - d. Amount of the controlled substance received by the veterinarian,
 - e. Name of the distributor of the controlled substance, and
 - f. Invoice number; ~~and~~
3. Maintain a dispensing log on the veterinary medical premises, separate from the inventory record, ~~for 2~~ two years from the date of entry that contains for each controlled substance dispensed the:
 - a. Name of the controlled substance,
 - b. Strength of the controlled substance,
 - c. Amount of the controlled substance,
 - d. Name of the animal to whom dispensed,
 - e. Name of the animal owner,
 - f. Date dispensed, and
 - g. Name of the veterinarian who dispensed the ~~drug~~ controlled substance.

~~J.K.~~ ~~For 3 years from the last date an animal receives veterinary medical services~~ Except as provided in subsection (M), a veterinarian shall maintain on the veterinary medical premises for three years after the last date an animal receives veterinary medical services a written medical record ~~on the veterinary medical premises~~ containing the:

1. Name, address, and telephone number of the animal owner;
2. Description, sex, breed, weight, and age of the animal;
3. Date of veterinary medical services;
4. Results of examination, including temperature, heart rate, respiratory rate, diagnosis, and general condition of the animal, except for livestock;
5. Treatment provided to the animal;
6. Name of each medication administered including dosage, amount, and frequency;
7. Name of each medication prescribed including dosage, amount, and frequency;
8. Name and result of each diagnostic and laboratory test conducted;
9. Signature or initials of each individual placing an entry in the medical record; and
10. Signature or initials of the veterinarian performing the veterinary medical services.

~~K.L.~~ A veterinarian shall ensure that a radiograph of an animal is permanently labeled with the following information and maintained on the veterinary medical premises for ~~3~~ three years from the last date an animal receives veterinary medical services:

1. The name of the animal owner,
2. The name of the animal,
3. The date the radiograph was taken,
4. The name of the veterinarian or veterinary medical premises, and
5. The anatomical orientation.

M. A veterinarian who administers a rabies vaccine to an animal on behalf of an animal control agency or animal shelter and

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provides no other veterinary medical service to the animal:

1. Is exempt from the requirements of subsection (K):
 2. Shall generate a rabies vaccination record for each animal vaccinated that includes:
 - a. The name and address of the animal owner;
 - b. A description of the animal that includes species, breed, sex, size, age, and color;
 - c. The date of vaccination;
 - d. The vaccine manufacturer's name;
 - e. The serial number of the vaccine used;
 - f. The date revaccination is due; and
 - g. The veterinarian's signature; and
 3. Shall provide a copy of each rabies vaccination record to the veterinary medical premises, animal control agency, or animal shelter at which the rabies vaccination was provided. If a copy of the rabies vaccination record is provided to the veterinary medical premises, the veterinary medical premises shall maintain the record for at least three years from the date of vaccination.
- N.** In this Section, unless otherwise specified:
1. "Animal control agency" means a board, commission, department, office, or other administrative unit of federal or state government or of a political subdivision of the state that is responsible for controlling rabies in animals in a specific geographic area.
 2. "[A]nimal shelter" means a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit corporate organization devoted to the welfare, protection and humane treatment of animals. A.R.S. § 11-1022(F).

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

[R05-09]

PREAMBLE

1. Sections affected

- R4-19-201
- R4-19-202
- R4-19-203
- R4-19-204
- R4-19-205
- R4-19-206
- R4-19-207
- R4-19-208
- R4-19-209
- R4-19-210
- R4-19-211
- R4-19-212
- R4-19-214
- R4-19-215

Rulemaking action

- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- New Section

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

Authorizing statutes: A.R.S. §§ 32-1606(A)(1) and 32-1606(B)(1), (2) and (3)
 Implementing statutes: A.R.S. §§ 32-1644 and 32-1631(3)

3. The effective date of the rules:

March 7, 2005

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 506, February 13, 2004
 Notice of Proposed Rulemaking: 10 A.A.R. 3541, September 3, 2004

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

Name: Pamela K. Randolph
 State Board of Nursing

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Address: 1651 E. Morten, Suite 210
Phoenix, AZ 85020
Telephone: (602) 889-5209
Fax: (602) 889-5155
E-Mail: prandolph@azbn.org

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

The Board of Nursing (Board) is initiating rulemaking on Sections of Article 2 in response to a request from a nationally accredited educational institution that the Board amend the rules to allow a nationally accredited parent institution to offer a nursing program and better clarify existing rules. The Board currently restricts nursing programs to regionally accredited institutions. The International Institute of the Americas presented compelling evidence regarding the comparability of regional accreditation to accreditation by the Accrediting Council of Independent Colleges and Schools, a national accrediting body recognized by the U.S. Secretary of Education. The Board is amending R4-19-201 to allow any nationally accredited post-secondary school to seek Board approval to offer a nursing program. Other Sections in the Article are amended to enhance clarity, measurability, and applicability to non-regionally accredited institutions. The following changes are being proposed:

R4-19-201

The Board is amending this Section to allow a post-secondary institution that is accredited by an accrediting body recognized by the U.S. Secretary of Education to apply for a nursing program. In a survey of all Boards of Nursing in the US, it was noted that Arizona was one of seven Boards of Nursing that required the parent institution of a nursing program to be regionally accredited. Fourteen boards require no accreditation for the parent institution. Twenty-five boards require some sort of approval or accreditation but do not restrict the accrediting body to a regional accrediting agency. Two boards of nursing require that programs be offered in a college or university. One board requires the nursing program to be nationally accredited by the National League for Nursing Accrediting Council (NLNAC) or the Commission on Collegiate Nursing Education (CCNE). In amending this Section, the Board will be substantially consistent with approximately half of the boards of nursing in the United States. The Board believes that accreditation of the institution is important in assuring that the education provided conforms to national standards. Regional accreditation offers the advantage to the student of transferability of credits and adherence to rigorous standards for higher education. However, national accreditation standards are similar to regional accreditation, as shown in a document presented by the International Institute of the Americas (Roe, S. *Comparison of North Central Association of Colleges and Schools Commission on Institutions of Higher Education Accreditation Criteria and Standards with the Accrediting Council for Independent Colleges and Schools Accreditation Criteria (2000).*) The U.S. Department of Education recognizes both national and regional accreditation for funding purposes. By recognizing the same institutions that are recognized by the U.S. Department of Education, trade and vocational schools will be able to offer nursing programs in Arizona. Currently there is a need for additional placements for students in nursing programs. The Board will protect the safety of the public through the other rules in this Article that require all nursing programs to adhere to minimum standards.

The requirement that a parent institution appoint an administrator was added to this Section. The Board received a recent inquiry as to whether an administrator of one institution's nursing program could function as an administrator of another institution's nursing program at the same time. The Board believes that the position of administrator requires a commitment to the parent institution and the program.

The requirement that policies be reviewed on a regular basis is deleted because it was believed that this area is adequately covered in Subsection (I) and not believed to enhance public protection.

R4-19-202

Amendments in this Section include increasing the specificity for classroom requirements that enhance learning. Some parent institutions have not provided adequate classrooms for their nursing classes in the past. These specific requirements will serve to inform the parent institutions that classrooms must meet minimal standards.

R4-19-203

This Section was amended to require the administrator of a nursing program to establish policies to ensure that students, faculty, and preceptors are physically and mentally able to provide safe client care and instruction. The Board has received reports of students caring for patients in clinical practice settings while exhibiting obvious signs of impairment. The programs cite a lack of policy as the reason they must allow students to provide care in such situations. This amendment will ensure that all programs have policies to protect patients when caregivers are unable to provide safe care.

R4-19-204

The teaching load provision of this subsection was amended to clarify and ensure that the program employs sufficient faculty to accomplish program goals. Clinical supervision guidelines for faculty were further enhanced in order to delineate the parameters that a program must consider in providing supervision of students in clinical areas. The role of faculty in developing and implementing the program of learning and determining admission and progression stan-

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dards was strengthened in this Section. A recent trend has been seen in the state where nursing programs admit students who lack basic reading and math skills needed to understand nursing textbooks and drug dosage calculations. The Board believes that the program faculty and administrator are in the best position to determine the standards for progression and admission due to their familiarity with the nursing role and requirements.

R4-19-205

Subsection (A) was simplified and the criteria for policies deleted as most institutions do not include reference to faculty-student ratio, facilities, and capacity of clinical agencies in policy. These criteria are believed to be more pertinent in deciding the capacity of the program, which is addressed elsewhere in the rules. A new subsection was added to ensure that students have access to appropriate information as to the nature, cost, length, transferability of credits, and teaching methods before entering a program so they can make an appropriate choice. The Board believes that this amendment will serve to better inform those members of the public seeking nursing education and guide programs as to the information that must be provided to students.

R4-19-206

A definition of clinical instruction was added to this Section. The Board has received reports of programs that have little or no clinical instruction except on-line or in a laboratory. While these experiences can enhance a student's learning, the Board believes that these enhancements do not substitute for hands-on patient care.

The Board further delineated curricular elements needed for a program. Some programs develop program goals, but have not developed courses that reflect program goals. Essential content important to safe patient care can be missed in such situations. The Board believes the actual course content, consistent with the overall goals of a program, contributes directly to the safe nursing care that a graduate provides. Many programs are attempting to control costs by eliminating clinical experiences, especially clinical experiences in the specialty areas. The Board believes that every nursing student needs clinical instruction in core areas of practice. The Board believes that the programs need the flexibility, however, to determine the amount of clinical learning for each type of patient and setting.

R4-19-207

Minor technical and grammatical changes were made to this Section. Clarity was added in providing that faculty be named 60 days before a new program starts classes. This will allow faculty time to develop curriculum, lectures, and learning materials and orient themselves to the clinical setting.

R4-19-208

Technical changes to clarify the statute citation were made.

R4-19-209

Technical changes to clarify the statute citation were made.

R4-19-211

Changes to this Section were made to incorporate recent changes in A.R.S. § 32-1644.

R4-19-212

Technical changes to clarify the statute citation were made.

R4-19-214

Standards for refresher courses are amended to increase clarity and specificity. An option was added to this Section that allows an entity to offer a nurse-refresher course in an area other than medical-surgical nursing. This will allow for greater flexibility in meeting the educational needs of nurses returning to the workforce in non-traditional roles. Curriculum requirements were revised to reflect common standards and the length of the didactic portion on an RN refresher course was increased based on feedback from refresher course administrators that the time allotted for the content was insufficient.

R4-19-215

This new rule is proposed to address distance and out-of-state programs that wish to offer nursing education to students in Arizona. The Board has had three inquiries and one application for approval for out-of-state programs in the past year. The requirements in rule will ensure that these programs meet standards of the Board and are under Board jurisdiction.

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:

The Arizona State Board of Nursing licenses and regulates approximately 40,000 registered nurses, 10,000 licensed practical nurses, and 25,000 nursing assistants. Additionally the Board oversees 19 nursing programs and approximately 175 nurse assistant programs.

This rulemaking is not expected to have a direct economic impact on any regulated entity. The initiation of the rulemaking process was related to a request for a new nursing program by a private, non-regionally accredited school to offer a nursing program, which is prohibited by current rules. The rules are expected to benefit this category of schools by allowing them the opportunity to offer a nursing program. However, the rules do not require any entity to offer a nursing program. Other amendments to the rulemaking are intended to clarify the requirements for a nursing program and respond to the increased use of distance learning programs.

The Board currently oversees four LPN programs, ten associate degree RN programs, and five baccalaureate RN programs. The Board has issued six notices of deficiency in the past 4 years and conducted additional onsite investigations of 3 nursing programs that resulted in increased surveillance by the Board. In the past 4 years, the Board has also approved 2 new LPN programs, 2 new RN program sites, and 2 new RN programs. It is expected that an additional four to five parent institutions will apply for approval upon implementation of these rules. Approval of a nursing program requires the intense involvement of a Board Education Consultant for a minimum of 40 hours at minimum cost to licensees of \$1200 in salary and benefits. After initial approval, the Board Education Consultant will bear the additional burden of monitoring and responding to complaints about the program. The Board will need additional resources to assist with clerical duties, reimburse travel, and cover copying costs. The Board itself will also have increased work reviewing, approving, and monitoring programs at their regular meetings. Each extra meeting day that is required results in an additional expense of \$1800 and per diem expenses for Board members.

Currently Arizona is experiencing a shortage of qualified faculty members. This rulemaking may exacerbate the shortage by increasing the competition for faculty. Salaries for qualified faculty are expected to increase as an indirect result of this rulemaking.

Many nursing programs have waiting lists due to an increase in qualified applicants and a shortage of available placements. This rulemaking may make it easier for a prospective student to find a nursing program, but may increase the cost. It is expected that private schools will charge sufficient tuition and fees to cover costs. As faculty shortages grow and faculty salaries increase, public institutions may not continue to offer low-cost programs to students. The Board is aware of programs, both nationally and within the state, that are contemplating or are charging additional fees to nursing students to cover the costs of the program. This cost may be partially offset by the fact that a student may be able to complete a program sooner than the present situation allows, given a wider range of program choice.

The length of time of the didactic portion of an RN refresher course was increased. The Board received information from refresher course sponsors that 60 hours was an insufficient amount of time to cover all curriculum elements. Most programs already have at least 80 hours of didactic instruction. One program, that pays students an hourly wage to take the course, expressed concern over the cost to them in providing 20 additional hours of instruction. The Board believes that the benefits of the extra instruction justify any additional expense incurred. Additionally the Board does not require programs to pay students for the course and does not regulate any fees charged.

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

Various technical and grammatical changes were made at the suggestion of Council staff and to improve clarity of the rules.

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

An oral proceeding was held on October 15, 2004. Two persons attended but declined to make comment, both stating that they attended for informational purposes only. No written comments were received during the written comment period.

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. Any material incorporated by reference and its location in the rules:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

ARTICLE 2. ARIZONA PROFESSIONAL AND PRACTICAL NURSING PROGRAMS

Section

- R4-19-201. Organization and Administration
- R4-19-202. Resources, Facilities, Services, and Records
- R4-19-203. Administrator; Qualifications and Duties
- R4-19-204. Faculty; Personnel Policies; Qualifications and Duties
- R4-19-205. Students; Policies and Admissions
- R4-19-206. Curriculum
- R4-19-207. Application for Provisional Approval of a Nursing Program
- R4-19-208. Application for Full Approval of a Nursing Program
- R4-19-209. Nursing Program Change
- R4-19-210. Renewal of Approval of Board-approved Nursing Programs
- R4-19-211. Rescission of Approval ~~of a Nursing Program or a Refresher Program~~
- R4-19-212. Nationally Accredited Nursing Programs
- R4-19-214. Approval of a Refresher Programs Program
- R4-19-215. Distance Learning Nursing Programs; Out-of-State Nursing Programs

ARTICLE 2. ARIZONA PROFESSIONAL AND PRACTICAL NURSING PROGRAMS

R4-19-201. Organization and Administration

- A. The parent institution of a nursing program shall be ~~regionally~~ accredited as a post-secondary institution, college, or university, by an accrediting body that is recognized as an accrediting body by the U.S. Department of Education.
- B. A nursing program shall have a written statement of mission and goals consistent with those of the parent institution and compatible with current concepts in nursing education.
- C. A nursing program shall be an integral part of the parent institution and shall have ~~comparable~~ equivalent status with other academic units of the parent institution.
- D. The parent institution shall center the administrative control of the nursing program in the nursing program administrator.
- E. A nursing program shall ~~maintain~~ provide an organizational chart that identifies the relationships, lines of authority, and channels of communication within the program, and between the program and the parent institution.
- F. A nursing program shall have a written agreement between the program and each clinical ~~facility~~ agency where clinical experience is provided to the program's students that:
 - 1. Defines the rights and responsibilities of both the clinical ~~facility~~ agency and the nursing program,
 - 2. Lists the role and authority of the governing bodies of both the clinical ~~facility~~ agency and the nursing program,
 - 3. Allows faculty members of the program the right to participate in select ~~select~~ selecting learning experiences for students, and
 - 4. Contains a termination clause that provides sufficient time for enrolled students to complete the clinical experience upon termination of the agreement.
- G. A nursing program shall have written policies that provide a mechanism for student input into the development of academic policies and procedures and participation in the evaluation plan.
- H. ~~An administrator of a nursing program shall provide evidence that written policies and procedures of the program are reviewed on a regular schedule. The parent institution shall appoint a nursing program administrator who meets the requirements of R4-19-203.~~
- I. A nursing program shall have a written plan for the systematic evaluation of the total program. The plan shall include the methodology, frequency of evaluation, assignment of responsibility, and evaluative criteria. The following areas shall be evaluated:
 - 1. ~~Organization and administration of the program~~ Internal structure of the program, its relationship to the parent institution, and compatibility of program policies and procedures with those of the parent institution;
 - 2. Mission and goals;
 - 3. Curriculum;
 - 4. Education facilities, resources, and services;
 - 5. Clinical resources;
 - 6. Student achievement of program educational outcomes;
 - 7. Graduate performance on the licensing examination;
 - 8. Faculty performance; and
 - 9. Protection of patient safety.

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- J. A nursing program shall notify the Board of a vacancy or pending vacancy in the position of nursing program administrator within 15 days of the program's awareness of the vacancy or pending vacancy and do the following:
1. Appoint an interim administrator or a permanent administrator who meets the requirements of R4-19-203(A) within 15 days of the effective date of the vacancy, and
 2. Notify the Board of the appointment of an interim or permanent administrator within 15 days of appointment and provide a copy of the administrator's credentials to the Board.

R4-19-202. Resources, Facilities, Services, and Records

- A. The parent institution of a nursing program shall consider the size of the program faculty and number of program students and shall provide facilities for the program that meet the following requirements:
1. A private office for the administrator of the nursing program;
 2. Faculty offices that are conveniently located and comparable to other faculty offices of the parent institution;
 3. Space for private faculty-student conferences;
 4. Space for clerical staff, records, files, and equipment;
 5. Facilities including classrooms, learning laboratories, and conference rooms that provide seating for students enrolled in a course, accommodate audio visual materials, are free of distractions, and are of the size and type necessary to meet the educational purposes for which the rooms are used; available at the time needed, and equivalent in size, number, and type to facilities provided by approved programs of equivalent size, or, in the case of no equivalent program, scaled relative to an approved program;
 6. Acoustics, lighting, ventilation, plumbing, heating and cooling, seating arrangements, location, storage, and supplies to simulate patient care equivalent to those provided by approved programs of equivalent size and scope, or in the case of no equivalent program, scaled relative to an approved program;
 - ~~6-7. Secretarial and clerical support personnel to assist the administrator and faculty; and~~
 - ~~7-8. Access to a collection of educational materials and resources that are current and sufficient to meet program goals and the needs of the students and faculty equivalent to materials and resources provided by an approved program of equivalent size or scope, or, in case of no equivalent program, scaled relative to an approved program. The parent institution shall establish reasonable hours for access to the collection and ensure a convenient location for viewing the educational materials and resources.~~
- B. A nursing program shall maintain current and accurate records of the following:
1. Student records, including admission materials, courses taken, grades received, scores in any standardized tests taken, and health and performance records;
 2. Faculty records, including Arizona professional nursing license number, evidence of fulfilling the requirements in R4-19-204, and performance evaluations ~~for or~~ faculty employed by the parent institution for one or more years;
 3. Minutes of faculty and committee meetings;
 4. Administrative records and reports from accrediting agencies; and
 5. The statement of mission and goals, current curriculum, and course outlines.

R4-19-203. Administrator; Qualifications and Duties

- A. A nursing program shall appoint an administrator who holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15 professional nursing license that is active and in good standing under A.R.S. Title 32, Chapter 15 and:
1. For professional nursing programs, a graduate degree with a major in nursing; or
 2. For practical nursing programs, a baccalaureate degree with a major in nursing.
- B. The administrator shall have comparable status with other program administrators in the parent institution and shall report directly to an academic officer of the institution.
- C. The administrator shall:
1. Administer the nursing education program;
 2. Facilitate and coordinate activities related to academic policies, personnel policies, curriculum, resources, facilities, services, and program evaluation;
 3. Prepare and administer the budget;
 4. Recommend candidates for faculty appointment, retention, and promotion;
 5. In addition to any other evaluation used by the parent institution, ensure that faculty are evaluated:
 - a. At least every three years,
 - b. By the nurse administrator or a nurse educator designated by the nurse administrator, and
 - c. In the areas of teaching ability and nursing knowledge and skills.
 6. Maintain, enforce, and evaluate written policies and procedures that require all students, faculty, and preceptors who participate in clinical practice settings to be physically and mentally able to provide safe client care; and
 7. Participate in activities that contribute to the governance of the parent institution.
- D. The administrator of the nursing program shall not teach more than 45 contact hours per academic session.

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R4-19-204. Faculty; Personnel Policies; Qualifications and Duties

- A.** A nursing program shall implement personnel policies for ~~full- and part-time~~ didactic and clinical nursing faculty members that conform to those for other faculty members of the parent institution or provide a written explanation of any differences.
- B.** ~~A nursing program shall have written policies concerning the teaching load for nursing faculty that consider the following factors:~~
- ~~1. The number and level of students enrolled;~~
 - ~~2. The curriculum plan;~~
 - ~~3. The activities and responsibilities required of the faculty including student contact hours; and~~
 - ~~4. The number and geographic locations of clinical laboratory facilities.~~
- A nursing program shall provide the number of qualified faculty members comparable to that provided by approved programs of equivalent size and program type, or, in the case of no equivalent program, a number scaled relative to an approved program.
- C.** The parent institution of a nursing program shall ensure that the ratio of students to nursing faculty while involved in the direct-care of patients ~~shall be no~~ is not more than ~~10~~ ten to one.
- D.** The faculty shall supervise all students in clinical areas in accordance with the acuity of the patient population, clinical objectives, demonstrated competencies of the student, geographic placement of the student, and requirements established by the clinical agency.
- ~~**DE.** The parent institution of a nursing program shall ensure that every professional nursing program faculty member has a professional nurse license that is active and in good standing under A.R.S. Title 32, Chapter 15 holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S. Title 32, Chapter 15 and that every faculty member meets one of the following:~~
- ~~1. If providing didactic instruction:
 - a. At least two years of experience as a professional nurse providing direct patient care; and
 - b. A graduate degree. The majority of the faculty members of a professional nursing program shall hold a graduate degree with a major in nursing. If the graduate degree is not in nursing, the faculty member shall hold a minimum of a baccalaureate degree in nursing; or~~
 - ~~2. If providing clinical instruction, as defined in R4-19-206, only:
 - a. The requirements for didactic faculty; or
 - b. A baccalaureate degree with a major in nursing and at least three years of experience as a professional nurse providing direct patient care.~~
- ~~**EE.** The parent institution of a nursing program shall ensure that each practical nursing program faculty member has:~~
- ~~1. A minimum of a baccalaureate degree with a major in nursing,~~
 - ~~2. A professional nurse license that is active and in good standing under A.R.S. Title 32, Chapter 15, and~~
 - ~~3. At least two years of experience as a professional nurse providing direct patient care.~~
- ~~**FG.** The nursing faculty, together with the program administrator, shall participate in the following:~~
- ~~1. Developing, implementing, and evaluating~~ Develop, implement, and evaluate the program of learning; and
 - ~~2. Developing~~ Develop and implement standards for the admission, progression, and graduation of students, ~~;~~ and
 - ~~3. Providing for the supervision of students in all clinical experiences.~~

R4-19-205. Students; Policies and Admissions

- A.** A nursing program shall have written policies available to students and the public regarding admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, ~~or and dismissal, that consider the following:~~
- ~~1. Faculty to student ratio;~~
 - ~~2. Educational facilities and resources to accommodate the number of students; and~~
 - ~~3. Capacity of clinical agencies to provide learning experiences.~~
- B.** A nursing program shall have written policies available to students that address student rights, responsibilities, grievances, health, and safety.
- C.** A nursing program shall provide accurate and complete information to all students and prospective students about the program including, but not limited to:
1. The nature of the program, including course sequence, prerequisites, co-requisites and academic standards;
 2. The length of the program;
 3. The current cost of the program;
 4. The transferability of credits to other public and private educational institutions in Arizona; and
 5. Program teaching methods and supporting technology.

R4-19-206. Curriculum

- A.** For the purposes of this Section, "clinical instruction" means the guidance and supervision provided by a qualified faculty member or designee while a nursing student is providing patient care.
- AB.** A nursing program shall develop and implement a curriculum that includes level objectives, course objectives,

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measurable learning outcomes for each class session, and course content outlines for each course that:

1. ~~Reflects~~ Reflect its mission and goals;
2. ~~Is~~ Are logically consistent between and within courses; ~~and~~
3. ~~Is~~ Are designed so that a student who completes the program will have the knowledge and skills necessary to function in accordance with the definition and scope of practice specified in A.R.S. § 32-1601(12) and R4-19-401 for a practical nurse or A.R.S. § 32-1601(13) and R4-19-402 for a professional nurse.

BC. A nursing program shall provide for progressive sequencing of classroom and clinical instruction sufficient to meet the goals of the program.

1. A registered nursing (RN) program shall provide clinical instruction that includes, at a minimum, selected and guided experiences that develop a student's ability to apply core principles of nursing in varied settings when caring for:
 - a. Adult and geriatric patients with acute, chronic, and complex, life-threatening, medical and surgical conditions;
 - b. Patients experiencing pregnancy and delivery;
 - c. Neonates, infants, and children;
 - d. Patients with mental, psychological, or psychiatric conditions; and
 - e. Patients with wellness needs.
2. A practical nursing program (PN) shall provide clinical instruction that includes, at minimum, selected and guided experiences that develop an understanding of physiological, psychological, pathological, and basic nursing care needs when caring for:
 - a. Patients with medical and surgical conditions throughout the life span,
 - b. Patients experiencing pregnancy and delivery, and
 - c. Neonates, infants, and children in varied settings.

C-D. A nursing program shall maintain at least a 75% NCLEX® passing rate for graduates taking the NCLEX-PN® or NCLEX-RN® for the first time within 12 months of graduation. The Board shall issue a notice of deficiency to any program that has a NCLEX® passing rate less than 75% for two consecutive calendar years.

R4-19-207. Application for Provisional Approval of a Nursing Program

- A.** Before establishing a nursing program, a parent institution shall submit 20 copies of an application for proposal approval to the Board that includes the following information and documentation:
1. Name and address of the parent institution;
 2. Statement of intent to establish a nursing program, including the academic and licensure level of the program; and
 3. Proposal that includes, but is not limited to, the following information:
 - a. Documentation of the present and future need for the program in the state including availability of potential students and need for entry level nurses;
 - b. Potential effect on existing nursing programs in a 50-mile radius of the proposed program;
 - c. Organizational structure of the educational institution documenting the relationship of the nursing program within the institution;
 - d. Accreditation status of the parent institution;
 - e. Purpose, mission, and goals of the nursing program;
 - f. Availability of qualified administrator and faculty;
 - g. Number of budgeted faculty positions;
 - h. Source and description of clinical resources for the program;
 - i. Anticipated student population;
 - j. Documentation of adequate academic facilities and staff to support the nursing program;
 - k. Evidence of financial resources adequate for the planning, implementation, and continuation of the nursing program; and
 - l. Tentative time schedule for planning and initiating the nursing program and the intended date for entry of the first class into the program.
- B.** The Board shall grant proposal approval to any ~~regionally-accredited~~ parent institution that demonstrates:
1. The need for a program,
 2. The resources to operate a program,
 3. The availability of students, ~~and~~
 4. The availability and resources to secure a qualified administrator and faculty- and
 5. Satisfaction of the accreditation requirements in R4-19-201(A).
- C.** A parent institution that is denied proposal approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for proposal approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- D.** A parent institution that receives proposal approval may submit 20 copies of an application to the Board for provisional approval that includes the following information and documentation:
1. Name and address of parent institution; and
 2. Plan for compliance with R4-19-201 through R4-19-206, including but not limited to the following:

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- a. Name and qualifications of appointed administrator;
 - b. Names and qualifications of nursing faculty for the first ~~year~~ semester or session of operation at least 60 days before classes begin;
 - c. Final program implementation plan;
 - d. Curriculum, including course outlines, program objectives, and learning outcomes;
 - e. Descriptions of available and proposed physical facilities with dates of availability; and
 - f. List of available clinical facilities within the geographic area, including facility type, size, number of beds, and type of patients.
- E. Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall grant provisional approval to a parent institution that meets the requirements of R4-19-201 through R4-19-206 if approval is in the best interest of the public. A parent institution that is denied provisional approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- F. The provisional approval of a nursing program expires 12 months from the date of the grant of provisional approval if a class of nursing students is not admitted by the nursing program within that time. The Board may rescind the provisional approval of a nursing program for a violation of any provision of this Article according to R4-19-211.
- G. If a nursing program fails to apply for full approval within two years of graduating its first class of students, the Board shall rescind its provisional approval. A nursing program whose provisional approval is rescinded may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding the provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-208. Application for Full Approval of a Nursing Program

- A. A nursing program seeking full approval shall submit an application that includes the following information and documentation:
1. Name and address of the parent institution,
 2. Date the nursing program graduated its first class of students, and
 3. ~~15~~ Twenty copies of a self-study report that contains evidence the program is in compliance with R4-19-201 through R4-19-206.
- B. Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall grant full approval for a maximum of 5 years or the accreditation period for nationally accredited programs governed by R4-19-212, to a nursing program that meets the requirements of R4-19-201 through R4-19-206 if approval is in the best interest of the public. A nursing program that is denied full approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- C. A nursing program shall apply for full approval within a two-year period after graduating its first class or its ~~initial~~ provisional approval may be rescinded by the Board following notice and an opportunity for hearing.

R4-19-209. Nursing Program Change

- A. A nursing program administrator shall receive approval from the Board before implementing any of the following nursing program changes:
1. Changing the mission or goals,
 2. Increasing or decreasing the length of the program,
 3. Adding or deleting a geographical location of the program,
 4. Increasing the student enrollment capacity by more than 20%,
 5. Changing the level of educational preparation provided, or
 6. Transferring the nursing program from one institution to another.
- B. The administrator shall submit 20 copies of the following materials with the request for nursing program changes:
1. The rationale for the proposed change and the anticipated effect on the program administrator, faculty, students, resources, and facilities;
 2. A summary of the differences between the current practice and proposed change;
 3. A timetable for implementation of the change; and
 4. The methods of evaluation to be used to determine the effect of the change.
- C. The Board shall approve a request for a nursing program change if the program demonstrates that it has the resources to implement the change and the change is consistent with R4-19-201 through R4-19-206. A nursing program that is denied approval of program changes may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-210. Renewal of Approval of Board-approved Nursing Programs

- A. An approved nursing program that is not accredited by an approved national nursing accrediting agency shall submit an

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application packet to the Board at least four months before the expiration of the current approval that includes the following:

1. Name and address of the parent institution,
 2. Current regional accreditation status,
 3. Copy of the current catalog of the parent institution,
 4. Copy of current nursing program policies, and
 5. ~~15~~ Twenty copies of a self-study report that contains evidence of compliance with R4-19-201 through R4-19-206.
- B. Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall renew program approval for a maximum of five years if the nursing program meets the criteria in R4-19-201 through R4-19-206 and if renewal is in the best interest of the public. The Board shall determine the term of approval that is in the best interest of the public.
- C. If the Board denies renewal of approval, the nursing program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6 Article 10 and 4 A.A.C. 19, Article 6.

R4-19-211. Rescission of Approval of a Nursing Program or a Refresher Program

- A. The Board shall, upon determining that a nursing program or a refresher program is not in compliance with R4-19-201 through R4-19-214, provide to the administrator a written notice of deficiencies that establishes a reasonable time, based upon the number and severity of deficiencies, to correct the deficiencies. The time for correction may not exceed 18 months.
1. The administrator shall, within 30 days from the date of service of the notice of deficiencies, file a plan to correct each of the identified deficiencies after consultation with the Board or designated Board representative.
 2. The administrator may, within 30 days from the date of service of the notice of deficiencies, submit a written request for a hearing before the Board to appeal the Board's determination of deficiencies. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
 3. If the Board's determination is not appealed or is upheld upon appeal, the Board shall conduct periodic evaluations of the program during the time of correction to determine whether the deficiencies ~~are~~ have been corrected.
- B. The Board shall, following a Board-conducted survey and report, rescind the approval ~~of, or restrict admissions of to~~ a nursing program or refresher program if the program fails to comply with R4-19-201 through R4-19-214 within the time set by the Board in the notice of deficiencies served upon the program.
1. The Board shall serve the administrator with a written notice of proposed rescission of approval ~~or restriction of admissions~~ that states the grounds for the ~~rescission proposed action~~. The administrator shall have 30 days to submit a written request for a hearing to show cause why ~~approval should not be rescinded~~ the proposed action should not occur. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
 2. Upon the effective date of a decision to rescind program approval, the nursing program shall immediately cease operation and be removed from the official approved-status listing. A nursing program that has been ordered to cease operations shall assist currently enrolled students to transfer to an approved nursing program.
- C. In addition to the cause in subsection ~~(A); (B)~~, if the Board determines that the effectiveness of instruction to students is impaired, the Board may rescind approval ~~of or restrict admissions of to~~ a nursing program for any of the following causes:
1. For a program that was served with a notice of deficiencies within the preceding three years and timely corrected the noticed deficiencies, subsequent noncompliance with the standards in R4-19-201 through R4-19-214; or
 2. Failure to comply with orders of or stipulations with the Board within the time determined by the Board.

R4-19-212. Nationally Accredited Nursing Programs

- A. An approved nursing program that is accredited by an approved national nursing accrediting agency shall submit to the Board evidence of initial accreditation and shall submit evidence of continuing accreditation after each reaccreditation review.
- B. The administrator shall submit to the Board any report from a national accrediting agency citing deficiencies or recommendations at the time the report is received by the nursing program.
- C. The administrator of a nursing program shall notify the Board within 10 days of any change in accreditation status.
- D. The administrator of a nursing program that loses its accreditation status or allows its accreditation status to lapse shall file an application for renewal of approval under R4-19-210 within 30 days of loss of or lapse in accreditation status.
- E. Unless otherwise notified by the Board following receipt and review of the documents required by subsections (A) and (B), a nursing program continues to have full-approval status. The administrator of a nursing program that has its continuing approval-status rescinded by the Board may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding continuing full-approval status. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-214. Approval of a Refresher Programs Program

- A. An applicant for approval of a refresher program for nurses whose licenses have been inactive or expired for five or more

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years, ~~or~~ nurses under Board order to enroll in a refresher program, ~~or nurses who have not met the requirements of R4-19-312~~ shall submit a completed application that provides all of the following information and documentation:

1. Applicant's name, address, ~~e-mail address, and~~ telephone number, and fax number;
2. Proposed starting date for the program;
3. Name and curriculum vitae of all instructors;
4. ~~Complete program outline;~~
5. ~~Statement describing the facilities, staff, and resources that the applicant will use to conduct the refresher program; and~~
6. ~~Program curriculum that consists of a minimum of 40 hours of theory and 112 hours of supervised clinical practice for a licensed practical nurse or a minimum of 60 hours of theory and 160 hours of supervised clinical practice for a professional nurse including:~~
 - a. ~~A comprehensive review of basic nursing care concepts and skills to include nursing process and theory medication calculation and administration, and communication;~~
 - b. ~~Medical and surgical nursing;~~
 - e. ~~Update of new nursing care concepts and skills;~~
 - d. ~~Planned and supervised clinical practice experience consistent with course theory and course objectives; and~~
 - e. ~~Program and participant evaluation.;~~
5. A program and participant evaluation plan that includes student evaluation of the course, instructor, and clinical experience; and
6. Evidence of a curriculum that meets the requirements of subsection (B).

B. A refresher program shall provide:

1. A minimum of 40 hours of didactic instruction and 112 hours of supervised clinical practice for a licensed practical nurse program;
2. A minimum of 80 hours of didactic instruction and 160 hours of supervised clinical practice for a professional nurse program;
3. A planned and supervised clinical experience that is consistent with course goals and provides an opportunity for the student to demonstrate safe and competent application of program content. The student may spend up to 24 of the required clinical hours in a supervised lab setting;
4. Curriculum materials, including:
 - a. An overall program description including goals; and
 - b. Objectives, content, and hours allotted for each area of instruction;
5. Instruction in current nursing care concepts and skills including:
 - a. Nursing process;
 - b. Pharmacology, medication calculation, and medication administration;
 - c. Communication;
 - d. Critical thinking and clinical decision making;
 - e. Delegation, management, and leadership; and
 - f. Meeting psychosocial and physiological needs of clients.

C. A refresher program may adapt the curriculum based on the need to incorporate content applicable to specialty and indirect care areas of nursing practice for students who plan to practice in those areas. The clinical experience for such students may include indirect care, depending on the course goals and objectives. The program shall include concepts and skills needed to deliver safe nursing care in any adapted curriculum.

~~B.D.~~ The Board shall approve a refresher program that meets the requirements of subsection (A), if approval is in the best interest of the public, for a term of four years. An applicant who is denied refresher program approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

~~C.E.~~ The refresher program sponsor shall apply for renewal of approval in accordance with subsection (A) not later than 90 days before expiration of the current approval. The sponsor of a refresher program that is denied renewal of approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.

~~D.E.~~ The sponsor of an approved refresher program shall provide written notification to the Board within ~~five~~ 15 days of a participant's completion of the program of the following:

1. Name of the participant and whether the participant successfully completed or failed the program,
2. Participant's license ~~or permit number~~, and
3. Date of participant's completion of the program.

R4-19-215. Distance Learning Nursing Programs; Out-of-State Nursing Programs

A. An out-of-state nursing program that plans to provide both didactic and clinical instruction in Arizona shall comply with the application requirements of R4-19-207 and R4-19-208.

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- B.** A nursing program that delivers didactic instruction by distance learning methods shall ensure that the methods of instruction are compatible with the program curriculum plan and enable a student to meet the goals, competencies, and objectives of the educational program and standards of the Board.
 - 1. A distance learning program shall establish a means for assessing individual student outcomes, and program outcomes including, at minimum, student learning outcomes, student retention, student satisfaction, and faculty satisfaction.
 - 2. For out-of-state nursing programs, the program shall be within the jurisdiction of and regulated by an equivalent nursing regulatory authority in the state from which the program originates, unless also providing clinical experience in Arizona.
 - 3. Faculty shall be licensed in the state of origination of a distance learning nursing program.
 - 4. A distance learning nursing program shall provide students with supervised clinical and laboratory experiences so that program objectives are met and didactic learning is validated by supervised, land-based clinical and laboratory experiences.
 - 5. A distance-learning nursing program shall provide students with access to technology, resources, technical support, and the ability to interact with peers, preceptors, and faculty.
- C.** A nursing program, located in another state or territory of the United States, that wishes to provide clinical experiences in Arizona under A.R.S. § 32-1631(3), shall obtain Board approval before offering or conducting a clinical session. To obtain approval, the program shall submit a proposal package that contains:
 - 1. A self study, describing the program's compliance with R4-19-201 through R4-19-206; and
 - 2. A statement regarding the anticipated effect on clinical placements for students currently enrolled in an Arizona-approved nursing programs.
- D.** The Board may require a nursing program approved under this Section to file periodic reports for the purpose of data collection or to determine compliance with the provisions of this Article. A program shall submit a report to the Board within 30 days of the date on a written request from the Board or by the due date stated in the request if the due date is after the normal 30-day period.
- E.** The Board shall approve an application to conduct clinical instruction in Arizona that meets the requirements in A.R.S. Title 32, Chapter 15 and this Chapter, and is in the best interest of the public. An applicant who is denied approval to conduct clinical instruction in Arizona may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- F.** The Board may rescind an approval held by an out-of-state nursing program to conduct clinical instruction in Arizona, in accordance with R4-19-211.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

[R05-10]

PREAMBLE

- 1. **Sections Affected** **Rulemaking Action**
R4-23-655 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 (2) and (B)(3)
Implementing statutes: A.R.S. §§ 32-1929, 32-1930, 32-1931, and 32-1934
- 3. **The effective date of the rules:**
March 5, 2005
- 4. **A list of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 2082, May 21, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 2982, July 30, 2004
- 5. **The name and address of agency personnel with whom persons may communicate regarding the rules:**
Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140

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Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@cox.net

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

The Board made changes to R4-23-609 effective January 3, 2004 that created an incorrect citation in R4-23-655. R4-23-655 refers to a hospital pharmacy's physical facility and is amended to cite the correct subsection of R4-23-609. The rules include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the standards for a hospital pharmacy's physical facility.

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:

The rules will impact the Board and hospital pharmacies. The rules' impact on the Board will be the usual rulemaking-related costs which are minimal. The rules will have no economic impact on hospital pharmacies. The rules have no economic impact on the public.

The public, Board, pharmacists, and pharmacies benefit from rules that are clear, concise, and understandable. The rules benefit the public, the Board, and the pharmacy community by clearly establishing the standards for a hospital pharmacy's physical facility.

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

There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff. During the final review of the pharmacy technician rules in February 2004, G.R.R.C. staff noted that there were no time-frames in R4-23-1102 and R4-23-1103 for licensure of pharmacy technicians and pharmacy technician trainees. G.R.R.C. staff allowed the rules to proceed with assurances from Board staff that a docket would be opened after the rules were effective to add time-frame language to R4-23-1102 and R4-23-1103. The Notice of Proposed Rulemaking included changes to R4-23-1102 and R4-23-1103 that established licensure time-frames for both pharmacy technicians and pharmacy technician trainees. The time-frame established in the Notice of Proposed Rulemaking is seven days. When reviewing the Notice of Final Rulemaking, G.R.R.C. staff noted that an agency with a time-frame of seven days or less does not need to make a rule for the time-frame. G.R.R.C. staff suggested that the Board remove the time-frames written into R4-23-1102 and R4-23-1103 in the Notice of Proposed Rulemaking. The Notice of Final Rulemaking is changed by removing R4-23-1102 and R4-23-1103.

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

No one attended the public hearing held on August 30, 2004, and one written comment from the Arizona Pharmacy Association indicating support of the rulemaking was received.

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

Not applicable

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

None

14. Were these rules previously approved as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section

R4-23-655. Physical Facility

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-655. Physical Facility

- A. No change
- B. No change
- C. No change
- D. Hospital pharmacy area. A hospital pharmacy permittee shall ensure that the hospital pharmacy area is enclosed by a permanent barrier or partition from floor to ceiling with entry doors that can be securely locked, constructed according to R4-23-609(F)(1).
- E. No change

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

[R05-12]

PREAMBLE

1. Sections Affected

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R4-34-101	Amend
R4-34-102	Amend
R4-34-202	Amend
R4-34-203	Amend
R4-34-401	Amend
R4-34-502	Amend
R4-34-602	Repeal
R4-34-604	Amend
R4-34-606	Amend
R4-34-607	Amend
R4-34-701	Amend
R4-34-702	Amend
R4-34-703	Amend
R4-34-704	Amend
R4-34-705	Amend
R4-34-803	Amend
R4-34-804	Amend
R4-34-805	Amend

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

Authorizing statute: A.R.S. § 41-2144
Implementing statutes: A.R.S. Title 41, Chapter 16

3. The effective date of the rules:

March 5, 2005

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 3834, August 29, 2003
Notice of Proposed Rulemaking: 10 A.A.R. 2640, July 2, 2004

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

Name: Larry Pointer, Assistant Director
Address: Department of Building and Fire Safety
1110 W. Washington, Suite #100
Phoenix, AZ 85007
Telephone: (602) 364-1003

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Fax: (602) 364-1063

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

The Board is updating the Codes and clarifying requirements on wedges. Also, the Board has made some minor clerical revisions. The proposed rules will implement new statutes that were passed during the 2000 Legislative session to create bonding for D-8 retailers and new statutes passed during the 2003 Legislative session to remove recreational vehicles from the Department's authority.

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

None

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

Not applicable

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

The impact of these rules on licensees and consumers will be minimal. The cost is mostly to licensees for the new code books.

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

Minor grammatical and formatting changes were made at the request of the Governor's Regulatory Review Council Staff. Also, throughout where it says "International Building and International Residential" the word "and" has been changed to "or".

R4-34-102. Deleted first new sentence and wrote it to read "If there is a conflict between an adopted code and a statute or rule the statute or rule controls". Second sentence deleted "Secretary of State" added "Board".

R4-34-102(3)(a) and (b). Added two phrases "including the appendices, which apply to commercial factory-built buildings" and "with the exception that if the water or gas connection does conform to the International Building Code requirements on anchoring plumbing to a foundation for resistance to uplift and sliding forces, and installer or contractor shall use a flexible connector approved for the water or gas connection. Approved materials in the Uniform Plumbing Code shall be used. The installer or contractor shall use a flexible connector not more than 6 feet long and of the rated size necessary to supply the total demand of the unit; and".

R4-34-102(3)(b). Added the phrase "including the appendices, which apply to single-family residential factory-built buildings", deleted the words "including the appendices and the exemptions of" added the words "except for", deleted the phrase "in Chapter 16".

R4-34-102(4). Deleted new wording where to buy the UPC and added the phrase "and exceptions, as incorporated by reference in 4 A.A.C. 48".

R4-34-102(5). Deleted the word "exemption" added the word "exception".

R4-34-502. Made the first sentence an "A". Made the last sentence a "B."

R4-34-502(B). Deleted the phrase, "No license shall be renewed", added the language, "The Board shall not renew a license".

R4-34-602. Changed "Reserved" to "Repeal".

R4-34-705(A)(1). Deleted the word "An" added the phrase "For commercial factor-built buildings, an" deleted the word "both" added the word "Code." "deleted the words "of the" Added the phrase "For single-family residential buildings an installer shall comply with the" and changed the word "Codes" to "Code".

R4-34-705(A)(2). Added the word "Code", replaced the word, "and" with "or the", changed the word "Codes" to "Code", deleted the word "if" inserted the phrase "based on a demonstration by", deleted the phrase "has engineered", inserted the word "that" and "is engineered", added the word "applicable".

R4-34-705(B). Added the phrase "so that anchoring systems resist overturning and lifting effects of the wind"

R4-34-705(B)(1). Added the phrase "If neither apply, department shall compare plans to those equivalent to current installations to determine whether plans are approvable".

R4-34-803(C)(1). Deleted the word "the", added the words "applicable" and "the", and added the phrase "as incorporated by reference in 4 A.A.C. 48".

R4-34-803(D)(5)(a). Added the phrase "as applicable under R4-34-102(3)".

R4-34-(D)(5)(b). Added the phrase "as applicable under R4-34-102(3)."

R4-34-803(E)(9). Deleted the phrase, "the applicable requirements of" added the word "Code" changed the word "and" to "or" changed the word "Codes" to "Code" and added the phrase "as applicable under R4-34-102(3)".

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R4-34-803(F)(5). Added the words “according to”.

R4-34-803(G). Deleted the phrase “Anchoring systems shall be” and added the phrase “An installer or contractor shall use an anchoring system that is”.

R4-34-803(I)(1). Added the phrase, “in compliance with applicable standards incorporated by reference R4-34-102” deleted the words “as prescribed” and “the” Added the word “The” and added the phrase “as incorporated by reference in 4 A.A.C. 48, and deleted the phrase “incorporated in R4-34-102”.

R4-34-805(B). Deleted the words “according to” and added the phrase “in compliance with applicable standards incorporated by reference in R4-34-102”, added the word “Code” in 4 places, changed the word “Codes” to “Code” and added the phrase “as incorporated by reference in 4 A.A.C. 48”.

R4-34-805(E)(1)(b). Added the word “Code” changed the word “Codes” to “Code” and added the phrase “as applicable under R4-34-102 (3).

R4-34-805(E)(2)(b). Added the word “Code” changed the word “Codes” to “Code” and added the phrase “as applicable under R4-34-102(3)”.

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

There were no written or oral comments received concerning these 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. Any material incorporated by reference and its location in the text:

International Building Code (IBC), 2003 Edition, including the appendices and a connection exception: R4-34-102(3)(a),

International Residential Code (IRC), 2003 Edition, including the appendices, except for Chapter 11, Chapters 29 through 32, and Chapters 33 through 40, and a connection exception: R4-34-102(3)(b),

International Mechanical Code (IMC), 2003 Edition, including the appendices: R4-34-102(3)(c),

Uniform Plumbing Code, 1994 Edition, including the appendices and exceptions as incorporated by reference in 4 A.A.C. 48: R4-34-102(4),

National Electrical Code (NFPA-70), 2002 Edition, with the exception of Article 80: R4-34-102(5),

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

ARTICLE 1. GENERAL

Section
R4-34-101. Definitions
R4-34-102. Codes Incorporated by Reference

ARTICLE 2. LICENSING

Section
R4-34-202. Manufacturers
R4-34-203. Retailers

ARTICLE 4. SURETY BONDS

Section
R4-34-401. Surety Bond Forms

ARTICLE 5. FEES

Section
R4-34-502. License Bond Amounts

ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION

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Section

- R4-34-602. ~~Recreational Vehicles~~ Repealed
- R4-34-604. Alterations
- R4-34-606. Rehabilitation of Mobile Homes
- R4-34-607. Manufacturing Inspection and Certification

ARTICLE 7. PLAN APPROVALS

Section

- R4-34-701. General
- R4-34-702. Quality Assurance Manuals
- R4-34-703. Drawings and Specifications
- R4-34-704. Alterations or Reconstruction
- R4-34-705. Accessory Structures and Ground Anchoring

ARTICLE 8. PERMITS AND INSTALLATION

Section

- R4-34-803. Soil and Materials
- R4-34-804. Utilities
- R4-34-805. Accessory Structures

ARTICLE 1. GENERAL

R4-34-101. Definitions

- A. "Act" No change
- B. "Agency" No change
- C. "Agency disclosure" No change
- D. "Agent" No change
- E. "Board" No change
- F. "Branch location" No change
- G. "Brokered Transaction" No change
- H. "Co-brokered transaction" No change
- I. "Factory-built building" or "FBB" No change
- J. "HUD" No change
- K. "Incidental" No change
- L. "Lease with option to purchase" No change
- M. "New" No change
- N. "Offer to purchase in a brokered transaction" No change
- O. "Open subassembly" No change
- P. "Purchase contract in a brokered transaction" No change
- Q. "Reconstruction" means construction work performed on a manufactured home, mobile home, ~~recreational vehicle~~, or factory-built building for the purpose of restoring the unit to a usable condition, but does not include work limited to remodeling, replacing, or repairing appliances or components that will not significantly alter the systems or the structural integrity of the living area.
- R. "Respond" No change
- S. "Retailer" No change
- T. "Standards" means the state rules and codes as they relate to manufactured homes, mobile homes, factory-built buildings, ~~recreational vehicles~~, subassemblies, and accessory structures.
- U. "Supplement" No change
- V. "Technical service" No change
- W. "Typical plan" No change
- X. "Used home" No change

R4-34-102. Codes Incorporated by Reference

If there is a conflict between an adopted code and a statute or rule, the statute or rule controls.

All referenced standards and codes are incorporated by reference, on file with the Secretary of State Board, and do not include any later amendments or editions.

- 1. ~~"ANSI" ANSI A119.2, Recreational Vehicles, 1999 Edition, including all appendices and the following exceptions:~~
 - a. ~~Section 2-10-6.3 Nozzles used for the dispensing of fuel shall be listed for use with unleaded fuel, of a trigger and handle type, made with an aluminum cast body, and identified by its manufacturer as capable of withstanding moderate abuse. Nozzles shall be compatible with pumps, if provided;~~
 - b. ~~Section 2-10-6.4. Fuel pumps shall be of the manual or 12-volt electrical type. The pump and hose shall be iden-~~

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- ified by its manufacturer as being listed and compatible with the fuel type to be used; and
- e. Section 3-4.7. Recreational vehicles with a vaportight separation between the special transportation area and the living space are exempt from the requirements of 3-4.7.
 - d. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.
2. “ANSI” ANSI A119.5, Recreational Park Trailers, 1998 Editions, including all appendices and the following exceptions:
- a. If the calculated load of the park trailer exceeds 30 amperes, 120 volts, a second power supply cord shall be permitted. If the two cord supply system is installed the cords shall not be interconnected on either the live side or the load side. The grounding circuits and grounding means shall be electrically interconnected; and
 - b. Definition of “Gross Trailer Area” is modified to read, “The largest horizontal projection of the park trailer in the set up mode. In calculating the square footage of a trailer, measurements shall be taken on the exterior of the trailer. The square footage includes all siding, corner trim, molding, storage space, and areas enclosed by windows, but not roof overhangs.”
 - e. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.
- 3-1. “HUD standards” No change
- 4-2. “HUD regulations” No change
- 5-3. Copies of these codes are available from the ~~International Conference of Business Officials, 5360 South Workman Mill Road, Whittier, California 90601.~~ International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795:
- a. ~~Uniform Building Code (ICBO), 1997 Edition~~ International Building Code (IBC), 2003 Edition, including the appendices, which applies to commercial factory-built buildings with the exception that if the water or gas connection does not conform to the International Building Code requirements on anchoring plumbing to a foundation for resistance to uplift and sliding forces, an installer or contractor shall use a flexible connector approved for the water or gas connection. Approved materials in the Uniform Plumbing Code shall be used. The installer or contractor shall use a flexible connector not more than 6 feet long and of the rated size necessary to supply the total demand of the unit;
 - b. ~~International Residential Code (IRC), 2003 Edition, including the appendices, which applies to single-family residential factory-built building, except for Chapter 11, Chapters 29 through 32, and Chapters 33 through 40 and the exception that if a water or gas connection does not conform with to the Uniform Building Code~~ International Residential Code requirements in Chapter 16 on anchoring plumbing to a foundation for resistance to uplift and sliding forces, an installer or contractor shall use a flexible connector approved for the water or gas connection. Approved materials in the Uniform Plumbing Code shall be used. The installer or contractor shall use a flexible connector not more than 6 feet long and of the rated size necessary to supply the total demand of the unit; and
 - e. ~~Uniform Mechanical Code (UMC), 1997 Edition~~ International Mechanical Code (IMC), 2003 Edition, including the appendices; and
- e-4. ~~Uniform Plumbing Code (IAPMO), 1994 Edition, including the appendices and exceptions, as incorporated by reference in 4 A.A.C. 48.~~
- 6-5. ~~National Electrical Code (NFPA-70), 1999~~ 2002 Edition, with the exception of Article 80. Copies of this code are available from the National Fire Protection Agency (NFPA), 1 Batterymarch Park, Quincy, MA 02269-9101.

ARTICLE 2. LICENSING

R4-34-202. Manufacturers

The Department shall place a manufacturer’s license application into 1 of the following license classes, based on the listed activities that limit the scope of each class:

- 1. No change
 - a. No change
 - b. No change
- 2. No change
 - a. No change
 - b. No change
- 3. ~~M-9D Manufacturer of Recreational Vehicles:~~
 - a. ~~Manufactures recreational vehicles.~~
 - b. ~~Reconstructs recreational vehicles.~~
 - e. ~~Converts vehicles to recreational vehicles as defined by A.R.S. § 41-2142(30).~~
- 4-3. M-9E Master Manufacturer: Performs work within the scope of classes M-9A; and M-9C; ~~and M-9D.~~

R4-34-203. Retailers

The Department shall place a retailer’s license application into 1 of the following license classes, based on the listed activities

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that limit the scope of each class:

1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
2. No change
 - a. No change
 - b. No change
3. ~~D-9~~ **Retailer of Park Trailers or Portable Truck Campers with Systems:**
 - a. ~~Buys, sells, or exchanges new or used park trailers or portable truck campers with systems;~~
 - b. ~~Acts as an agent for the sale or exchange of new or used park trailers or portable truck campers with systems;~~
 - c. ~~Makes alterations to systems of new park trailers or portable truck campers with systems before a sale to a purchaser; or~~
 - d. ~~Contracts with properly licensed contractors for the installation of park trailers or accessory structures.~~
- 4.3. **D-10 Retailer of Factory-Built Buildings and FBB Subassemblies:**
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 5.4. **D-12 Master Retailer:** Performs work within the scope of classes D-8, D-8B, ~~D-9~~ and D-10.

ARTICLE 4. SURETY BONDS

R4-34-401. Surety Bond Forms

Manufacturers, installers, and retailers, ~~and brokers~~, except ~~retailers and~~ brokers of manufactured homes, mobile homes, or single-family, factory-built buildings, shall submit the applicable surety bond amount from the list in R4-34-502, with a form provided by the Office of Administration.

ARTICLE 5. FEES

R4-34-502. License Bond Amounts

A. An applicant shall submit the applicable license bond amount listed for each license class.

License Class	Bond Amount
M-9A	\$ 10,000.00
M-9C	65,000.00
M-9D	5,000.00
M-9E	100,000.00
<u>D-8</u>	<u>25,000.00</u>
D-9	15,000.00
D-10	15,000.00 <u>25,000.00</u>
D-12	15,000.00 <u>25,000.00</u>
I-10C	2,500.00
I-10D	1,000.00
I-10G	5,000.00

B. The Board shall not renew a license unless the applicant's surety bond or cash deposit is in full force and effect.

ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION

R4-34-602. Recreational Vehicles Repealed.

A manufacturer shall build recreational vehicles according to the applicable standards in R4-34-102(A) or (B).

A. In addition to complying with applicable federal and state motor vehicle safety standards, a manufacturer of recreational vehicles and RV subassemblies shall:

1. ~~Build RV s and RV subassemblies according to drawings and specifications required in R4-34-703(C);~~
2. ~~Affix a permanent serial number to each unit during the first stage of manufacturing. The serial number location and application method shall be shown in the plans required by R4-34-703(C)(3)(d); and~~
3. ~~Affix an Arizona Insignia of Approval to each completed unit. The insignia shall indicate the unit serial number, plan approval number, and be located on the unit as indicated in the plans required by R4-34-703(C)(3)(d).~~

B. The Department may require that a manufacturer of recreational vehicles produced and shipped before plan approval remove the units from this state and remove insignias based on the following factors:

1. ~~Probable harm to the public's safety and welfare;~~
2. ~~Number of previous violations of a similar nature; and~~

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3. ~~Unwillingness of a manufacturer to comply with plan submittal and requirements.~~

R4-34-604. Alterations

A ~~manufacturer~~ retailer shall ensure that alterations are consistent with applicable standards and codes, as prescribed in R4-34-704(A).

R4-34-606. Rehabilitation of Mobile Homes

- A. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductors shall be marked ~~CD-CO~~/ALR. Exterior receptacles other than heat tape receptacles, shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14; and
 - 5. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change

R4-34-607. Manufacturing Inspection and Certification

- A. No change
- B. Before issuing insignias the Department shall certify that each manufacturing facility of factory-built buildings; or FBB subassemblies; ~~or recreational vehicles~~ is capable of manufacturing the units or subassemblies to the specifications in the approved drawings and the quality assurance manual.
- C. Unit certification;
 - 1. No change
 - 2. Each manufacturer of factory-built buildings, FBB subassemblies, ~~recreational vehicles~~, and reconstructed units shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly before delivery to a retailer.
- D. No change
 - 1. No change
 - 2. Each manufacturer of factory-built buildings, reconstructed units, and FBB subassemblies; ~~and recreational vehicles~~ shall report affixing Arizona Insignias of Approval by the 15th day of each month.
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- F. No change
 - 1. No change
 - 2. No change
- G. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change

ARTICLE 7. PLAN APPROVALS

R4-34-701. General

- A. No change
 - 1. No change
 - 2. No change
- B. No change

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- C. No change
- D. Before reconstructing a manufactured home, ~~mobile home~~ or factory-built building, a manufacturer shall obtain plan approval under R4-34-704(B).
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change

R4-34-702. Quality Assurance Manuals

- A. No change
- B. A manufacturer of factory-built buildings; ~~and FBB or RV subassemblies; or recreational vehicles~~ shall prepare a quality assurance manual that has all of the following attributes:
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change

R4-34-703. Drawings and Specifications

- A. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
- ~~C.~~ A manufacturer of recreational vehicles or RV subassemblies shall submit plans that comply with the applicable codes in R4-34-102(A) or (B). ~~When preparing plans, the plans shall provide or have the following information or format attributes:~~
 - 1. A floor plan that provides traceability to systems or typical plans by numerical or alphabetical identification.
 - 2. Sheets and revisions that are uniquely identified by a heading or number and a date of issuance.
 - 3. A floor plan for each model including, at minimum:
 - a. Dimension or scaled presentation showing overall size;
 - b. Location of windows, exterior exits, and alternate egress means;
 - e. Location of partitions and interior walls; and
 - d. Location of appliances; fixtures; fire extinguishers; heating and return air registers; connections for drain, water, gas, and electrical; permanent serial number, and Arizona Insignia of Approval.
 - 4. Drawings or schematics and specifications depicting plumbing systems including, at minimum:
 - a. Descriptions and, if applicable, listing agency of materials, fixtures, fittings, pipe and tubing, shower doors, and appliances;
 - b. Diameter and type of pipe and tubing, length of 3/8 inch. O.D. tubing, and all trap arms;
 - e. Size and type of fittings;
 - d. Methods of securing drain, waste, and vent piping;
 - e. Diagrams of potable water supply, waste, vent, and drain systems; and
 - f. Location of all cleanouts.
 - 5. Drawings or schematics and specifications depicting mechanical systems including, at minimum:
 - a. Description and, if applicable, listing agency of materials, fittings, pipe, tubing, appliances, heating ducts, and registers;
 - b. Diameter, length, and type of gas pipe and tubing, and total developmental length;

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- e- Size and type of gas or oil fittings, valves, and connectors;
 - d- Diagram of the fuel piping system;
 - e- Locations of fuel piping supports and methods of securing the supports;
 - f- BTUH input rating of all fuel-burning appliances;
 - g- Location of LP gas containers, method of securing the containers, including supporting calculations or test reports, and method of protection from vehicle exhaust system heat;
 - h- Clearances between range burners and combustible materials and method of protection where required; and
 - i- Gauge, size, and type of warm air ducts and return air ducts.
- 6- Drawings or schematics and specifications depicting the electrical system including, at minimum:
- a- Description and listing agency of 115/230 volt wiring materials;
 - b- Description, rating, and if applicable, listing agency of devices and appliances;
 - e- Type and rating of power supply assembly;
 - d- Number of branch circuits and rating of each circuit;
 - e- Electrical load calculations if applicable;
 - f- Location and number of outlets, fixtures, and appliances fixed in place on each circuit;
 - g- Conductor size, type, and material, and over-current protection device for each circuit;
 - h- Installation of compartment installed batteries;
 - i- Methods of grounding all exposed non-current carrying metal parts;
 - j- Location of generator and method of electrical installation; and
 - k- If applicable, a diagram of any low voltage electrical system including conductor size and material, over-current protection, fixture and motor loads, and power supply.
- 7- Drawings or schematics and specifications depicting compliance with fire and life safety provisions including, at minimum:
- a- Description and flame spread ratings of interior finished materials;
 - b- Description and combustibility compliance of textile or film materials, if applicable;
 - e- Size and type of alternate egress;
 - d- Location of gasoline filler spouts and engine exhaust; and
 - e- Sealing of gasoline filler spouts and generator compartment from the interior of the unit.

R4-34-704. Alterations or Reconstruction

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5- ~~The retailer or broker shall ensure that recreational vehicle plans comply with R4-34-703(C).~~
- B. No change
 - 1. No change
 - 2. No change

R4-34-705. Accessory Structures and Ground Anchoring

- A. No change
 - 1- ~~An~~ For commercial factory-built buildings, an installer shall comply with the Uniform Building Code International Building Code when preparing accessory structure plans. For single-family residential buildings, an installer shall comply with the International Residential Code when preparing accessory structure plans.
 - 2. The Department may approve a design that does not comply with the Uniform Building Code International Building Code or the International Residential Code if based on a demonstration by an Arizona Registered Engineer has engineered that the design is engineered to standards at least equivalent to those in the applicable code.
 - 3. No change
- B. Ground anchoring plans shall be certified by a registered engineer or approved by the Office of Manufactured Housing so that anchoring systems resist overturning and lifting effects of the wind.
 - 1. An installer shall comply with the applicable requirements in R4-34-102(E) or the manufacturer's installation manual when preparing ground anchoring plans. If neither apply, the Department shall compare the plans to those of an equivalent, current installation to determine whether the plans are approveable.
 - 2. The plans shall be of sufficient detail and description that all materials, dimensions, and processes can be readily identified.

ARTICLE 8. PERMITS AND INSTALLATION

R4-34-803. Soil and Materials

- A. No change

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- B.** No change
1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
- C.** No change
1. Use materials that comply with ~~the applicable~~ standards incorporated in R4-34-102: ~~Uniform Building Code, Uniform Mechanical Code, The International Building Code, International Residential Code, International Mechanical Code,~~ Uniform Plumbing Code, as incorporated by reference in 4 A.A.C. 48, National Electrical Code, and HUD standards (24 CFR 3280); and
 2. No change
- D.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 - a. Minimum 3/4-inch thick plywood or 2 layers of 5/8-inch thick plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact, conforming to ~~Uniform Building Code Section 2303-3.1~~ International Building Code Section 2303.1.8 or International Residential Code Section R402.1.2, as applicable under R4-34-102(3).
 - b. Minimum 2-inch nominal thickness wood no less than 12 inches wide, and treated for ground contact, conforming to the ~~Uniform Building Code Section 2303-3.1~~ International Building Code Section 2303.1.8 or the International Residential Code Section R402.1.2, as applicable under R4-34-102(3).
 - c. No change
 - d. No change
 6. No change
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. No change
- E.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 8. No change
 9. Construct permanent support heights to ~~the applicable requirements of the Uniform Building Code~~ International Building Code or the International Residential Code as applicable under R4-34-102(3).
- F.** Wedges: An installer or contractor shall:
1. Use 2 wedges in alignment per support;
 2. Use wood wedges that are a minimum of 2 1/2 inches by 4 3/2 inches by 4 6 inches; and
 3. Drive wedges in tightly so that the overlap does not fill more than 1 inch at the support. height developed does not exceed 2 inches at the support; and
 4. Provide each I-Beam of the building with full bearing on the wedge; or
 5. Use listed or approved shimming material according to the manufacturer's wedge instructions; or
 6. Use material or methods designed by an Arizona professional engineer or architect and approved by the authority having jurisdiction.
- G.** Anchoring/Tiedowns

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~~If a unit is to be anchored an installer or contractor shall anchor the unit as directed by the Uniform Building Code or the manufacturer's installation manual that is consistent with this Chapter.~~ An installer or contractor shall use an anchoring system that is certified by a registered, professional engineer.

H. No change

1. No change
2. No change

I. No change

1. An installer or contractor shall install factory-built buildings in compliance with applicable standards incorporated by reference in the Uniform Building Code, R4-34-102; Uniform Mechanical Code, the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing Code as incorporated by reference in 4 A.A.C. 48, and National Electrical Code.
2. No change

R4-34-804. Utilities

A. No change

B. No change

1. No change
2. When service equipment is installed on a manufactured home, an installer or contractor shall install the grounding electrode according to the manufacturer's instructions, if the instructions are consistent with this Chapter, or Article 250 ~~A & B I & II~~ and table 250.122 of the National Electrical Code. The following items shall be installed according to the National Electrical Code.
 - a. No change
 - b. Power supply cord according to ~~550-5~~ 550.10, and
 - c. Conduit according to Chapter 9 (including ~~appendix C Annex-C~~).

C. No change

D. No change

E. No change

1. No change
2. No change

F. No change

R4-34-805. Accessory Structures

A. No change

B. An installer or contractor shall install, assemble, or construct each accessory structure ~~according to~~ in compliance with applicable standards incorporated by reference in R4-34-102; the Uniform Building, Uniform Mechanical, International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing as incorporated by reference in 4 A.A.C.48, and the National Electric Code or according to the manufacturer's installation instructions if the instructions are consistent with this Chapter.

C. No change

D. No change

E. No change

1. No change
 - a. No change
 - b. Ventilate skirting according to the ~~Uniform Building Code~~ International Building Code or the International Residential Code, as applicable under R4-34-102(3), and
 - c. No change
2. No change
 - a. No change
 - b. Design and construct skirting as a retaining wall according to the ~~Uniform Building Code~~ International Building Code or the International Residential Code, as applicable under R4-34-102(3).
3. No change

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R05-13]

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R4-46-401 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 32-3605(A)
Implementing statutes: A.R.S. §§ 32-3605(B)(1) and 32-3635(A)
- 3. The effective date of the rule:**
January 4, 2005

The Board is requesting an immediate effective date for this rule, pursuant to A.R.S. § 41-1032(A)(2), to avoid violation of federal law (Title XI of the Congressional Financial Institution Reform, Recovery, and Enforcement Act of 1989), which requires that each state's appraiser licensing and certification regulatory program recognize and enforce the *Uniform Standards of Professional Appraisal Practice* (USPAP) prescribed by Title XI. Because the 2005 edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is effective on January 1, 2005, the rule must be effective immediately to ensure the Board remain in compliance.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 4195, October 15, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 4154, October 15, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington, Suite 360
Phoenix, AZ 85007

Telephone: (602) 542-1539
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The rule is written to comply with the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), and state statutes applicable to real estate appraisers. The change in the existing rule is to comply with Title XI, which requires state appraiser licensing boards to recognize and enforce the *Uniform Standards of Professional Appraisal Practice* (USPAP) for federally-related transactions; and A.R.S. § 32-3605(B)(1), which requires the Board to adopt standards for professional appraisal practice that are at least equal to the USPAP. The amended rule incorporates by reference the 2005 edition of USPAP.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not to 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, any analysis of each study and other supporting material:**
The Board did not review any study relevant to the rule.
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business and consumer impact:**
The rule is being amended to adopt the latest standards of practice in the profession, as required by federal and state law. The primary groups that will be affected are the Board, licensed or certified appraisers, and the public. The Board annually adopts the latest standards for professional appraisal practice and there should be no appreciable changes in the economic impact. The key changes in USPAP 2005 are in Definitions, Standards Rules 1-3(b) and 6-2(k), Standards Rules 2-1, 2-2, 3-2, 5-2, 5-2, 6-7, 8-1, 8-2, 10-1, 10-2 and Statement on Appraisal Standards No. 10 (SMT-10), Standards Rules 2-3, 5-3, 6-8, 8-3 and 10-3, Standard 3, Statement on Appraisal Standards No. 6 (SMT-6),

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Statement on Appraisal Standards No. 7 (SMT-7), Advisory Opinion 6 (AO-6), and Advisory Opinion 21 (AO-21). The cost for the new edition is \$30. The cost is a deductible business expense.

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

Minor technical changes were made.

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

An email in support of the rule amendment was received on October 28, 2004, from the Phoenix Chapter of the Appraisal Institute. The Board read the comment into record at its public hearing on the rule amendment held on November 18, 2004, and at that time voted to close the record, adopt the proposed rule change and proceed with the Notice of Final Rulemaking.

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. Any material incorporated by reference and its location in the text:

The *Uniform Standards of Professional Appraisal Practice* (USPAP), 2005 Edition, published by The Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, DC 20005, toll free phone (800) 805-7856, phone (202) 347-7722, fax (202) 347-7727, or web site www.appraisalfoundation.org. The location in the rules is R4-46-401.

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

No

15. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 4. STANDARDS OF PRACTICE

Section

R4-46-401. Standards of Appraisal Practice

ARTICLE 4. STANDARDS OF PRACTICE

R4-46-401. Standards of Appraisal Practice

Every appraiser, in performing the acts and services of an appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), ~~2004~~ 2005 edition, published by The Appraisal Foundation, which is incorporated by reference and on file with the Board and the Office of the Secretary of State. This incorporation by reference contains no future ~~additions~~ editions or amendments. A copy of the USPAP ~~2004~~ 2005 edition may be obtained from ~~the~~ The Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005; toll free 1-800-805-7857; (202) 347-7722; fax (202) 347-7727; or web site www.appraisalfoundation.org.