

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

[R08-320]

PREAMBLE

- 1. Sections Affected**
R4-6-101
R4-6-213
- Rulemaking Action**
Amend
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-3253(A)(1)
Implementing statute: A.R.S. §§ 32-3272(C) and 32-3274(D)
- 3. The effective date of the rules:**
September 16, 2008
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rules:**
None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Sherry D. Blatner
Address: 3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012
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- 6. An explanation of the rules, including the agency's reasons for initiating the rules, including the statutory citation to the exemption from regular rulemaking procedures:**
The attached rules are being promulgated to implement behavioral health licensure statutes that were effective April 29, 2008.
Laws 2008, Ch. 134, § 6, provides that the Board of Behavioral Health Examiners is exempt from the rulemaking requirements of A.R.S. Title 41, Ch. 6 for two years after April 29, 2008.
Effective June 6, 2008, the Board enacted rules to provide a reciprocal licensure process as provided under Laws 2008, Ch. 134. The amendments to R4-6-101 and R4-6-213 further standardize the reciprocal licensure process. The definition of "reciprocity" is deleted. The Board established a fee category for an application for a reciprocal license. Additionally, the amended rules provide changes to conform to the Board's current practices regarding the acceptance of personal checks and the publication standards of the Office of the Secretary of State.
- 7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

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Not applicable

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

Not applicable

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

Not applicable

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

The Board discussed the rules at its September 5, 2008, Board meeting. The Board voted to approve the rules. No public comment was received.

As discussed in item 6, above, the rules are necessary to comply with recent changes to the Board's statutes. Comments regarding reciprocal licensure were heard at the legislature as part of the implementation of House Bill 2325.

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:

Not applicable

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

Not applicable

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARTICLE 1. DEFINITIONS

Section
R4-6-101. Definitions

ARTICLE 2. GENERAL PROVISIONS

Section
R4-6-213. Fees

ARTICLE 1. DEFINITIONS

R4-6-101. Definitions

In addition to the definitions set forth at A.R.S. § 32-3251, the following definitions apply to this Chapter, unless otherwise specified:

- 1- "Administrative completeness" review means the agency's determination of whether all documents and information required by statute or rule to be submitted in an application packet have been provided and are complete.
- 2- "Agency" means the Arizona Board of Behavioral Health Examiner's administrative office.
- 3- "Aggrieved party" means the state of Arizona or a licensee who is the subject of a complaint pending before the Board who disagrees with a Board decision resulting from a formal administrative hearing.
- 4- "Applicant" means an individual requesting a regular or temporary license or a license by reciprocity by submitting a completed application packet to the agency.
- 5- "Application packet" means the required documents, forms, fees and additional information required by the Board of an applicant.
- 6- "Assessment" means the collection and analysis of information to determine an individual's treatment needs.
- 7- "A.S.W.B." means the Association of Social Work Boards.
- 8- "Behavioral health entity" means any organization, agency, business, or professional practice, including a for-profit private practice, that provides assessment, diagnosis, and treatment to individuals, groups or families for behavioral health related issues.
- 9- "Behavioral health service" means the assessment, diagnosis or treatment of an individual's behavioral health issue.
- 10- "Board" means the Arizona Board of Behavioral Health Examiners.
- 11- "C.A.C.R.E.P." means the Council on Accreditation for Counseling and Related Educational Programs.
- 12- "Client" means a patient who receives behavioral health services from a person licensed pursuant to A.R.S. § 32-3251 et seq.

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13. "Client record" means the collected documentation of the behavioral health services provided to and the information gathered regarding a client.
14. "Clinical supervision" means face-to-face, videoconferencing or telephonic direction or oversight provided by a qualified individual to evaluate, guide and direct all behavioral health services provided by a licensee to assist the licensee to develop and improve the necessary knowledge, skills, techniques and abilities to allow the licensee to engage in the practice of behavioral health ethically, safely and competently.
15. "Clinical supervisor" means an individual who provides clinical supervision.
16. "Clock hour" means 60 minutes of instruction, not including breaks or meals.
17. "Continuing education" means training that provides an understanding of current developments, skills, procedures or treatments related to the practice of behavioral health, as determined by the credentialing committee.
18. "Co-occurring disorder" means a combination of a mental disorder or a personality disorder and substance abuse.
19. "C.O.R.E." means the Council on Rehabilitation Education.
20. "Council on Social Work Education" means the nationally recognized accrediting body for schools of social work.
21. "Counseling related coursework" means education that prepares an individual to provide behavioral health services, as determined by the credentialing committee.
22. "Credentialing committee" means a committee established pursuant to A.R.S. § 32-3251 et seq.
23. "Date of service" means the date mailed by regular United States mail to the last address placed on file at the agency in writing by the applicant or licensee.
24. "Day" means calendar day.
25. "Direct supervision" means immediate responsibility and oversight for all services provided by a supervisee.
26. "Disciplinary action" means any action taken by the Board against a licensee or applicant based on a finding that the licensee has engaged in unprofessional conduct and includes all sanctions of any kind, including refusing to grant or renew a license and suspending or revoking a license.
27. "Documentation" means written or electronic supportive evidence.
28. "Family member" means a parent, sibling, half-sibling, child, cousin, aunt, uncle, niece, nephew, grandparent, grandchild, and present and former spouse, in-law, stepchild, stepparent, foster parent, or significant other.
29. "Gross negligence" means the careless or reckless disregard of established standards of practice or the repeated failure to exercise the care that a reasonable practitioner would exercise within the scope of professional practice.
30. "Group clinical supervision" means clinical supervision provided by a clinical supervisor to two but no more than six supervisees.
31. "Immediate family member" means a parent, sibling, half-sibling, child, cousin, aunt, uncle, niece, nephew, grandparent, grandchild, and present and former spouse, in-law, stepchild, stepparent, or foster parent.
32. "Independent contractor" means a licensed behavioral health professional whose contract to provide services on behalf of a behavioral health entity qualifies for independent contractor status under the codes, rules and regulations of the Internal Revenue Service of the United States.
33. "Independent practice" means engaging in the practice of marriage and family therapy, professional counseling, social work or substance abuse counseling without direct supervision.
34. "Inactive status" means a licensee has temporarily suspended practice under Arizona licensure by postponing renewal of licensure for a maximum of 48 months.
35. "Individual clinical supervision" means clinical supervision provided by a clinical supervisor to one supervisee.
36. "Ineligible" means failure to meet licensure requirements based upon unprofessional conduct by the applicant or failure to meet minimum licensure or renewal requirements.
37. "Informed consent for treatment" means a written document authorizing treatment of a client that:
 - a. Contains the requirements of R4-6-1101;
 - b. Is dated and signed by the client or the client's legal representative, and
 - c. Beginning on July 1, 2006, is dated and signed by an authorized representative of the behavioral health entity.
38. "Last client contact" means the last time a licensee communicated orally or in writing with a client for the purpose of providing or coordinating treatment.
39. "Legal representative" means an individual authorized by law to act on a client's behalf.
40. "License" means written authorization issued by the Board to engage in the practice of behavioral health in Arizona.
41. "Licensee" means an individual holding a current license issued by the Board to practice behavioral health in Arizona.
42. "Passing score" means the minimum acceptable score that an applicant is required to obtain on an examination as determined by the Board.
43. "Practice of behavioral health" means the practice of marriage and family therapy, professional counseling, social work and substance abuse counseling pursuant to A.R.S. § 32-3251 et seq.
44. "Practice of marriage and family therapy" means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral. The practice of marriage and family therapy includes:

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- a- Assessment, appraisal and diagnosis.
 - b- The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.
- 45- "Practice of professional counseling" means the professional application of mental health, psychological and human development theories, principles and techniques to:
- a- Facilitate human development and adjustment throughout the human life span.
 - b- Assess and facilitate career development.
 - e- Treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral.
 - d- Manage symptoms of mental illness.
 - e- Assess, appraise, evaluate, diagnose and treat individuals, couples, families and groups through the use of psychotherapy.
- 46- "Practice of social work" means the professional application of social work theory, principles, methods and techniques to:
- a- Treat mental and emotional disorders.
 - b- Assist individuals, families groups and communities to enhance or restore the ability to function physically, socially, emotionally, mentally and economically.
 - e- Assess, appraise, diagnose, evaluate and treat individuals, couples, families and groups through the use of psychotherapy.
- 47- "Practice of substance abuse counseling" means the professional application of general counseling theories, principles and techniques as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing substance abuse, chemical dependency and related problems and to the families of those persons. The practice of substance abuse counseling includes the following as they relate to substance abuse and chemical dependency issues:
- a- Assessment, appraisal, and diagnosis.
 - b- The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.
- 48- "Progress note" means documentation of a behavioral health service provided to an individual dated and signed or electronically acknowledged by the licensee.
- 49- "Quorum" means a majority of the appointed members of the Board or a credentialing committee.
- 50- ~~"Reciprocity" means the acceptance of a license or certification issued by another state regulatory entity as meeting all behavioral health professional licensure requirements in Arizona.~~
- 51- "Regionally accredited college or university" means approved by the:
- a- New England Association of Schools and Colleges;
 - b- Middle States Association of Colleges and Schools;
 - e- North Central Association of Colleges and Schools;
 - d- Northwest Association of Schools and Colleges;
 - e- Southern Association of Schools and Colleges; or
 - f- Western Association of Schools and Colleges.
- 52- "Release of information" means a written authorization, dated and signed by a client or a client's legal representative, that allows a licensee to provide specified treatment information to the individual or individuals designated in the written release of information.
- 53- "Significant other" means an individual whose participation the client considers to be essential to the effective provision of behavioral health services to the client.
- 54- "Substantive review" means a credentialing committee's determination whether an applicant is eligible for licensure.
- 55- "Supervised work experience" means practicing clinical social work, marriage and family therapy, professional counseling, or substance abuse counseling for remuneration or on a voluntary basis under direct supervision.
- 56- "Three semester credit hour course" means a three-semester credit hour course, a four-quarter credit hour course or a four-trimester credit hour course.
- 57- "Treatment" means the application by a licensee of one or more therapeutic practice methods to improve, eliminate or manage a client's behavioral health issue.
- 58- "Treatment goal" means the desired result or outcome of treatment.
- 59- "Treatment method" means the specific approach used to achieve a treatment goal.
- 60- "Treatment plan" means a description of the specific behavioral health services that a licensee will provide to a client that is documented in the client record.

ARTICLE 2. GENERAL PROVISIONS

R4-6-213. Fees

- A. The Board shall establish at its June meeting nonrefundable fees for:

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1. Application for a regular license,
 2. Application for a ~~license by reciprocity~~ reciprocal license,
 3. Application for a temporary license,
 4. Fingerprint background check,
 5. Biennial renewal,
 6. Duplicate ~~certificate~~ license,
 7. Late renewal,
 8. Inactive status request,
 9. Late inactive status request ~~fee~~,
 10. Reassessment of eligibility,
 11. General copying of records,
 12. Commercial copying of records,
 13. Public records requests,
 14. Copying ~~of~~ audiotapes,
 15. Verification of licensure,
 16. Copies of ~~Boards~~ the Board's rules and statutes,
 17. Directory of licensees, and
 18. Returned ~~personal~~ checks.
- B.** The Board shall accept payment of fees as follows:
1. ~~For an amount greater than \$25 other than licensure verification requests, a certified check, cashier's check, or money order;~~
 - 2.1. For an amount of ~~\$25~~ \$40 or less, a personal or business check; ~~and~~
 2. For a fingerprint background check, a personal or business check; and
 3. ~~For licensure verification requests all other fees, a certified check, cashier's check, or money order or business check.~~
- C.** The agency shall make the current fee schedule available to the public.
- D.** Fees for required examinations are set by contract between the Board and the organizations administering the approved examinations.