

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

BOARD OF PHARMACY

[R08-32]

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 23, Board of Pharmacy
Articles and their headings: 1, Administration; 4, Professional Practices
Section numbers: R4-23-110 and R4-23-404 (As part of this rulemaking, the Board may add, delete, or modify additional Sections as necessary.)

2. Subject matter of the proposed rule:

A.R.S. § 32-1968(D) specifies that any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet is misbranded. A.R.S. § 32-1965(1) states that selling any drug that is misbranded is prohibited. According to A.R.S. § 32-1996(A), a person who sells a misbranded drug is guilty of either a class 2 misdemeanor or a class 5 felony based on intent. A.R.S. § 32-1901.01(B)(12) states that a pharmacist or intern is guilty of unprofessional conduct for knowingly dispensing a drug on a prescription order that was issued in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet. The Board intends to amend R4-23-404 (Unethical Practices) by adding language to specifically address the issue of dispensing prescriptions received from a business conducted by mail or the internet, specifically prescription orders based on an internet-based questionnaire or internet-based consultation all without a valid preexisting medical practitioner-patient relationship. The Board published a Notice of Rulemaking Docket Opening regarding this issue on April 6, 2007 and published a Notice of Proposed Rulemaking on December 14, 2007. Subsequently on January 14, 2008, the Board held a public hearing regarding the proposed rulemaking. Based on comments from the public hearing, the Board decided to remove some language and add a new definition for "medical practitioner-patient relationship" to R4-23-110. Because Article 1 was not opened in the original Notice of Rulemaking Docket Opening, the Board decided to terminate the original docket and open this docket to include Article 1, (Administration) and specifically Section R4-23-110 (Definitions). The original docket was terminated on January 30, 2008. The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The agency docket number, if applicable:

R0801

3. A citation to all published notices relating to the proceeding:

Notice of Rulemaking Docket Opening: 13 A.A.R. 1279, April 6, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 4369, December 14, 2007

Notice of Terminated Rulemaking: 14 A.A.R. 459, February 15, 2008

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007
Telephone: (602) 771-2744
Fax: (602) 771-2749
E-mail: dwright@azpharmacy.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.

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6. **A timetable for agency decisions or other action in the proceeding:**

None

NOTICE OF RULEMAKING DOCKET OPENING

BOARD OF PHARMACY

[R08-35]

1. **Title and its heading:**

4, Professions and Occupations

Chapter and its heading:

23, Board of Pharmacy

Articles and their headings:

3, Intern Training and Pharmacy Intern Preceptors; 6, Permits and Distribution of Drugs; 10, Uniform Controlled Substances and Drug Offenses

Section numbers:

R4-23-301, R4-23-601, R4-23-613, R4-23-1003 (As part of this rulemaking, the Board may add, delete, or modify additional Sections as necessary.)

2. **Subject matter of the proposed rule:**

A.R.S. § 32-1984 specifies that distributors and purchasers (including pharmacies) of prescription-only drugs must establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription-only drugs for at least three years. R4-23-601 (General Provisions), R4-23-613 (Procedure for Discontinuing a Pharmacy), and R4-23-1003(Records and Order Forms) allow the above mentioned records to be kept for only two years. To be consistent with the statute, the Board intends to amend R4-23-601, R4-23-613, and R4-23-1003 to replace the two-year record retention requirement with a three-year record retention requirement.

The Board has determined that with the present National Association of Boards of Pharmacy (NABP) licensure process, it is not necessary to have an intern provide a recent photograph with the intern's application for licensure. The photograph requirement, specified in R4-23-301(H)(2)(e), will be deleted by this rulemaking. The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The agency docket number, if applicable:

R0802

3. **A citation to all published notices relating to the proceeding:**

None

4. **Name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007
Telephone: (602) 771-2744
Fax: (602) 771-2749
E-mail: dwright@azpharmacy.gov

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.

6. **A timetable for agency decisions or other action in the proceeding:**

None

NOTICE OF RULEMAKING DOCKET OPENING

BOARD OF PHARMACY

[R08-36]

1. **Title and its heading:**

4, Professions and Occupations

Notices of Rulemaking Docket Opening

Chapter and its heading: 23, Board of Pharmacy
Articles and their headings: 4, Professional Practices; 6, Permits and Distribution of Drugs
Section numbers: R4-23-410, R4-23-681 (As part of this rulemaking, the Board may add, delete, or modify additional Sections as necessary.)

2. Subject matter of the proposed rule:

The Board intends to make some clarifying changes to R4-23-410 (Current Good Compounding Practices). The changes include documentation of a beyond-use-date for each finished compounded pharmaceutical product, documentation of the identity of any non-pharmacist personnel who weighs, measures, or subdivides a component for pharmaceutical product compounding, and documentation to identify by name or initials and function any non-pharmacist personnel who performs a pharmaceutical product compounding function.

The Board received a request from a nuclear pharmacist asking that the Board change R4-23-681 (General Requirements for Limited-service Nuclear Pharmacy), specifically subsection (B)(2) to include pharmacy technicians as persons who may compound a radiopharmaceutical under the supervision of a pharmacist. The pharmacist feels that since a pharmacy technician may, after proper training, compound drugs under the supervision of a pharmacist in other pharmacy settings, a properly trained pharmacy technician in a nuclear pharmacy should also be able to compound under the supervision of a pharmacist. The rulemaking will amend R4-23-681(B)(2) by adding the words "or pharmacy technician" after the word "intern." The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The agency docket number, if applicable:

R0803

3. A citation to all published notices relating to the proceeding:

None

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007
Telephone: (602) 771-2744
Fax: (602) 771-2749
E-mail: dwright@azpharmacy.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.

6. A timetable for agency decisions or other action in the proceeding:

None

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

[R08-34]

1. Title and its heading: 17, Transportation
Chapter and its heading: 4, Department of Transportation – Title, Registration, and Driver Licenses
Article and its heading: 4, Driver Licenses
Section numbers: R17-4-414 (As part of this rulemaking, the Department may add, delete, or modify additional Sections as necessary.)

2. The subject matter of the proposed rule:

The Motor Carrier Safety Improvement Act of 1999 requires each state to obtain the 10-year driver history for all individuals applying for a commercial driver license, maintain the driver history for each person who holds a commercial driver license, or who was convicted of certain violations while operating a commercial motor vehicle. In

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order to comply with the Motor Carrier Safety Improvement Act and the Rules and Regulations promulgated by the Federal Motor Carrier Safety Administration, including 49 CFR 384.206, the Division engages in this rulemaking to promulgate rules prescribing the procedures, reporting, and records maintenance requirements necessary to fulfill the requirements of the Motor Carrier Safety Improvement Act as it pertains to driver history checks and actions.

The agency docket number, if applicable:

Not applicable

3. A citation to all published notices relating to the proceeding:

None

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

Name: Celeste M. Cook, Administrative Rules Analyst
Address: Administrative Rule Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-7624
Fax: (602) 712-3081
E-mail: ccook@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/MVDRules/rules.asp.

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit a comment in writing, by fax, or e-mail, please contact the Administrative Rules Analyst listed in item 4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of legal state holidays.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined

NOTICE OF RULEMAKING DOCKET OPENING

**DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

[R08-28]

- 1. Title and its heading:** 18, Environmental Quality
Chapter and its heading: 13, Department of Environmental Quality – Solid Waste Management
Articles and their headings: 4, Solid Waste Facilities; General Requirements (As part of this rule-making, the Department intends to adopt Article 4)
Section numbers: R18-13-401 through R18-13-415 (As part of this rulemaking, the Department may add, delete, or modify Sections as necessary).

- 2. The subject matter of the proposed rule:**
The purpose of this rulemaking is to establish a systematic and comprehensive framework for regulating solid waste facilities and solid waste streams in Arizona. This rulemaking will implement statutory provisions related to best management practices, self-certification requirements, plan approval procedures, financial assurance requirements, design and operation rules for solid waste facilities, and other topics.

- 3. A citation to all published notices relating to the proceeding:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 870, February 25, 2005
Notice of Rulemaking Docket Opening: 12 A.A.R. 585, February 24, 2006
Notice of Rulemaking Docket Opening: 13 A.A.R. 583, February 23, 2007

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

Name: Martha L. Seaman
Address: Department of Environmental Quality
1110 W. Washington St. (#4210-G)
Phoenix, AZ 85007
Telephone: (602) 771-2221, or toll-free in Arizona: 800-234-5677, ext. 2221
Fax: (602) 771-4138

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E-mail: seaman.martha@azdeq.gov
or
Name: Peg Guichard-Watters
Address: Department of Environmental Quality
1110 W. Washington St. (#4210-J)
Phoenix, AZ 85007
Telephone: (602) 771-4117, or toll-free in Arizona: 800-234-5677, ext. 4117
Fax: (602) 771-4138
E-mail: guichard-watters.peggy@azdeq.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

ADEQ is implementing a public involvement process to obtain informal comments on this rulemaking. This process is described at <http://www.azdeq.gov/enviro/waste/solid/integrated.html>. Persons interested in keeping informed of changes to the Department's solid waste rules via e-mail notice may so request by sending an e-mail to the persons referenced above.

Formal written comments for the rulemaking record should be submitted after publication of the notice of proposed rulemaking in the *Arizona Administrative Register* and prior to the close of public record date specified in the notice of proposed rulemaking. Before the Department holds a hearing at which oral comments can be made for the rule-making record, the date(s) and time(s) of the proceeding(s) will be published in the *Arizona Administrative Register*. ADEQ also intends to post this information on its Draft and Proposed Rules web page (<http://azdeq.gov/function/laws/draft.html>) and its Events Calendar (<http://azdeq.gov/cgi-bin/vertical.pl>).

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined

NOTICE OF RULEMAKING DOCKET OPENING

ARIZONA RACING COMMISSION

[R08-30]

- 1. Title and its heading:** 19, Alcohol, Horse and Dog Racing, Lottery and Gaming
Chapter and its heading: 2, Arizona Racing Commission
Article and heading: 1, Horse Racing
Section numbers: R19-2-112, R19-2-120, R19-2-121 (As part of this rulemaking, the Department may add, delete, or modify additional sections as necessary.)

- 2. Subject matter of the proposed rule:**
The proposed changes to existing rules will combine and add industry provisions regulating health, medication and veterinary practices for horses. The basis of the new rules is found in the Association of Racing Commissioners' International Model Rules and incorporates provisions relevant to industry practices in Arizona. The basic principal guiding the development of these rules is that horses should not compete under the influence of drugs or therapeutic medications.

3. A citation to all published notices relating to the proceeding:

None

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

Name: Nan Mitchell
Address: 1110 W. Washington St., Suite 260
Telephone: (602) 364-1730
Fax: (602) 364-1703
E-mail: nmitchell@racing.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Both written and oral comments will be accepted during business hours at the address and phone number listed in item 4.

6. A timetable for agency decisions or other action on the proceeding, if known:

None