

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES OCCUPATIONAL LICENSING

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per the Governor's Regulatory Review Plan memorandum, January 22, 2009 and the continuations issued April 30, 2009 and June 30, 2009. (See the memoranda in this issue on pages 1367 through 1369.) The Governor's Office authorized the notice to proceed through the rulemaking process on July 24, 2009.

[R09-76]

PREAMBLE

1. Sections Affected

R9-16-501
R9-16-502
R9-16-503
R9-16-504
R9-16-505
Table 1
R9-16-506
R9-16-507
R9-16-508

Rulemaking Action

New Section
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New Section

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

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(18), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-1902(B)(5) and 36-1940.04

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

Notice of Rulemaking Docket Opening: 15 A.A.R. 301, January 30, 2009

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

Name: Rohno Geppert
Program Manager, Office of Special Licensing

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150 N. 18th Ave., Suite 460
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or

Name: Thomas Salow
Acting Manager, Office of Administrative Counsel and Rules

Notices of Proposed Rulemaking

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

Laws 2006, Ch. 390, § 5 created A.R.S. § 36-1940.04 to establish licensing requirements for speech-language pathologist assistants. The Arizona Department of Health Services (Department) is writing new rules, consistent with A.R.S. § 36-1940.04, for licensing speech-language pathologist assistants. The Department is creating a new Article in the *Arizona Administrative Code* for this rulemaking. The rules will conform to the rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or 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, and any analysis of each study and other supporting material:

The Department did not review or rely on any study related to this rulemaking.

7. 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

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

There are approximately 2,400 speech-language pathologists licensed by the Department. Each licensed speech-language pathologist can supervise up to two full-time speech-language pathologist assistants or three part-time speech-language pathologist assistants. The Department estimates that there are approximately 170 individuals waiting to become licensed as speech-language pathologist assistants, and that there is the potential for approximately 200 to 250 additional initial licensees annually thereafter, mainly from the two programs in the state that provide training leading to a certificate that meets licensing requirements.

In this economic impact summary, "minimal" means less than \$1,000; "moderate" means \$1,000 to \$10,000; "substantial" means greater than \$10,000; and "significant" means meaningful or important, but not readily subject to quantification.

The Department will incur a minimal cost from the rulemaking process and minimal-to-moderate costs for notifying the public of the rules and for regulating speech-language pathologist assistants. Individuals who meet the qualifications in A.R.S. § 36-1940.04 and submit an application will incur minimal costs from time spent completing the application and from the \$100 initial licensing fee and the \$100 initial application fee. If the individual becomes a licensee, the licensee will incur minimal costs from the \$100 license renewal fee and from obtaining the required continuing education hours. A licensee will receive significant benefits from the rulemaking because the licensee will be able to provide and receive payment for speech-related services. Speech-language pathologists who supervise a speech-language pathologist assistant may incur significant costs for providing indirect supervision, direct supervision, and training for the speech-language pathologist assistant, as well as for maintaining documentation of the supervision and training. A speech-language pathologist may also receive significant benefits from employing speech-language pathologist assistants by expanding the number of clients. The cost and benefit will vary depending on the number, if any, of speech-language pathologist assistants being supervised by a speech-language pathologist and the number of additional clients to whom services are provided. Any business, school, or governmental entity that employs a speech-language pathologist assistant will incur a significant benefit. There is currently a shortage of speech and hearing professionals, and the licensing of speech-language pathologist assistants will enable these businesses, schools, and governmental entities to employ speech-language pathologist assistants and provide more treatment options to those who need speech-related services. Providers of continuing education may receive a moderate-to-substantial benefit from being able to offer and receive payment for continuing education courses for the newly licensed provider-type of speech-language pathologist assistants. Individuals who need speech-related services will receive a significant benefit since the rulemaking will enable them to receive more timely speech-related services and more accurate diagnosis and treatment from qualified speech professionals. The Department does not believe that any other persons will be impacted by the changes in this rulemaking.

Revenues collected in association with the licensing of speech-language pathologist assistants will be deposited in a special Hearing and Speech Professionals Fund established in 2004 by HB 2543. Monies from this fund are appropriated to the Department annually, and can only be used for costs associated with the licensing and regulation of speech-language pathologists, audiologists, hearing aid dispensers and speech-language pathologist assistants. The rule may impact state revenues only if the Department fails to comply with the time-frame requirements and is required by state law to refund licensing fees and pay penalties to applicants.

The Department has determined that the benefits outweigh the costs associated with this rulemaking.

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

Name: Rohno Geppert
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Division of Licensing Services
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Name: Thomas Salow
Acting Manager, Office of Administrative Counsel and Rules

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Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: salowt@azdhs.gov

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

The Department has scheduled the following oral proceeding:

Date: September 22, 2009

Time: 9:00 a.m.

Location: 150 N. 18th Ave., Rm. 415C
Phoenix, AZ 85007

A person may submit written comments on the proposed rules until the close of record at 4:00 p.m. on September 22, 2009, to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation by contacting Thomas Salow at (602) 542-1264 or salowt@azdhs.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

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

None

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES

OCCUPATIONAL LICENSING

ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS

Section

R9-16-501. Definitions

<u>R9-16-502.</u>	<u>License Qualifications</u>
<u>R9-16-503.</u>	<u>Initial License</u>
<u>R9-16-504.</u>	<u>License Renewal</u>
<u>R9-16-505.</u>	<u>License Application and CE approval Time-frames</u>
<u>Table 1.</u>	<u>Time-frames (in days)</u>
<u>R9-16-506.</u>	<u>Continuing Education</u>
<u>R9-16-507.</u>	<u>Disciplinary Actions</u>
<u>R9-16-508.</u>	<u>Duplicate License Fee</u>

ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS

R9-16-501. Definitions

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. “Accredited” means approved by the:
 - a. New England Association of Schools and Colleges.
 - b. Middle States Association of Colleges and Schools.
 - c. North Central Association of Colleges and Schools.
 - d. Northwest Commission on Colleges and Universities.
 - e. Southern Association of Colleges and Schools, or
 - f. Western Association of Schools and Colleges.
2. “Application packet” means the information, documents, and fees required by the Department for a license or renewal of a license.
3. “CE” means continuing education, the ongoing process of receiving instruction related to the practice of speech-language pathology.
4. “CE hour” means 50 to 60 minutes of continuous instruction.
5. “Client” means an individual who receives speech-language pathology services from a speech-language pathologist assistant.
6. “Course” means a workshop, seminar, lecture, conference, or class.
7. “Credit hour” means an academic unit earned at an accredited college or university:
 - a. By attending a one-hour class session each calendar week during a semester or equivalent shorter course term, or
 - b. Completing practical work for the course as determined by the accredited college or university.
8. “Documentation” means a written statement, such as an e-mail or a fax.
9. “General education” means instruction that includes:
 - a. Oral communication.
 - b. Written communication.
 - c. Mathematics.
 - d. Computer instruction.
 - e. Social sciences, and
 - f. Natural sciences.
10. “Good moral character” means an individual has:
 - a. Not been convicted of a felony or a misdemeanor in the five years before submitting an initial application to the Department.
 - b. Has never been convicted of a felony involving moral turpitude or a misdemeanor involving moral turpitude.
11. “Observation” means to witness:
 - a. The provision of speech-language pathology services to a client, or
 - b. A demonstration of how to provide speech-language pathology services to client.
12. “Speech-language pathologist” means an individual who is licensed under A.R.S. § 36-1940.01.
13. “Speech-language pathology services” means the same as “speech-language pathology” in A.R.S. § 36-1901.
14. “Speech-language pathology technical coursework” means curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
 - a. Language acquisition.
 - b. Audiological vestibular processes.
 - c. Speech development.
 - d. Communication disorders.
 - e. Articulation and phonology, and
 - f. Therapeutic approaches used in contemporary educational settings.
15. “Supervision” means instruction and monitoring provided by a master’s level speech-language pathologist to an individual training to become a speech-language pathologist assistant that includes:
 - a. Onsite, in-view observation and guidance; and

- b. Activities that may include consultation, record review, review and evaluation of an audiotaped or videotaped screening evaluation, or clinical session.

R9-16-502. License Qualifications

To qualify for a speech-language pathologist assistant license, an individual shall:

1. Complete an approved training program that contains at least 60 credit hours of general education and speech-language pathology technical coursework from a nationally or regionally accredited college or university, of which at least:
 - a. 20 credit hours are in general education, and
 - b. 20 credit hours are in speech-language pathology technical coursework;
2. Complete at least 100 hours of clinical interaction that does not include observation, under the supervision of a licensed master's level licensed speech-language pathologist;
3. Be of good moral character;
4. Not have had a license revoked or suspended by any state within the previous two years before the date of the application; and
5. Not be currently ineligible for licensure in any state because of a prior license revocation or suspension.

R9-16-503. Initial License

An applicant for a speech-language pathologist assistant initial license shall submit to the Department an application packet containing:

1. A Department-provided application form that contains:
 - a. The applicant's name, Social Security number, date of birth, current home address, and home telephone number;
 - b. If applicable, the name of the applicant's employer and the employer's current business address and telephone number;
 - c. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or any other state;
 - d. A statement of whether the applicant has ever had a license revoked or suspended by any state within the previous two years;
 - e. A statement of whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension; and
 - f. A statement signed and dated by the applicant verifying the accuracy of the information provided by the applicant;
2. An official transcript issued to the applicant from a nationally or regionally accredited college or university, showing completion of at least 60 credit hours of general education and speech-language pathology technical coursework, as required in R9-16-502(1);
3. Documentation signed by a licensed master's level speech-language pathologist who provided supervision to the applicant, confirming the applicant's completion of at least 100 hours of clinical interaction that did not include observation;
4. A \$100 application fee; and
5. A \$100 license fee.

R9-16-504. License Renewal

A. Before the expiration date of a license, a licensee shall submit to the Department an application packet containing:

1. A Department-provided renewal application form that contains:
 - a. The licensee's name, Social Security number, date of birth, current home address, business address, and home and business telephone numbers;
 - b. If applicable, the name of the licensee's employer and the employer's current business address and telephone number;
 - c. If applicable, the name of the licensee's supervising speech-language pathologist;
 - d. The licensee's license number and license expiration date;
 - e. A statement of whether the licensee has been convicted of a felony or a misdemeanor involving moral turpitude since the licensee's previous license application; and
 - f. A statement signed by the applicant verifying the accuracy of the information provided by the applicant;
2. A Department-provided continuing education form completed and signed by the licensee that states the licensee meets the requirements in R9-16-506; and
3. A \$100 license renewal fee.

B. According to A.R.S. § 36-1904, the Department shall allow a speech-language pathologist assistant to renew a license within 30 days after the expiration date of the license by submitting to the Department:

1. The application packet required in subsection (A), and
2. A \$25 late fee.

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- C.** An individual who does not submit a renewal application packet required according to subsection (A) or (B), shall reapply for an initial license by submitting:
1. An initial license application packet required in R9-16-503, and
 2. The form required in subsection (A)(2).

R9-16-505. License Application and CE approval Time-frames

- A.** For each type of license or approval issued by the Department under this Article, Table 1 specifies the overall time-frame described in A.R.S. § 41-1072.
1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** For each type of license or approval issued by the Department under this Article, Table 1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072.
1. The administrative completeness review time-frame begins:
 - a. On the date the Department receives a license application packet, or
 - b. On the date the Department receives a request for CE approval.
 2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If a license application packet or request for CE approval is not complete, the notice of deficiencies shall list each deficiency and the documents or information needed to complete the license application packet or request for CE approval.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the post-mark date of the notice until the date the Department receives the missing documents or information.
 - c. If the applicant does not submit to the Department all the documents and information listed in the notice of deficiencies within 30 days after the post-mark date of the notice of deficiencies, the Department considers the license application packet or request for CE approval withdrawn.
 3. If the Department issues a license or approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** For each type of license or approval issued by the Department under this Article, Table 1 specifies the substantive review time-frame described in A.R.S. § 41-1072, which begins on the post-mark date of the notice of administrative completeness.
1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department issues the license or CE approval.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional documents or information; and
 - b. If the Department and the applicant agree in writing to allow one or more supplemental requests for additional documents or information, the Department may make the number of supplemental requests agreed to between the Department and the applicant.
 3. A comprehensive written request or a supplemental request for additional documents or information suspends the substantive review time-frame and the overall time-frame from the post-mark date of the request until the date the Department receives all the documents and information requested.
 4. If the applicant does not submit to the Department all the documents or information listed in a comprehensive written request or supplemental request for additional documents or information within 30 days after the post-mark date of the request, the Department shall deny the license or approval.
- D.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Table 1. Time-frames (in days)

<u>Type of Approval or License</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Review Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Initial License Application</u>	<u>A.R.S. §§ 36-1904 and 36-1940.04</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Renewal License Application</u>	<u>A.R.S. § 36-1904</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Approval of Continuing Education</u>	<u>A.R.S. § 36-1904</u>	<u>45</u>	<u>30</u>	<u>15</u>

R9-16-506. Continuing Education

- A.** Before the expiration date of a license, a licensee shall complete at least 10 CE hours.
- B.** A licensee may request approval of a CE course by submitting the following to the Department:
1. The title of the CE course;
 2. The name of the organization providing the CE course;
 3. The date, time, and location of the CE course;
 4. A description of the CE course's content and educational objectives;
 5. The name, educational background, and teaching experience of the individual presenting the CE course; and
 6. The number of CE hours the CE course consists of.
- C.** The Department shall approve a CE course if the Department determines that the CE course:
1. Provides instruction on:
 - a. Current developments in speech-language pathology; or
 - b. Methods and procedures used to screen, evaluate, and treat speech-language pathology disorders;
 2. Contributes directly to the competence of a licensee;
 3. Is developed and presented by an individual who is licensed:
 - a. As a speech-language pathologist according to A.R.S. § 36-1940.01(A);
 - b. To provide speech-language pathology in another state; or
 - c. To provide audiology in this state or another state; and
 4. Was completed during the licensee's current licensing period.
- D.** A licensee shall maintain a record for each completed CE course that contains:
1. The name, address, and license number of the licensee;
 2. The title of the CE course;
 3. The name of the organization providing the CE course;
 4. The date, time, and location of the CE course;
 5. A description of the CE course's content and educational objectives;
 6. The name, educational background, and teaching experience of the individual presenting the CE course;
 7. The number of CE hours earned for the CE course;
 8. A statement, signed by the individual presenting the CE course, verifying the licensee's completion of the CE course; and
 9. A statement signed by the licensee verifying the accuracy of information contained in the record.
- E.** A licensee shall maintain a record required in subsection (D) for at least 36 months after the date the licensee completed the CE course.

R9-16-507. Disciplinary Actions

- A.** If the Department determines that a licensee violated A.R.S. §§ 36-1901 through 36-1940.04 or this Article, the Department may:
1. Take an action under A.R.S. § 36-1934,
 2. Request an injunction under A.R.S. § 36-1937, or
 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B.** In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
 2. The severity of the violation,
 3. The danger to public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to a client,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.
- C.** A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

R9-16-508. Duplicate License Fee

- A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license that contains:
1. The licensee's name and address,
 2. The licensee's license number and license expiration date,
 3. The licensee's signature, and
 4. A \$25 duplicate license fee.