

# 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 9. HEALTH SERVICES

#### CHAPTER 33. DEPARTMENT OF HEALTH SERVICES GROUP HOMES FOR INDIVIDUALS WHO ARE DEVELOPMENTALLY DISABLED

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3332.) The Governor's Office authorized the notice to proceed through the rulemaking process on September 30, 2011.*

[R12-245]

#### PREAMBLE

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R9-33-101   | Amend                           |
| R9-33-102   | Amend                           |
| R9-33-103   | Renumber                        |
| R9-33-103   | New Section                     |
| R9-33-104   | Renumber                        |
| R9-33-104   | Amend                           |
| R9-33-105   | Renumber                        |
| R9-33-105   | Amend                           |
| R9-33-106   | Renumber                        |
| R9-33-106   | Amend                           |
| R9-33-107   | Renumber                        |
| R9-33-107   | Amend                           |
| R9-33-108   | New Section                     |
| R9-33-109   | Renumber                        |
| R9-33-109   | Amend                           |
| R9-33-201   | Amend                           |
| R9-33-202   | Amend                           |
| R9-33-203   | Amend                           |
| R9-33-204   | Repeal                          |
| R9-33-204   | Renumber                        |
| R9-33-204   | Amend                           |
| R9-33-205   | Renumber                        |
| R9-33-205   | Amend                           |
| R9-33-206   | New Section                     |
| R9-33-207   | Repeal                          |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statutes: A.R.S. §§ 36-104, 36-132(A), and 36-136(F)  
Implementing statutes: A.R.S. §§ 36-132(A)(21), 36-591(B), and 36-595(C) and (D)
- 3. The effective date of the rule:**  
February 3, 2013
- 4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
Notice of Rulemaking Docket Opening: 17 A.A.R. 2165, October 28, 2011  
Notice of Proposed Rulemaking: 18 A.A.R. 1524, July 6, 2012

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**5. The agency's contact person who can answer questions about the rulemaking:**

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**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Since the rules in *Arizona Administrative Code* (A.A.C.) Title 9, Chapter 33 were last revised in 2002, several changes within the industry have occurred that have made unnecessary some of the costs that stakeholders currently incur to achieve compliance. Additionally, a Five-year-review Report the Arizona Department of Health Services (Department) submitted in 2012 identified several substantive and technical issues with the rules. The Department received an exception from the Governor's rulemaking moratorium, established by Executive Order 2011-05, and is proposing to amend the rules in 9 A.A.C. 33 to allow stakeholders to achieve cost savings in applicable cases and to address the issues identified in the Five-year-review Report. The proposed amendments will conform to rulemaking format and style requirements of the Council and the Office of the Secretary of State.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 Department did not review or rely on any study for this rulemaking.

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

Not applicable

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

This rulemaking amends all the rules for format, structure, clarity, conciseness, and understandability, and among the amendments are several substantive changes that have potential economic implications. None of the changes are expected to impose new costs or increase existing costs for licensees who are in compliance with the rules or for other stakeholders. In general, the changes are expected to provide monetary or other benefits to all stakeholders.

As used in this summary, annual costs/revenues are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000. Costs are listed as significant when meaningful or important, but not readily subject to quantification.

The Department is expected to experience a minimal-to-moderate benefit from expanding R9-33-106 to include more scenarios in which a licensee can make changes to its license without requiring issuance of a new license; a significant benefit from adding to R9-33-201 a new subsection (D) providing instructions on how licensees will simulate the evacuation of residents for whom participation in an evacuation drill represents a health risk; and a significant benefit from the streamlining, reorganization, and clarification of requirements in all Sections.

The Department of Economic Security, Division of Developmental Disabilities (Division) is expected to experience a significant benefit from the streamlining, reorganization, and clarification of requirements in all Sections.

Individuals and entities that operate group homes are expected to experience multiple benefits. A minimal or minimal-to-moderate benefit is expected from expanding R9-33-106 to include more scenarios in which a licensee can make changes to its license without requiring issuance of a new license; modernization of the first-aid kit requirements in R9-33-201(E) that were formerly in R9-33-207(A); amending R9-33-202(C) to allow licensees to use co-

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located fire extinguishers rated 1A-10-BC instead of a single 2A-10-BC extinguisher; amending R9-33-202(D) to allow licensees to use disposable fire extinguishers instead of requiring rechargeable extinguishers; and amending R9-33-202(H) to allow the use of wireless alarm systems instead of requiring a wired alarm system. A significant benefit is expected from amending R9-33-107(A)(2) to reflect that the Department may revoke or suspend a license if a licensee is not a service provider for the duration of one licensure period, rather than if a licensee is not a service provider for any duration of time as under the current rules; from adding to R9-33-201 a new subsection (D) providing instructions on how licensees will simulate the evacuation of residents for whom participation in an evacuation drill represents a health risk; and from the streamlining, reorganization, and clarification of requirements in all Sections. Individuals and entities that operate group homes and that are not in compliance with R9-33-202 may incur minimal costs to connect a smoke detector to the facility's electrical or alarm system; an individual or entity in compliance with R9-33-202 incurs no cost from this change and may experience a significant safety benefit.

Individuals with a developmental disability who are residents of group homes are expected to experience significant benefits from adding to R9-33-201 a new subsection (D) providing instructions on how licensees will simulate the evacuation of residents for whom participation in an evacuation drill represents a health risk; from improved safety due to amending R9-33-202(E)(5) to require group homes cited more than once for having an inoperable smoke detector to connect the smoke detector to the facility's electrical or alarm system; and from the streamlining, reorganization, and clarification of requirements in all Sections.

The Department does not expect to add any employees as a result of this rulemaking.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and final rulemaking:**

The Department made minor technical and grammatical changes at the suggestion of staff of the Council and Office of the Secretary of State to improve clarity. The Department did not make any substantive changes to the rules as published in the *Register* on July 6, 2012.

**11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:**

The Department conducted an oral proceeding on Monday, August 13, 2012, and received no oral comments. The Department did not receive any written comments on the rulemaking.

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule will allow an applicant to receive a license. Since A.R.S. §§ 36-132(A)(21) and 36-591 require the licensing of a group home and the issuance of a license to a specific person for a group home at a specific address, a general permit is not appropriate and is not used, as provided in A.R.S. § 41-1037(A)(2).

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No business competitiveness analysis was received by the Department.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Not applicable

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rule was not previously made, amended, or repealed as an emergency rule.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 33. DEPARTMENT OF HEALTH SERVICES GROUP HOMES FOR INDIVIDUALS  
~~WHO ARE DEVELOPMENTALLY DISABLED~~ WHO ARE DEVELOPMENTALLY DISABLED WITH A DEVELOPMENTAL DISABILITY**

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ARTICLE 1. LICENSURE REQUIREMENTS

Section

- R9-33-101. Definitions
- R9-33-102. Requirement for Licensure
- ~~R9-33-103.~~ Individuals to Act for Applicant or Licensee
- ~~R9-33-103.~~ ~~R9-33-104.~~ Application and Issuance of License Inspection
- ~~R9-33-104.~~ ~~R9-33-105.~~ License Renewal
- ~~R9-33-105.~~ ~~R9-33-106.~~ Changes Affecting a License
- ~~R9-33-106.~~ ~~R9-33-107.~~ Investigation of Complaints
- ~~R9-33-108.~~ Time-frames
- ~~R9-33-107.~~ ~~R9-33-109.~~ Denial, Revocation, or Suspension of a License

ARTICLE 2. GROUP HOME REQUIREMENTS

Section

- R9-33-201. Emergency Procedures and Evacuation Drills
- R9-33-202. Fire Safety Requirements
- R9-33-203. ~~Safe and Functioning Systems~~ Physical Plant Requirements
- ~~R9-33-204.~~ Accessible and Usable Facilities
- ~~R9-33-205.~~ ~~R9-33-204.~~ Clean and Sanitary Conditions Environmental Requirements
- ~~R9-33-206.~~ ~~R9-33-205.~~ Vehicle Safety Requirements
- ~~R9-33-206.~~ Swimming Pool Requirements
- ~~R9-33-207.~~ Hazards and Dangers Repealed

ARTICLE 1. LICENSURE REQUIREMENTS

**R9-33-101. Definitions**

In addition to the definitions in A.R.S. § 36-551, the following definitions apply in this Chapter unless otherwise specified:

1. “Accredited” “Accreditation” means accredited by recognition as having met the operating standards and criteria of a nationally recognized accreditation organization.
2. “Administrative completeness review time-frame” means the same as in A.R.S. § 41-1072.
- ~~2-3.~~ “Applicant” means an individual or business organization requesting a license under R9-33-104 to open a group home, the following if requesting a group home license:
  - a. An individual, if a sole proprietorship;
  - b. Any two of the corporation’s officers, if a corporation;
  - c. The managing partner, if a partnership or limited liability partnership; or
  - d. The designated manager, or if no manager is designated, any two members of a limited liability company, if a limited liability company.
- ~~3-4.~~ “Application packet” means the forms, documents, and additional information the Department requires to be submitted by an applicant.
5. “Business organization” means the same as “entity” in A.R.S. § 10-140.
6. “Controlling person” means a person who, with respect to a business organization:
  - a. Through ownership, has the power to vote at least 10% of the outstanding voting securities of the business organization;
  - b. If the business organization is a partnership, is a general partner or is a limited partner who holds at least 10% of the voting rights of the partnership;
  - c. If the business organization is a corporation, association, or limited liability company, is the president, the chief executive officer, the incorporator, an agent, or any person who owns or controls at least 10% of the voting securities; or
  - d. Holds a beneficial interest in 10% or more of the liabilities of the business organization.
- ~~4-7.~~ “Day” means a calendar day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or state holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday.
- ~~5-8.~~ “Department” means the Arizona Department of Health Services.
6. “Developmental disability” means the same as defined in A.R.S. § 36-551.
7. “Division” means the Division of Developmental Disabilities in the Arizona Department of Economic Security.
- ~~8-9.~~ “Documentation” means written evidence information in written, photographic, electronic, or other permanent form.
- ~~9-10.~~ “Facility” means a the building or buildings used as for operating a group home.
10. “Group home” means a residential setting for not more than six persons with developmental disabilities that is operated by a service provider under contract with the division and that provides, in a shared living environment, room

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and board and daily habilitation. Group home does not include an adult developmental home, a child developmental foster home, secure setting or an intermediate care facility for the mentally retarded.

11. "Habilitation" means the process by which an individual is assisted to acquire and maintain those life skills which enable the person to cope more effectively with the demands of his person and environment and to raise the level of his physical, mental and social efficiency.
11. "Fire risk prevention level" means a designation applied to a group home by the Division based on a formula aggregating safety factors existing at the group home.
12. "Hazard" means ~~a~~ an object, equipment, situation, or condition ~~or situation~~ that may result in physical injury or illness to ~~a resident~~ an individual.
13. "Licensee" means the individual or business organization to which the Department has issued a license ~~partnership, or corporation approved by the Department~~ to operate a group home.
14. "Modification" means the substantial improvement, enlargement, reduction, alteration, or other substantial change in the facility or another structure on the premises at a group home.
15. "Overall time-frame" means the same as in A.R.S. § 41-1072.
16. "Plumbing system" means fixtures, pipes, and related parts, including a septic apparatus, assembled to carry clean water into a structure and to carry sewage out of a structure.
- 14-17. "Premises" means:
  - a. A facility; and
  - b. The grounds surrounding the facility ~~used for operating a group home~~ that are owned, leased, or controlled by the licensee, including other structures.
- 15-18. "Private residential swimming pool" means the same as ~~defined~~ in A.A.C. R18-5-201.
- 16-19. "Resident" means an individual who is accepted by a licensee under the terms of a contract with the Division to live at the licensee's group home.
17. "Service provider" means a person or agency that provides services to clients pursuant to a contract or service agreement with the division.
20. "Safety-approved" means tested and designated as meeting applicable safety standards by one or more of the following organizations:
  - a. Underwriters Laboratories,
  - b. Canadian Standards Association, or
  - c. Factory Mutual Insurance Company Global.
21. "Service provider contract" means the entirety of an applicant's or licensee's qualified vendor agreement with the Division.
- 18-22. "Spa" means the same as ~~defined~~ in A.A.C. R18-5-201.
- 19-23. "Staff" or "staff member" means ~~an employee of~~ the employees or volunteers who provide habilitation to residents at a group home.
20. "Supervision" means the process by which the activities of an individual with developmental disabilities are directed, ~~influenced or monitored.~~
24. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.

**R9-33-102. Requirement for Licensure**

- A.** An applicant shall obtain a license to operate a group home from the Department before providing supervision or habilitation to an individual with a developmental disability in a group home.
- B.** A license to operate a group home is valid for the following, as indicated on the license:
  1. Address of the group home indicated on the license;
  2. Name of the licensee indicated on the license;
  3. Name of the group home, if applicable;
  4. Fire risk prevention level; and
  - 3-5. Period of time indicated on the license Licensing period for the group home.

**R9-33-103. Individuals to Act for Applicant or Licensee**

When an applicant or licensee is required by this Chapter to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or licensee:

1. If the applicant or licensee is an individual, the individual; and
2. If the applicant or licensee is a business organization, the individual who the business organization has designated to act on the business organization's behalf for purposes of this Chapter and who:
  - a. Is a controlling person of the business organization,
  - b. Is a U.S. citizen or legal resident, and
  - c. Has an Arizona address.

**R9-33-103. R9-33-104. Application and Issuance of License Inspection**

- A.** At least 30 days before the anticipated date of opening For a license to operate a group home, an applicant shall submit to

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the Department a completed application packet that contains:

1. An application form provided by the Department that includes:
    - a. The applicant's name, address, telephone number, facsimile number, and electronic mail address, if applicable;
    - b. The proposed group home's name, ~~if any~~, address, telephone number, facsimile number, and electronic mail address, if applicable;
    - ~~e. Whether the proposed group home is accredited by a nationally recognized accreditation organization;~~
    - c. The address and telephone number of the proposed group home;
    - d. The applicant's address and telephone number, if different from the address or telephone number of the proposed group home;
    - e. The applicant's e-mail address;
    - f. The name and contact information of an individual acting on behalf of the applicant according to R9-33-103, if applicable;
    - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-33-108(C)(3);
    - ~~d-h.~~ Whether the applicant is a current service provider or intends to become a service provider; ~~and~~
    - i. The fire risk prevention level at which the applicant anticipates operating the group home; and
    - ~~e-j.~~ The applicant's signature and the date signed; and
  2. A copy of the applicant's:
    - a. U.S. passport, current or expired;
    - b. Birth certificate;
    - c. Naturalization documents; or
    - d. Documentation of legal resident alien status;
  3. A copy of the applicant's:
    - a. Current service provider contract with the Division indicating that services are to be provided at the address of the proposed group home; or
    - b. Documentation from the Division demonstrating that the applicant has a service provider contract pending for providing services at the address of the proposed group home; and
- ~~2-4.~~ A copy of the applicant's accreditation report issued by a nationally recognized accreditation organization, if applicable.
- B.** ~~To ensure compliance with applicable federal and state laws, rules, or local ordinances, an An~~ applicant or licensee shall ensure that an official of allow the Department is ~~allowed~~ immediate access to all areas of the premises, a resident, record, or vehicle used to transport a resident, according to A.R.S. § 41-1009.
- C.** ~~For Department licensure of a group home: Upon receipt of the application packet in subsection (A), the Department shall issue or deny a license to an applicant as provided in R9-33-108.~~
- ~~1. The overall time frame described in A.R.S. § 41-1072(2) is 120 days. The applicant and the Department may agree in writing to extend the overall time frame. The substantive review time frame may not be extended by more than 25% of the overall time frame;~~
  - ~~2. The administrative completeness review described in A.R.S. § 41-1072(1) is 60 days and begins on the date the Department receives an application packet;~~
    - a. ~~If any of the documents are missing or if information in the documents is deficient, the Department shall send to the applicant a written notice of incompleteness that states each deficiency and the information or documents needed to complete the application packet. The 60 day time frame for the Department to finish the administrative completeness review is suspended from the date the Department provides the notice of incompleteness to the applicant until the date the Department receives the required information or missing document;~~
    - b. ~~If all of the documents are submitted and the information on the documents is complete, the Department shall provide a written notice of administrative completeness to the applicant. The notice shall include the date and time of the Department's inspection of the group home;~~
    - ~~e. If the missing or deficient documents or information are not submitted within 120 days from the date of notice of incompleteness, the Department shall consider the application withdrawn;~~
    - ~~d. If the Department grants a license during the time provided to assess administrative completeness, the Department shall not issue a separate notice of administrative completeness;~~
  - ~~3. The substantive review time frame described in A.R.S. § 41-1072(3) is 60 days and begins on the date the Department provides written notice of administrative completeness to the applicant;~~
    - a. ~~As part of the substantive review, the Department shall conduct an onsite inspection of the group home;~~
    - b. ~~During the substantive review time frame, the Department may make one comprehensive written request for additional information or documents;~~
    - ~~e. The time frame for the Department to complete the substantive review is suspended from the postmark date of the comprehensive written request until the Department receives the additional information or documents;~~
    - ~~d. The applicant shall submit to the Department the information or documents identified in the comprehensive writ-~~

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- ten request within 30 days of receipt of the comprehensive written request;
- e. If an applicant meets the requirements of this Section and Chapter, the Department shall issue to the applicant:
    - i. A two year regular license to operate a group home; or
    - ii. If the applicant is accredited, a regular license to operate a group home for the duration of the accreditation period, not to exceed three years;
  - f. The Department shall provide the applicant with a written notice of denial if:
    - i. The applicant does not submit the additional information or documents within the time frame in subsection (C)(3)(d); or
    - ii. Upon receipt of the additional information or documents from the applicant, the Department determines that the applicant does not meet the requirements of this Section and Chapter; and
  - g. An applicant may appeal the Department's determination according to A.R.S. Title 41, Chapter 6.

**~~R9-33-104.~~ R9-33-105. License Renewal**

- A. A licensee shall submit to the Department a completed application for renewal of a license to operate a group home at least 60 days before the expiration date indicated on the license. An application shall contain the information in R9-33-103(A). At least 60 days before the expiration date indicated on a license to operate a group home, for renewal of the license to operate a group home, a licensee shall submit to the Department an application packet that contains the information and documents in R9-33-104(A)(1), R9-33-104(A)(3)(a), and R9-33-104(A)(4).
- B. The Department shall renew a regular license to operate a group home:
  - 1. If, after conducting an onsite inspection, the Department determines that the licensee is in compliance with the applicable requirements in this Chapter; and
  - 2. According to the time-frames in R9-33-103(C) R9-33-108.

**~~R9-33-105.~~ R9-33-106. Changes Affecting a License**

- A. A licensee shall notify the Department in writing at least 30 days before the effective date of ~~termination of:~~
  - 1. ~~Operation~~ Termination of operation of a group home; or
  - 2. ~~A~~ Termination of a service provider contract with the Division; or
  - 3. A change in the ownership of the group home;
  - 4. A change in the name of the group home;
  - 5. If the licensee is an individual, a legal change of the licensee's name;
  - 6. Construction or modification of the facility or another structure on the premises other than construction or modification undertaken in accordance with R9-33-203(A); or
  - 7. If approved by the Division, a change in the group home's fire risk prevention level.
- B. If the Department receives the notification in subsection (A)(1), the Department shall void the licensee's license to operate a group home as of the termination date specified by the licensee.
- C. If the Department receives the notification in subsection (A)(2), the Department shall take the applicable action in R9-33-109.
- D. If the Department receives the notification in subsection (A)(3), the Department shall void the licensee's license to operate a group home upon issuance of a new license to operate a group home to the entity assuming ownership of the group home.
- E. If the Department receives the notification in subsection (A)(4) or (5), the Department shall issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license.
- F. If the Department receives the notification in subsection (A)(6) or (7), the Department shall conduct an inspection of the premises as indicated in R9-33-104(B) and, if the group home is in compliance with A.R.S. Title 36, Chapter 5.1 and this Chapter, if applicable, issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license.
- G. An individual or business organization planning to assume operation of an existing group home shall obtain a new license as required in R9-33-102(A) before beginning operation of the group home.

**~~R9-33-106.~~ R9-33-107. Investigation of Complaints**

- A. Upon receipt of a complaint or ~~if there is a reasonable cause to believe~~ information indicating that a group home is ~~not~~ may not be in compliance with the Department's applicable laws and rules A.R.S. Title 36, Chapter 5.1 or this Chapter, the Department shall:
  - 1. Investigate the complaint or information about noncompliance within 30 days ~~of~~ after receipt of the complaint or information about noncompliance; and
  - 2. Develop a written report documenting the investigation; that:
    - a. Indicates whether the complaint is substantiated;
    - b. Identifies the rule or law being violated, if applicable;
    - e. Contains a plan of correction, acceptable to the Department, for the correction of a deficiency; and
    - d. Contains the signature of the licensee, indicating that the licensee agrees to carry out the plan of correction;
  - 3. Provide the licensee with the written report in subsection (A)(2); and

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4. ~~Notify~~ If the complaint or information about noncompliance was substantiated, notify the Division of the outcome of the investigation.
- B. A licensee shall ensure that a deficiency listed on a plan of correction is corrected within 30 days from the date of the plan of correction. If the Department substantiates a complaint or information about noncompliance at a group home, the licensee of the group home shall:
  1. Establish a plan of correction, if applicable, for correction of a deficiency;
  2. Agree to carry out the plan of correction by signing the written report in subsection (A)(2); and
  3. Ensure that a deficiency listed on the plan of correction is corrected within 30 days after the date of the plan of correction or within a time period the Department and the licensee agree upon in writing.

**R9-33-108. Time-frames**

- A. The overall time-frame described in A.R.S. § 41-1072 for a license granted by the Department under this Chapter is set forth in Table 1.1. The applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for a license granted by the Department under this Chapter is set forth in Table 1.1 and begins on the date that the Department receives an application packet.
  1. The Department shall send a notice of administrative completeness or deficiencies to the applicant or licensee within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the information or items needed to complete the application.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing information or items from the applicant or licensee.
    - c. If an applicant or licensee fails to submit to the Department all of the information or items listed in the notice of deficiencies within 120 days after the date that the Department sent the notice of deficiencies or within a time period the applicant or licensee and the Department agree upon in writing, the Department shall consider the application withdrawn.
  2. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1.1 and begins on the date of the notice of administrative completeness.
  1. As part of the substantive review of an application for a license, the Department shall conduct an inspection that may require more than one visit to the group home.
  2. The Department shall send a license or a written notice of denial of a license within the substantive review time-frame.
  3. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information.
    - a. If the Department determines that an applicant or licensee, a group home, or the premises are not in substantial compliance with A.R.S. Title 36, Chapter 5.1 and this Chapter, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
    - b. An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of the corrections required in a statement of deficiencies, within 30 days after the date of the comprehensive written request for additional information or the supplemental request for information or within a time period the applicant or licensee and the Department agree upon in writing.
    - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.
    - d. If an applicant or licensee fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(3)(b), the Department shall deny the application.
  4. The Department shall issue a license if the Department determines that the applicant or licensee and the group home, including the premises, are in substantial compliance with A.R.S. Title 36, Chapter 5.1 and this Chapter.
  5. If the Department denies a license, the Department shall send to the applicant or licensee a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

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**Table 1.1      Time-frames (in days)**

<u>Type of approval</u>	<u>Statutory authority</u>	<u>Overall time-frame</u>	<u>Administrative completeness review time-frame</u>	<u>Substantive review time-frame</u>
<u>Application for a license under R9-33-104</u>	<u>A.R.S. § 36-132(A)(21)</u>	<u>120</u>	<u>60</u>	<u>60</u>
<u>Renewal of a license under R9-33-105</u>	<u>A.R.S. § 36-132(A)(21)</u>	<u>60</u>	<u>30</u>	<u>30</u>

**~~R9-33-107. R9-33-109. Denial, Revocation, or Suspension of a License~~**

- A. The Department may deny an application or ~~suspend or revoke or suspend~~ a license to operate a group home if:
1. An applicant or licensee does not meet the application requirements contained in ~~R9-33-103~~ R9-33-104 or R9-33-105(A);
  2. A licensee is not a service provider for the duration of one licensure period;
  3. A licensee does not correct the deficiencies according to the plan of correction contained in ~~R9-33-106~~ R9-33-107 by the time stated in the plan of correction; or
  4. The nature or number of violations revealed by any type of inspection or investigation of a group home poses a direct risk to the life, health, or safety of a resident.
- B. An applicant or licensee may appeal the Department's determination in subsection (A) according to A.R.S. Title 41, Chapter 6, Article 10.
- C. The Department shall immediately notify the Division when an application is denied and when a license to operate a group home is suspended or revoked.

**ARTICLE 2. GROUP HOME REQUIREMENTS**

**R9-33-201.      Emergency Procedures and Evacuation Drills**

- A. A licensee shall ensure that a written plan for emergencies:
1. ~~is~~ is developed and implemented;
  2. ~~The plan shall be~~ is available and accessible to staff and each resident at the facility. ~~The plan shall include:~~
  - 1-3. ~~Contains~~ Procedures procedures for responding to a fire, emergency, ~~and~~ severe weather conditions, and other disasters, that include including:
    - a. Routes of evacuation, location of firefighting equipment, and evacuation devices identified on a floor plan of the facility;
    - b. Instructions on the use of fire alarm systems, firefighting equipment, and evacuation devices;
    - c. Procedures for evacuating each resident, including a resident who is not capable of self-preservation or who has a mobility, sensory, or other physical impairment; and
    - d. Procedures for notifying an emergency response team, law enforcement, and the licensee or the licensee's designee; and
  - 2-4. Procedures Includes procedures for when a resident is missing from the premises.
- B. A licensee shall ensure that:
1. The facility's street address is painted or posted and against a contrasting background so that the group home's street address is visible from the street; or
  2. The local emergency response team, such as the local fire department, is notified of the location of the facility in writing at least once every 12 months. The licensee shall make the written notification available for review at the facility for at least two years from the date of the notification.
- C. A licensee shall ensure that:
1. Except as described in subsection (D), an ~~An~~ evacuation drill that includes all residents, except any residents otherwise specifically excluded from evacuation drills as indicated on documentation provided by the Division for the resident, is conducted at least once every six months on each shift; and
  2. ~~The licensee shall make documentation~~ Documentation of an evacuation drill is available for review at the facility for at least two years ~~from~~ after the date of the evacuation drill that includes:
    - a. The date and time of the evacuation drill;
    - b. The length of time to evacuate or simulate the evacuation of all residents from the facility;
    - c. A description summary of the evacuation drill, including a list of the residents and staff who were present at the time of the drill, how the drill was performed, how long the drill took to complete, and, if applicable, a list of residents for whom evacuation was simulated; and
    - d. A corrective action plan, Except as provided in subsection (D)(2), if the length of time to evacuate all residents from the facility exceeds three minutes, a plan of correction to bring the evacuation time to three minutes or less

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in case of an actual emergency requiring evacuation.;

- D.** If a group home provides services to a resident whom the Division has identified, through the assessment process used to determine the group home's fire risk prevention level, as having a condition that could cause a resident to be harmed if the resident participated in an evacuation drill, a licensee shall ensure that:
1. An evacuation drill:
    - a. Does not include the resident, and
    - b. Simulates the evacuation of the resident according to the plan required in subsection (A)(3)(c), and
  2. The documentation of an evacuation drill required in subsection (C)(2) also includes, if the length of time to evacuate or simulate the evacuation of all residents exceeds five minutes, a plan of correction to bring the evacuation time to five minutes or less in case of an actual emergency requiring evacuation.
- E.** A licensee shall ensure that:
1. A first aid kit is available in the facility that has the following items in a quantity sufficient to meet the needs of residents and staff:
    - a. Adhesive sterile bandages of assorted sizes,
    - b. Sterile gauze pads,
    - c. Sterile gauze rolls,
    - d. Adhesive or self-adhering tape,
    - e. Antiseptic solution or sealed antiseptic wipes,
    - f. Re-closable plastic bags of at least one-gallon size,
    - g. Single-use non-porous gloves,
    - h. Scissors,
    - i. Tweezers, and
    - j. A cardiopulmonary resuscitation mouth guard or mouth shield;
  2. All stairways, hallways, walkways, and other routes of evacuation are free of any obstacle that may prevent evacuation of a resident in an emergency;
  3. If a window or door contains locks, bars, grills, or other devices that obstruct evacuation, each device contains a release mechanism that is operable from the inside of a facility and that does not require the use of a key, special knowledge, or special effort; and
  4. Each facility contains a working non-cellular telephone that is available and accessible to staff and each resident at all times; and
  5. The following are posted at the location of a facility's telephone licensee shall post current telephone numbers for:
    - a. Instructions to dial 911 or the telephone number of another other local emergency response team; and
    - b. The address and telephone number of the group home.

**R9-33-202. Fire Safety Requirements**

- A.** The Department shall issue to an applicant or licensee:
1. A fire risk prevention level 1 group home license if the group home meets the requirements in ~~R9-33-202(B)~~ subsections (B) through ~~R9-33-202(F)~~ (G); and
  2. A fire risk prevention level 2 group home license if the group home meets the requirements in ~~R9-33-202(B)~~ subsections (B) through ~~R9-33-202(G)~~ (H).
- B.** A licensee shall ensure that the ~~facility is~~ premises are in compliance with all applicable state and local fire safety regulations and that:
1. ~~A Before a license is issued or renewed,~~ a fire inspection is conducted ~~at least once every 12 months~~ by the local fire department, the Department, or an entity authorized by the Department;
  2. Any repair or correction stated in ~~the~~ a fire inspection report is made or corrected according to the requirements and time in the fire inspection report; and
  3. ~~The~~ A current fire inspection report is available for review at the ~~facility for at least two years from the date of the inspection~~ group home.
- C.** A licensee shall ensure that ~~the facility has at least one~~ a working, portable, all-purpose fire extinguisher ~~with~~ labeled as rated at least a 2A-10-BC ~~rating by the Underwriter's Underwriters Laboratories as described in Publication 10 of the National Fire Code, incorporated by reference in A.A.C. R9-1-412, or two co-located working, portable, all-purpose fire extinguishers labeled as rated at least 1A-10-BC by Underwriters Laboratories,~~ is installed and maintained in the facility as prescribed by the manufacturer or the fire authority having jurisdiction.
- D.** A licensee shall ensure that a fire extinguisher ~~is:~~
1. Is either:
    - a. Disposable and has a charge indicator showing green or "ready" status; or
    - b. Serviced at least once every 12 months ~~or as recommended by the manufacturer~~ by a fire extinguisher technician certified by the National Fire Protection Agency, the International Code Council, or Compliance Services and Assessments; and
  2. ~~Tagged~~ If serviced, is tagged specifying:

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- a. The date of purchase or the date of recharging, whichever is more recent; and
- b. The name of the organization performing the ~~work~~ service, if applicable.

~~D-E.~~ A licensee shall ensure that smoke detectors are:

1. Working and audible at a level of 75db from the location of each bed used by a resident in the facility;
2. Capable of alerting all residents in the facility, including a resident with a mobility or sensory impairment;
3. Installed according to the manufacturer's instructions; ~~and~~
4. Located in at least the following areas:
  - a. Each bedroom;
  - b. Each room or hallway adjacent to a bedroom, except a bathroom or a laundry room; and
  - c. Each room or hallway adjacent to the kitchen, except a bathroom, a pantry, or a laundry room; and
5. If the licensee has been cited more than once in the previous four years under subsections (E)(1) through (4), either:
  - a. Hard-wired to the electrical system of the group home with a battery backup; or
  - b. Connected to an early-warning fire detection system required in subsection (H)(2), if applicable.

~~E-F.~~ A licensee shall ensure that each bedroom has at least one openable window or door to the outside for use as an emergency exit.

~~F-G.~~ A licensee shall ensure that:

1. A usable fireplace is covered by a protective screen or covering at all times; and
2. Combustible or flammable materials are not stored within three feet of a furnace, heater, ~~or~~ water heater, or usable fireplace.

~~G-H.~~ A licensee of a fire risk prevention level 2 group home shall ensure that:

1. The facility contains an emergency lighting system that:
  - a. Works without in-house electrical power;
  - b. Illuminates the path of evacuation; and
  - c. Is inspected at least once every 12 months by the manufacturer or an entity that installs and repairs emergency lighting systems; ~~and~~
2. ~~Documentation of an emergency lighting system inspection is available for Department review at the facility for two years from the date of the inspection and includes The facility has an early-warning fire detection system that:~~
  - a. ~~The date of the inspection; Is safety-approved;~~
  - b. ~~The name of the entity performing the inspection; Is hard-wired or connected wirelessly, with battery back-up;~~
  - c. ~~A tag on the emergency lighting system or a written report of the results of the inspection, and Sounds every alarm in the facility when smoke is detected;~~
  - d. ~~A description of any repairs made to the system as a result of the inspection Is installed in each bedroom, each room or each hallway adjacent to a bedroom, and each room or each hallway adjacent to a kitchen; and~~
  - e. ~~Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs early-warning fire detection systems;~~
3. The facility has one of the following:
  - a. ~~At least two staff members on duty at the facility at all times and the facility has an early-warning fire detection system that:~~
    - i. ~~Is hard-wired with battery back-up;~~
    - ii. ~~Sounds every alarm in the facility when smoke is detected;~~
    - iii. ~~Is installed in each bedroom, each room or each hallway adjacent to a bedroom, and each room or each hallway adjacent to a kitchen; and~~
    - iv. ~~Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs early-warning fire detection systems. The licensee shall make available the documentation of the inspection at the facility for review for at least two years from the date of the inspection and includes the information in subsection (G)(2); or~~
  - a. Sufficient staff on duty to evacuate all residents present at the facility within three minutes or, if applicable under R9-33-201(D), within five minutes; or
  - b. An automatic sprinkler system installed according to the applicable standard incorporated by reference in A.A.C. R9-1-412 and installed according to NFPA 13, NFPA 13R, or NFPA 13D, as applicable, that:
    - i. Covers every room in the facility; and
    - ii. Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs automatic sprinkler systems; and The licensee shall make available the documentation of inspection at the facility for review for at least two years from the date of the inspection and includes the information in subsection (G)(2).
4. Documentation is available at the facility for two years after the date of an inspection:
  - a. For:
    - i. The emergency lighting system inspection required in subsection (H)(1)(c);
    - ii. The early-warning fire detection system inspection required in subsection (H)(2)(e); and

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- iii. If applicable, the automatic sprinkler system required in subsection (H)(3)(b)(ii); and
- b. That includes:
  - i. The date of the inspection.
  - ii. The name of the entity performing the inspection.
  - iii. A tag on the system or a written report of the results of the inspection, and
  - iv. A description of any repairs made to the system as a result of the inspection.

**R9-33-203. ~~Safe and Functioning Systems~~ Physical Plant Requirements**

**A.** A licensee shall ensure that:

- 1. A group home is in compliance with applicable federal and state disability laws;
- 2. If a group home has a resident with a mobility, sensory, or other physical impairment, documentation is available for review at the group home that:
  - a. Is provided by the Division; and
  - b. Identifies modifications, if any, needed to the premises to ensure that the premises are accessible to and usable by the resident;
- 3. The premises have been modified as identified by the Division in subsection (A)(2)(b);
- 4. Ramps, stairs, or steps on the premises are secured firmly to the ground or a permanent structure and have slip-resistant surfaces; and
- 5. If handrails and grab bars are installed in a facility, handrails and grab bars are securely attached and stationary.

**A-B.** A licensee shall ensure that:

- 1. A method of heating and cooling maintains the facility between 65° F and 85° F in areas of the facility occupied by residents;
- 2. Ventilation is provided by an openable window, air conditioning, or other mechanical device;
- 3. Working, safe appliances for cooling and cooking food are provided in the facility that:
  - a. Are safety-approved;
  - b. If used to refrigerate food, maintain the food at a temperature of 40° F or below at all times; and
  - c. If used to freeze food, maintain the food at a temperature of 0° F or below at all times; and
- 4. Hot water temperatures in the facility are maintained between 95° F and 120° F; and
- 5. Bathtubs and showers contain slip-resistant strips, rubber bath mats, or slip-resistant surfaces.

**B-C.** A licensee shall ensure that:

- 1. Electrical lighting is contained in each room in the facility; and
- 2. Electrical devices and equipment in the facility is on the premises are safety-approved, safe, and in working order;
- 3. Electrical outlets on the premises are safe, covered with a faceplate, and installed in accordance with the requirements of the local jurisdiction;
- 4. If the facility was built or modified on or after the effective date of this Chapter, any electrical outlet located within 3 feet of a water source includes a ground fault circuit interrupt (GFCI);
- 5. An appliance, light, or other device with a frayed or spliced electrical cord is not used on the premises; and
- 6. An electrical cord, including an extension cord, on the premises is not:
  - a. Used as a substitute for permanent wiring.
  - b. Run under a rug or carpeting.
  - c. Run over a nail, or
  - d. Run from one room to another.

**C-D.** A licensee shall ensure that:

- 1. A facility contains a safe, working plumbing and sewage system;
- 2. If a facility's plumbing system is connected to a non-municipal sewage disposal system is used, the sewage plumbing system and connective piping are in working order and free of visible leakage; and
- 3. Water is standing only in an area designated to hold standing water. The premises do not contain unfenced or uncovered wells, ditches, or holes into which an individual may step or fall.

**~~R9-33-204. Accessible and Usable Facilities~~**

A licensee shall ensure that:

- 1. A group home is in compliance with applicable federal and state disability laws; and
- 2. If a group home has a resident with a mobility, sensory, or other physical impairment, the licensee shall ensure that documentation is available for review at the group home that:
  - a. Is provided by the Division; and
  - b. Identifies modifications, if any, needed to the premises to ensure that the premises is accessible to and usable by the resident; and
- 3. Modifications are made to the premises as identified by the Division in subsection (2).

**~~R9-33-205. R9-33-204. Clean and Sanitary Conditions~~ Environmental Requirements**

**A.** A licensee shall ensure that:

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1. ~~a facility is~~ The premises are free of accumulations of garbage or refuse; ~~and~~
  2. ~~garbage~~ Garbage and refuse ~~in the facility are~~ is:
    - 1-~~a~~. Stored in cleanable containers or in sealable plastic bags; and
    - 2-~~b~~. Removed from the facility at least once every seven days;
  3. Cleaning compounds and toxic substances are maintained in labeled containers that:
    - a. Are stored to prevent a hazard;
    - b. Are appropriate to the contents of each container;
    - c. If appropriate based on a resident's disability, are locked; and
    - d. Are stored in a separate location from food or medicine;
  4. Unused furniture, equipment, fabrics, or devices are removed from the facility or maintained in a covered area on the premises that is designated by the licensee for storage in a manner that does not create a hazard; and
  5. There are no firearms or ammunition on the premises;
- B.** A licensee shall ensure that:
1. ~~a~~ The facility is maintained free of insects and vermin;
  1. ~~In good repair or has an on-going system to ensure repairs are made and that the facility does not contain a hazard;~~
  2. The premises and its structures and furnishings are:
    - a. ~~Clean so that a condition in the facility is not a hazard;~~ In a clean condition,
    - 3-~~b~~. Free of odors, such as urine or rotting food; and
    - 4-~~c~~. ~~Free of any~~ In sufficiently good repair that no object, equipment, or condition that may be present constitutes a hazard; and
    5. Free of insects and rodents or has an on-going system to eliminate insects or rodents from the facility.
  3. Standing water is not allowed to accumulate on the premises, except in an area or vessel the purpose of which is to hold standing water.
- C.** A licensee shall ensure that:
1. An unvented space heater or open-flame space heater is not used on the premises;
  2. An electric portable heater or electric radiant heater is not used on the premises unless the electric portable heater or electric radiant heater:
    - a. Has:
      - i. Either a non-porous casing or a grill with a mesh small enough to prevent cloth or a child's finger from entering the casing,
      - ii. A tilt switch that shuts off power to the electric portable heater if the electric portable heater tips over,
      - iii. An automatic shutoff control to prevent overheating, and
      - iv. A thermostat control; and
    - b. Is plugged directly into a wall outlet; and
  3. A vented space heater used on the premises is:
    - a. Safety-approved;
    - b. Professionally installed in accordance with the requirements of the local jurisdiction; and
    - c. Mounted as a permanent fixture in a wall, floor, or ceiling.

**R9-33-206. R9-33-205. Vehicle Safety Requirements**

- A.** A licensee shall ensure that a vehicle used to transport a resident:
1. Is maintained in safe and working order; and
  2. ~~Has a record of each maintenance or repair that is available for review at the facility for at least two years from the date of repair; and~~
  - 3-~~2~~. Is equipped with:
    - a. A working heating and air conditioning system;
    - b. A first aid kit that meets the requirements in ~~R9-33-207(A)(8)~~ R9-33-201(E)(1);
    - c. Working seat belts for the driver and each passenger; and
    - d. Floor mounted seat belts and wheel chair lock-down devices for each wheel chair passenger transported, if the vehicle is used to transport a passenger in a wheelchair.
- B.** ~~A licensee shall ensure that documentation of the requirements in subsection (A) is completed at least once every six months on a vehicle used to transport a resident and that the documentation is available for review at the facility for at least two years from the date of the vehicle inspection~~ A licensee shall ensure that documentation of each maintenance or repair of a vehicle used to transport a resident is available for review at the facility for at least two years after the date of the maintenance or repair.

**R9-33-206. Swimming Pool Requirements**

- A.** Except as provided in subsection (B), a licensee shall ensure that a private residential swimming pool on the premises:
1. If filled with water, is surrounded by a fence or enclosure constructed of rigid material that:
    - a. Is at least 5 feet high;

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- b. Is free of an opening that exceeds 4 inches or, if a wire mesh fence, is free of an opening that exceeds 1 3/4 inches;
- c. Is free of openings for handholds or footholds on the exterior of the fence or enclosure;
- d. Is at least 20 inches from the edge of the private residential swimming pool;
- e. Is clear of objects out to a distance of 30 inches on either side of the fence or enclosure from the level of the ground to a height of 5 feet above the fence or enclosure;
- f. Has at least one gate that:
  - i. Opens outward from the private residential swimming pool.
  - ii. Has a self-closing latch attached no less than 54 inches above ground level as measured from the exterior side of the fence or enclosure, and
  - iii. Is locked when the private residential swimming pool is not in use;
- g. Is secured perpendicular to level ground; and
- h. Is located at least 54 inches from the exterior wall of the facility to allow evacuation without entering the private residential swimming pool area;
- 2. Is not located in the path of an emergency exit;
- 3. If filled with water, is equipped with the following:
  - a. An operational water circulation system that clarifies the swimming pool water.
  - b. An operational vacuum cleaning system that maintains the sides and bottom of the pool free of dirt and debris.
  - c. A shepherd's crook that is attached to its own pole, and
  - d. A ring buoy with an attached rope that is at least 10 feet long plus the distance from the edge to the middle of the private residential swimming pool; and
- 4. If not filled with water, is covered completely by a covering that:
  - a. Is permitted by the local jurisdiction,
  - b. Is free of an opening that exceeds 1 inch.
  - c. Withstands weight of at least 495 pounds per square foot on all parts of the covering without any distortion or compression, and
  - d. Has at least one access hatch that is locked so that a resident cannot open it.
- B.** The requirements in subsection (A) do not apply to a group home if the Division provides to the Department written documentation indicating that the Division has determined that the private residential swimming pool is safe, based upon the functional level of the residents:
  - 1. At the time of initial licensure.
  - 2. At the time of license renewal, and
  - 3. Upon the placement of a resident at the group home.
- C.** A licensee shall ensure that a spa:
  - 1. Except as specified in subsection (C)(2), is covered and locked when not in use, with a mechanism that a resident cannot open; and
  - 2. If a resident is under 6 years of age, is enclosed by a fence specified in subsection (A)(1).

**R9-33-207. Hazards and Dangers Repealed**

- A.** A licensee shall ensure that:
  - 1. Ramps, stairs, or steps have slip-resistant surfaces;
  - 2. If handrails and grab bars are installed in a facility, handrails and grab bars are securely attached and stationary;
  - 3. There are no firearms or ammunition at the facility;
  - 4. The facility does not contain unprotected wells, ditches, or holes that an individual may step or fall into;
  - 5. Cleaning compounds and toxic substances are maintained in labeled containers and stored to prevent a hazard;
  - 6. Bathtubs and showers contain slip-resistant strips, rubber bath mats, or slip-resistant surfaces;
  - 7. Unused furniture, equipment, or devices are removed from the facility or maintained in a covered area on the premises that is designated by the licensee for storage; and
  - 8. A facility contains a first aid kit that has the following items in a quantity sufficient to meet the resident's needs:
    - a. Adhesive strip bandages;
    - b. Sterile, individually wrapped gauze squares;
    - e. Rolled gauze;
    - d. Adhesive tape;
    - e. Individually wrapped non-stick sterile pads;
    - f. A triangle bandage for use as a sling;
    - g. Disposable gloves;
    - h. Seissors;
    - i. Tweezers; and
    - j. A cardiopulmonary resuscitation mouth guard or mouth shield.
- B.** A licensee shall ensure that a private residential swimming pool meets the following requirements unless the Division

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provides to the Department, at the time of initial licensure and renewal, written documentation indicating that, based upon a determination by the Division, the private residential swimming pool is safe, based upon the functional level of the residents. A private residential swimming pool:

1. Is surrounded by a fence or enclosure that:
    - a. Is at least five feet high;
    - b. Is free of an opening that exceeds four inches. A chain link or wire mesh fence, other than chicken wire, may be used if the openings do not exceed 1 3/4 inches;
    - c. Is free of openings for handholds or footholds on the exterior of the fence or enclosure;
    - d. Is at least 20 inches from the edge of the private residential swimming pool; and
    - e. Has self-closing, self-latching gates that open out from the private residential swimming pool and that are locked when the private residential swimming pool is not in use;
  2. Is located at least 54 inches from the exterior wall of the facility to allow evacuation without entering the private residential swimming pool area; and
  3. Is not located in the path of an emergency exit.
- ~~C.~~ A licensee shall ensure that a private residential swimming pool contains water rescue items, including:
1. A shepherd's crook that is attached to its own pole; and
  2. A ring buoy with a rope attached. The rope is at least ten feet long plus the distance from the edge to the middle of the private residential swimming pool.
- ~~D.~~ A licensee shall ensure that a spa:
1. Is enclosed by a fence described in subsection (B), if a resident is under the age of six; and
  2. That is not enclosed by a fence in subsection (B), is covered and locked to prevent access by a resident.

NOTICE OF FINAL RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

*Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3332.)*

[R12-246]

PREAMBLE

- | <u>1. Articles, Parts, and Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R10-4-101  | Amend                    |
| R10-4-102  | Amend                    |
| R10-4-103  | Amend                    |
| R10-4-104  | Amend                    |
| R10-4-105  | Amend                    |
| R10-4-106  | Amend                    |
| R10-4-107  | Amend                    |
| R10-4-108  | Amend                    |
| R10-4-109  | Amend                    |
| R10-4-110  | Re-number                |
| R10-4-110  | New Section              |
| R10-4-111  | Re-number                |
| R10-4-111  | Amend                    |
| R10-4-201  | Amend                    |
| R10-4-202  | Amend                    |
| R10-4-203  | Amend                    |
| R10-4-204  | Amend                    |
2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):  
Authorizing statute: A.R.S. § 41-2405(A)(8)  
Implementing statute: A.R.S. § 41-2407
3. The effective date for the rules:  
February 3, 2013
- a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in

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**A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 722, March 30, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 1956, August 17, 2012

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Larry Grubbs, Program Manager  
Address: Arizona Criminal Justice Commission  
1110 W. Washington St., Ste. 230  
Phoenix, AZ 85007  
Telephone: (602) 364-1154  
Fax: (602) 364-1175  
E-mail: lgrubbs@azcjc.gov  
Web site: [www.azcjc.gov](http://www.azcjc.gov)

**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The current rules relating to the crime victim assistance and compensation programs were made in a rulemaking that went into effect in January 2008. Experience using the rules and feedback from stakeholders indicate that changes are needed to make the rules more effective in achieving their goals. This rulemaking makes the necessary changes.

This rulemaking is exempt from the rulemaking moratorium contained in Executive Order 2012-03 under paragraph (4)(c) of the Order.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 Commission did not review a study relevant to the rulemaking. The rulemaking does not rely on scientific principles or methods.

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

Not applicable

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

The amount of funds available to provide compensation awards or assistance to crime victims is not increased as a result of this rulemaking. However, the total amount that can be awarded to a claimant is increased and the amount that can be claimed for various expenses is also increased. The following changes may have some economic impact:

- Clarifying that a collateral source of compensation must be accessible to a claimant;
- Clarifying that insurance proceeds are a collateral source of compensation only if payable to cover a specific compensable cost;
- Removing the requirement that crime-scene cleanup be provided only by a professional service;
- Expanding crime-scene cleanup to include replacing exterior doors, locks, or windows;
- Clarifying that criminally injurious conduct exists regardless of whether a perpetrator is apprehended or charged;
- Deleting the requirement that mental distress be extreme;
- Allowing an operational unit to serve more than one county;
- Amending the formula used to distribute funds to each operational unit to include the operational unit's share of crime in the state;
- Clarifying that an agency that serves as an operational unit is required to forward to the Board a claim made by an Arizona residence relating to conduct occurring outside of Arizona in an area without a crime victim compensation program;

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- Requiring Board members to have training;
- Providing limited exceptions for a victim or claimant who is delinquent in paying a fine, monetary penalty, or restitution imposed as a result of conviction of a state crime;
- Clarifying the transportation costs that are compensable;
- Increasing the maximum amount of a claim;
- Increasing the amounts allowed for funeral and crime-scene cleanup expenses;
- Establishing a maximum amount allowed for transportation expenses;
- Clarifying when the victim's conduct may result in a reduction or denial of compensation; and
- Adding a process for state-level claim review.

**10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**

Only minor, non-substantive changes were made between the proposed and final rules.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**

The Commission received no public or stakeholder comments about the rulemaking.

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

No permit is required.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The Victims Compensation and Assistance Act of 1984 as amended by The Justice for All Act of 2004 and the Violence against Women and Department of Justice Reauthorization Act of 2005 create crime victim compensation and crime victim assistance programs. These programs provide funds to the states for use in implementing state programs. A state does not receive funding unless the state meets certain minimal criteria. Arizona receives funds under these acts. Arizona's program is not more stringent than the federal program.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rules were not previously made as emergency rules.

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

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

Section

- R10-4-101. Definitions
- R10-4-102. Administration of the Fund
- R10-4-103. Statewide Operation
- R10-4-104. Operational Unit Requirements
- R10-4-105. Crime Victim Compensation Board
- R10-4-106. Prerequisites for a Compensation Award

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- R10-4-107. Submitting a Claim
- R10-4-108. Compensation Award Criteria
- R10-4-109. Hearing; Request for Rehearing ~~or Review~~
- R10-4-110. State-level Claim Review
- ~~R10-4-110-R10-4-111.~~ Emergency Compensation Award

**ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. Grant Eligibility Requirements
- R10-4-204. Services

**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**

**R10-4-101. Definitions**

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means a natural person who files a claim.
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is available accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
  - a. The perpetrator or a third party responsible for the perpetrator's actions;
  - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
    - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
    - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
  - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
  - d. State-required, insurance for a temporary, ~~nonoccupational~~ non-occupational disability;
  - e. Worker's compensation insurance;
  - f. Wage continuation program of any employer;
  - g. Insurance proceeds payable ~~for loss to cover a specific compensable cost~~ due to criminally injurious conduct or an act of international terrorism;
  - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
  - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for: ~~a professional service to remove or attempt to remove blood~~
  - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct or act of international terrorism occurring in within a residence or the surrounding curtilage;
  - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct or act of international terrorism occurring within a residence or the surrounding curtilage.
9. "Criminally injurious conduct" means conduct that:
  - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
  - b. Poses a substantial threat of physical injury, ~~extreme~~ mental distress, or death; and
  - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. "Derivative victim" means:

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- a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism;
  - b. A child born to a victim after the victim's death;
  - c. A person living in the household of a victim who died as a result of criminally injurious conduct or act of international terrorism, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
  - d. A member of the victim's family who witnessed the criminally injurious conduct or act of international terrorism or who discovered the scene of the criminally injurious conduct or act of international terrorism;
  - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or act of international terrorism or discovered the scene of the criminally injurious conduct or act of international terrorism; or
  - f. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
- a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct or an act of international terrorism;
  - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
  - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
  - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
- ~~13. "Extreme mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.~~
- ~~14-13.~~ "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
- ~~15-14.~~ "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.
- ~~16-15.~~ "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
- ~~17-16.~~ "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.
- ~~18-17.~~ "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
- ~~19-18.~~ "International terrorism" has the meaning prescribed in 18 U.S.C. 2331.
- ~~20-19.~~ "Jurisdiction" means any county in this state.
- ~~24-20.~~ "Medical expense" means a reasonable and customary cost for medical care provided to a victim due to a physical injury or medical condition that is a direct result of criminally injurious conduct or an act of international terrorism.
21. "Mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
22. "Mental health counseling and care expense" means a reasonable and customary cost to assess, diagnose, and treat a victim's or derivative victim's ~~extreme~~ mental distress resulting from criminally injurious conduct or an act of international terrorism.
23. "Minimum wage standard" means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
24. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
25. "Program" means the Crime Victim Compensation Program.
26. "Proximate cause" means an event sufficiently related to criminally injurious conduct or act of international terrorism to be held the cause of the criminally injurious conduct or act of international terrorism.
- ~~26-27.~~ "Reasonable and customary" means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
- ~~27-28.~~ "Resident" means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or tran-

sitory purpose.

- 28-29. "Subrogation" means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
30. "Total and permanent disability" means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct or act of international terrorism and:
- a. Produces a significant and sustained reduction in the victim's former mental or physical abilities dramatically altering the victim's ability to interact with others and carry on normal functions of life;
  - b. Lessens the victim's ability to work to a material degree; or
  - c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim's crime-related condition can reasonably be expected.
31. "Transportation costs" means a travel expense that may be reimbursed to a claimant as follows:
- a. Mileage, calculated at the rate established by:
    - i. The operational unit, or
    - ii. The state if the operational unit has not established a mileage rate;
  - b. Fare expenses; and
  - c. Vehicle rental at the cost specified in the rental agreement.
- 29-32. "Victim" means a natural person who suffers a physical injury or medical condition, ~~extreme~~ mental distress, or death as a direct result of:
- a. Criminally injurious conduct,
  - b. An act of international terrorism,
  - c. The person's good faith effort to prevent criminally injurious conduct or an act of international terrorism, or
  - d. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.
- 30-33. "Work loss" means a reduction in income from:
- a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
  - b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

**R10-4-102. Administration of the Fund**

- A. The Commission shall deposit in the Fund all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a claimant.
- B. The Commission shall designate one operational unit ~~in~~ for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a formula that the Commission determines annually using:
  1. A ~~uniform~~ base amount for each operational unit,
  2. An analysis of the prior year's ~~expenditure~~ claim activity, ~~and~~
  3. The ~~share of~~ population of each jurisdiction, and
  4. The share of crime of each jurisdiction.
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes ~~the an~~ operational unit ~~in~~ for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall ~~allow a claimant from that jurisdiction to apply directly to the Commission for a compensation award. The Commission will determine whether to~~ designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to

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compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.

- I. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.

**R10-4-103. Statewide Operation**

For any ~~portion of the state~~ jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article or provide for a program by contract.

**R10-4-104. Operational Unit Requirements**

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
1. Only if the public or private agency agrees not to:
    - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
    - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
    - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
  2. Only if the public or private agency agrees to:
    - a. Forward to the Board a claim relating to an incident of criminally injurious conduct or an act of international terrorism occurring in the public or private agency's jurisdiction or jurisdictions;
    - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
    - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring outside of the United States in an area without a crime compensation program;
    - ~~e.d.~~ Notify the Commission of any change in the public or private agency's program procedures before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
    - ~~d.e.~~ Submit a written quarterly financial report to the Commission, on a form provided by the Commission, and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;
    - ~~e.f.~~ Provide an application form to a claimant;
    - ~~f.g.~~ Comply with all civil rights requirements;
    - ~~g.h.~~ Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
    - ~~h.i.~~ Monitor a compensation award to ensure that amounts paid are consistent with this Article.
- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

**R10-4-105. Crime Victim Compensation Board**

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.
- ~~B.~~ Board members serve a three-year term and are eligible for reappointment.
- ~~B.C.~~ When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.
- ~~C.D.~~ When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.
- ~~D.E.~~ A majority of the Board membership constitutes a quorum that may transact the business of the Board.
- ~~E.F.~~ The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.
- ~~F.G.~~ The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.

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~~G.H.~~ As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.

**I.** An employee of an operational unit shall not serve as a Board member.

**J.** A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.

**K.** A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.

**L.** A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

**R10-4-106. Prerequisites for a Compensation Award**

**A.** The Board shall make a compensation award only if it determines that:

1. Criminally injurious conduct or an act of international terrorism:
  - a. Occurred in Arizona; or
  - b. Occurred outside of Arizona in an area without a crime compensation program and affected a resident;
2. The criminally injurious conduct or act of international terrorism directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
3. The victim of the criminally injurious conduct or act of international terrorism or a person who submits a claim regarding criminally injurious conduct or an act of international terrorism was not:
  - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
  - b. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
  - c. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
  - d. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
  - e. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
4. The criminally injurious conduct or act of international terrorism was reported to an appropriate law enforcement authority within 72 hours after its discovery;
5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct or act of international terrorism that is not compensable by a collateral source; and
7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct or act of international terrorism.

**B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.

**C.** If a victim died as a result of criminally injurious conduct or act of international terrorism, the requirement under subsection (A)(3)(e) is waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.

**D.** If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under subsection (A)(3)(e), the requirement under subsection (A)(3)(e) may be waived for:

1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious conduct or an act of international terrorism, or
2. A compensation award for expenses under R10-4-108(C)(3).

**R10-4-107. Submitting a Claim**

**A.** If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:

1. A victim;
2. A derivative victim;
3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.

**B.** ~~An operational unit shall not accept a claim from a person who is:~~

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- ~~1.~~ The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
- ~~2.~~ Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
- ~~3.~~ Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
- ~~4.~~ Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
- ~~5.~~ Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.

~~C.B.~~ If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct or act of international terrorism, the person shall submit a separate claim regarding each incident of criminally injurious conduct or act of international terrorism.

~~D.C.~~ If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct or act of international terrorism, each person shall submit a separate claim.

~~E.D.~~ To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit ~~in~~ for the jurisdiction in which the incident of criminally injurious conduct occurred or ~~in the county and state~~ to the operational unit for the jurisdiction in which a victim ~~lives if the incident of criminally injurious conduct is an act of international terrorism~~ lives or occurred in an area without a victim compensation program. The claimant shall provide the following:

1. About the victim:
  - a. Full name;
  - b. Residential address;
  - c. Gender;
  - d. Date of birth;
  - e. Residential and work telephone numbers;
  - f. ~~Social Security number;~~
  - ~~g-f.~~ Statement of whether the victim is deceased;
  - ~~h-g.~~ Ethnicity;
  - ~~i-h.~~ Statement of whether the victim is a resident; and
  - ~~j-l.~~ Statement of whether the victim is disabled;
2. About the claimant if the claimant is not the victim:
  - a. Full name;
  - b. Residential address;
  - c. Gender;
  - d. Date of birth;
  - e. Residential and work telephone numbers;
  - f. ~~Social Security number;~~
  - ~~g-f.~~ Relationship to the victim; and
  - ~~h-g.~~ If there are multiple victims or derivative victims of an incident of criminally injurious conduct or act of international terrorism, the name, residential address, ~~Social Security number~~, and date of birth of each, and for derivative victims, the relationship to the victim;
3. About the crime:
  - a. Type of crime;
  - b. Statement of whether the crime was related to domestic violence;
  - c. Statement of whether the crime was a federal crime;
  - d. Date on which crime was committed;
  - e. Date on which crime was reported to law enforcement authorities;
  - f. Name of law enforcement agency to which the crime was reported;
  - g. Name of law enforcement officer to whom the crime was reported;
  - h. Law enforcement report number;
  - i. Location of crime;
  - j. Name of perpetrator, if known; and
  - k. Brief description of the crime and resulting injuries;

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4. About a civil lawsuit:
  - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
  - b. If the answer to subsection ~~(E)(4)(a)~~ (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
5. About benefits from collateral sources:
  - a. List of the benefits the claimant has received since the incident of criminally injurious conduct or act of international terrorism or is entitled to receive; and
  - b. For each benefit identified:
    - i. Type of benefit,
    - ii. Contact address and telephone number; and
    - iii. Claimant's identification or policy number;
6. About the economic loss for which compensation is requested:
  - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider, ~~and if mileage is claimed for medical care, the date and mileage of each trip;~~
  - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider, ~~and if mileage is claimed for mental health counseling and care, the date and mileage of each trip;~~
  - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
  - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
  - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid; ~~and~~
  - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and
7. The claimant's dated signature:
  - a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
  - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
  - c. Authorizing the release of confidential information necessary to administer the claim; and
  - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct or act of international terrorism and is necessary to verify the claim.

~~F.E.~~ A claimant shall attach the following to the claim form submitted under subsection ~~(E)~~ (D):

1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection ~~(E)(6)~~ (D)(6); and
2. If work loss expenses are claimed, a signed statement on official letterhead:
  - a. From the claimant's employer verifying the information provided under subsection ~~(E)(6)(e)~~ (D)(6)(c); and
  - b. If applicable, from the physician or mental health care provider indicating ~~that~~ the claimant:
    - i. ~~was Was~~ unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
    - ii. Is totally and permanently disabled.

**R10-4-108. Compensation Award Criteria**

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, whether to make a compensation award and if so, the terms and amount of the compensation award. The Board shall make a decision within 60 days after the operational unit receives a claim under R10-4-107 unless good cause exists. The Board shall inform the claimant in writing within ~~five~~ 10 days of the Board's decision.
- B. The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C. The Board shall make a compensation award only for the following:
  1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, or death.
    - a. The Board shall include the following as a medical expense:
      - i. Repair of damage to a prosthetic device, eyeglasses or other corrective lenses, or a dental device; and
      - ii. Durable medical equipment; ~~and~~
      - iii. ~~Reasonable transportation costs related to obtaining medical care.~~
    - b. The Board shall not include as a medical expense a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;

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2. Reasonable and customary work loss expenses for:
  - a. A victim whose ability to work is reduced due to physical injury, ~~extreme~~ mental distress, or medical condition resulting from the criminally injurious conduct or act of international terrorism;
  - b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;
  - c. A ~~deceased victim's spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild~~ derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the ~~spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild~~ derivative victim;
  - d. A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;
  - e. A derivative victim to make funeral arrangements or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or
  - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required as a result of the criminally injurious conduct or act of international terrorism;
3. Reasonable and customary funeral expenses. Expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's ~~extreme~~ mental distress resulting from the criminally injurious conduct or act of international terrorism if:
  - a. The mental health counseling and care is provided by an individual who:
    - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
    - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101,
    - iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or
    - iv. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
  - b. The mental health counseling and care expenses:
    - i. ~~Include only reasonable costs of transportation related to obtaining the mental health counseling and care; and~~
    - ii. ~~Do~~ do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary; ~~and~~
5. Reasonable and customary crime scene cleanup expenses due to a victim's ~~death from criminally injurious conduct in a residence homicide, aggravated assault, or sexual assault; and~~
6. Reasonable and customary transportation costs related to:
  - a. Obtaining medical care as defined in subsection (C)(1).
  - b. Obtaining mental health counseling and care as defined in subsection (C)(4).
  - c. Attending a court proceeding directly related to the incident of criminally injurious conduct or act of international terrorism that is the subject of the claim.
  - d. The victim obtaining a medical forensic examination or participating in a medical forensic interview, and
  - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(d).
- D. The Board shall not make a compensation award to a claimant that exceeds:
  1. Twenty-~~five~~ thousand dollars for all economic loss ~~sustained by the claimant~~ submitted under a claim as a result of an incident of criminally injurious conduct or act of international terrorism;
  2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
  3. For work loss expenses:
    - a. Work loss expenses under subsections (C)(2)(a) and (C)(2)(c) are limited to an amount per calendar week equal to 40 hours ~~per week~~ at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
    - b. Work loss expenses under subsections (C)(2)(b) and (C)(2)(d) are limited to an amount per calendar month equal to 40 hours ~~per month~~ at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
    - c. Work loss expenses under subsection (C)(2)(e) are limited to an amount equal to 24 hours at the current minimum wage, and
    - d. Work loss expenses under subsection (C)(2)(f) are limited to an amount equal to 160 ~~40~~ hours ~~per week~~ at the

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current minimum wage to a maximum of 160 hours;

4. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
5. For funeral expenses, ~~\$5,000~~ \$10,000; and
6. For crime scene cleanup expenses, ~~\$1,000~~ \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional service to include only repair or cleanup material costs for one-time use items; and
7. For transportation costs, \$1,500 paid as reimbursement of actual transportation expenses.

**E.** If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.

**E.F.** The Board shall deny or reduce a compensation award to a claimant if:

1. The victim or claimant has recouped or is eligible to recoup the economic loss from a collateral source except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;
2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
3. The Board determines that the victim's physical injury, medical condition, ~~extreme~~ mental distress, or death was due in substantial part to the victim's:
  - a. Negligence,
  - b. Intentional unlawful conduct that occurred at the time of the incident of criminally injurious conduct that was the proximate cause of the incident of criminally injurious conduct or act of international terrorism, or
  - c. Conduct that intentionally intended to provoke or aggravated that was the proximate cause of the incident of criminally injurious conduct or act of international terrorism.

**E.G.** The Board shall deny or reduce a compensation award under subsection ~~(E)(3)~~ (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the victim's physical injury, medical condition, ~~extreme~~ mental distress, or death.

**G.H.** The Board shall deny a compensation award to a claimant if:

1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial health or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
  - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or act of international terrorism or failed to appear as a witness for the prosecution;
  - b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct or act of international terrorism escaped prosecution or the prosecution of the suspect was negatively affected; or
  - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; or
2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.

**H.I.** If there are insufficient funds to make a compensation award, the Board may;

1. Deny the claim,
2. Make a partial award and reconsider the claim later during the fiscal year, or
3. Extend the claim into a subsequent fiscal year.

**I.J.** The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.

**J.K.** The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

**K.L.** The operational unit may close an inactive claim:

1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;
2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case; and
3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.

**R10-4-109. Hearing; Request for Rehearing or Review**

**A.** ~~The~~ If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article if:

- ~~1. The Board determines that a hearing will enable it to evaluate the claim and make a proper decision; or~~
- ~~2. A claimant appeals a decision made by the Board without a hearing. A claimant who wishes to have a hearing shall submit to the Board a written request within 30 days after receiving notice of the Board's decision stating the basis for the request.~~

**B.** The Board shall provide a claimant with at least ~~30 days~~ 10 days' notice of a hearing ~~and due process or rehearing.~~

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- ~~C.~~ The Board shall ~~serve any~~ provide written notice required under this Section by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal service or within five days after mailing by certified mail of its decision to the claimant within 10 days after a hearing or rehearing.
- ~~D.~~ The Board shall ~~provide written~~ serve notice of its decision to the claimant within 20 days after a hearing a compensation-award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.
- ~~E.~~ The Board may request a rehearing of a decision at any time and for any reason under this Article.
- ~~E-F.~~ A claimant who is aggrieved by a decision of the Board made ~~after~~ at a hearing may request a rehearing ~~or review~~ of the decision within 30 days after the Board serves notice of the decision. A claimant shall request ~~for~~ a rehearing ~~or review~~ in writing and specify the grounds for the request.
- ~~F-G.~~ A claimant may amend a request for a rehearing ~~or review~~ of a Board decision at any time before it is ruled on by the Board.
- ~~G-H.~~ The Board may require additional written explanation of an issue raised in a request for rehearing ~~or review~~ of a Board decision and may provide for oral argument.
- ~~H-I.~~ The Board ~~may shall~~ grant a rehearing ~~or review~~ for any of the following reasons materially affecting a claimant's rights:
  - 1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
  - 2. Misconduct of the Board, the operational unit, or staff of the operational unit;
  - 3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
  - 4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
  - 5. The decision is not justified by the evidence or is contrary to law.
- ~~J.~~ When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.
- ~~I-K.~~ The Board may affirm or modify a decision ~~or grant a rehearing to the claimant~~ on all or part of the issues for any of the reasons listed in subsection ~~(H)~~ (I). An order ~~granting a rehearing or~~ modifying a decision shall specify with particularity the grounds for the order. ~~If a rehearing is granted, the rehearing shall cover only the matters specified in the order.~~
- ~~J.~~ Not later than 30 days after the date of a decision and after giving the claimant notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a hearing on a request by a claimant. The Board may grant a request for a rehearing or review for a reason not stated in the request. An order granting a rehearing or review shall specify with particularity the grounds on which the hearing or review is granted.

**R10-4-110. State-level Claim Review**

- ~~A.~~ A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- ~~B.~~ The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
  - 1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
  - 2. A representative of the Office of the Attorney General, and
  - 3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- ~~C.~~ The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 days after receiving the written request required under subsection (A).
- ~~D.~~ A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- ~~E.~~ When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
  - 1. Considers only evidence previously presented to the Board, and
  - 2. Decides only whether the Board's decision was consistent with the standards in this Article.
- ~~F.~~ The State Claim Review Panel may affirm or overturn a decision made by a Board.
- ~~G.~~ A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
  - 1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim;  
or
  - 2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- ~~H.~~ The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 days after the state-level claim review.

**R10-4-110. R10-4-111 Emergency Compensation Award**

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- A. After receiving a claim submitted under R10-4-107, an operational unit may grant ~~an~~ one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
  - 1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and
  - 2. Serious hardship will result to the person if an immediate compensation award is not made.
- B. An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed ~~\$500~~ \$1,000.
- C. If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

**ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**

**R10-4-201. Definitions**

In this Article:

- 1. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
- 2. "Crime" means conduct, completed or preparatory, committed in Arizona, that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
- 3. "Financial support from other sources" means that at least one-fourth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
- 4. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
- 5. "Immediate family" means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
- 6. "In-kind contribution" means a non-cash donation to which a cash value can be given.
- 7. "Subrogation" means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
- 8. "Substantial financial support from other sources" means that at least half of the financial support to a victim assistance program is from sources, not including in-kind contributions, other than the Fund.
- 9. "Victim" means a natural person against whom a crime is perpetrated and the victim's immediate family.

**R10-4-202. Administration of the Fund**

- A. The Commission shall deposit in the Fund all funds received under A.R.S. §§ ~~31-466(A)~~ 31-467.06(B) and 31-411(F) and any other funds received for victim assistance.
- B. The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution and effective and efficient use of the funds.
- C. At least ~~two months~~ six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is [www.azcjc.gov](http://www.azcjc.gov).
- D. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

**R10-4-203. Grant Eligibility Requirements**

- A. A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney's office or law enforcement agency.
- B. A public agency or private nonprofit organization qualified under subsection (A) may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a program that:
  - 1. Provides services described in R10-4-204 to victims;
  - 2. Does not use Commission funds or federal funds to supplant funds otherwise available to the program for victim assistance;
  - 3. Uses volunteers effectively and efficiently to provide victim services;
  - 4. Promotes coordinated public and private efforts to assist victims within the community served;

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5. Assists a victim in seeking available victim compensation benefits; and
  6. Complies with all applicable civil rights laws.
- C. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for at least three years shall demonstrate to the Commission that the program:
1. Has substantial financial support from a source other than the Fund; and
  2. Has a history of providing effective services to victims. The Commission shall determine whether the program's victim services are effective based on:
    - a. The length of time the program has provided victim services, and
    - b. Whether data indicate program results are achieved in a cost-effective manner.
- D. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for fewer than three years shall demonstrate to the Commission that the program:
1. Has financial support from a source other than the Fund; and
  2. Is designed to meet a currently unmet need for a specific victim service.
- E. To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:
1. Submit to the Commission quarterly financial reports, on a form provided by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
  2. Submit an annual report to the Commission, on a form provided by the Commission, and provide the following information:
    - a. Number of victims served ~~by type of crime~~ during the reporting period, by type of crime;
    - b. Type of services provided;
    - c. Number of times each service was provided;
    - d. Ethnic background, age, and sex of each victim served;
    - e. ~~Number and type~~ Type of assistance provided to victims in obtaining victim compensation;
    - f. ~~Number of times each type of assistance was provided~~; and
    - g. A narrative assessment of the impact of Commission funds on the program.

**R10-4-204. Services**

- A. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services:
1. Crisis intervention services to meet the urgent emotional or physical needs of a victim. Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;
  2. Emergency services including:
    - a. Temporary shelter for a victim who cannot safely remain in current lodgings;
    - b. Petty cash for immediate needs related to transportation, food, shelter, and other necessities; and
    - c. Temporary repairs such as locks and windows damaged as a result of a crime to prevent the ~~immediate re-burglarization of a home or apartment~~ from being re-burglarized immediately;
  3. Support services, including:
    - a. Counseling dealing with the effects of victimization;
    - b. Assistance dealing with other social services and criminal justice agencies;
    - c. Assistance in obtaining the return of property kept as evidence;
    - d. Assistance in dealing with the victim's landlord or employer; and
    - e. Referral to other sources of assistance as needed;
  4. Court-related services, including:
    - a. Direct services or petty cash that helps a victim participate in criminal justice proceedings, including transportation to court, child care, meals, and parking expenses; and
    - b. Advocate services including escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
  5. Notification services, including notifying a victim:
    - a. Of significant developments in the investigation or adjudication of the case;
    - b. That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled; and
    - c. Of the final disposition of the case.
- B. A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to provide:
1. Training for salaried or volunteer staff of criminal justice, social services, mental health, or related agencies, who provide direct services to victims; and
  2. Printing and distributing brochures or similar announcements describing the direct services available, how to obtain program assistance, and volunteer opportunities.
- C. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
1. Crime prevention efforts, other than those aimed at providing specific emergency help after ~~a victimization~~ an indi-

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vidual is victimized:

2. General public relations programs;
3. Advocacy for a particular legislative or administrative reform;
4. General criminal justice agency improvement;
5. A program in which victims are not the primary beneficiaries;
6. Management training or training for persons who do not provide direct services to a victim; or
7. Victim Compensation provided under ~~R10-4-101 et seq~~ this Chapter.