

# Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

# Arizona Administrative REGISTER

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A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact customer service at  
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**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

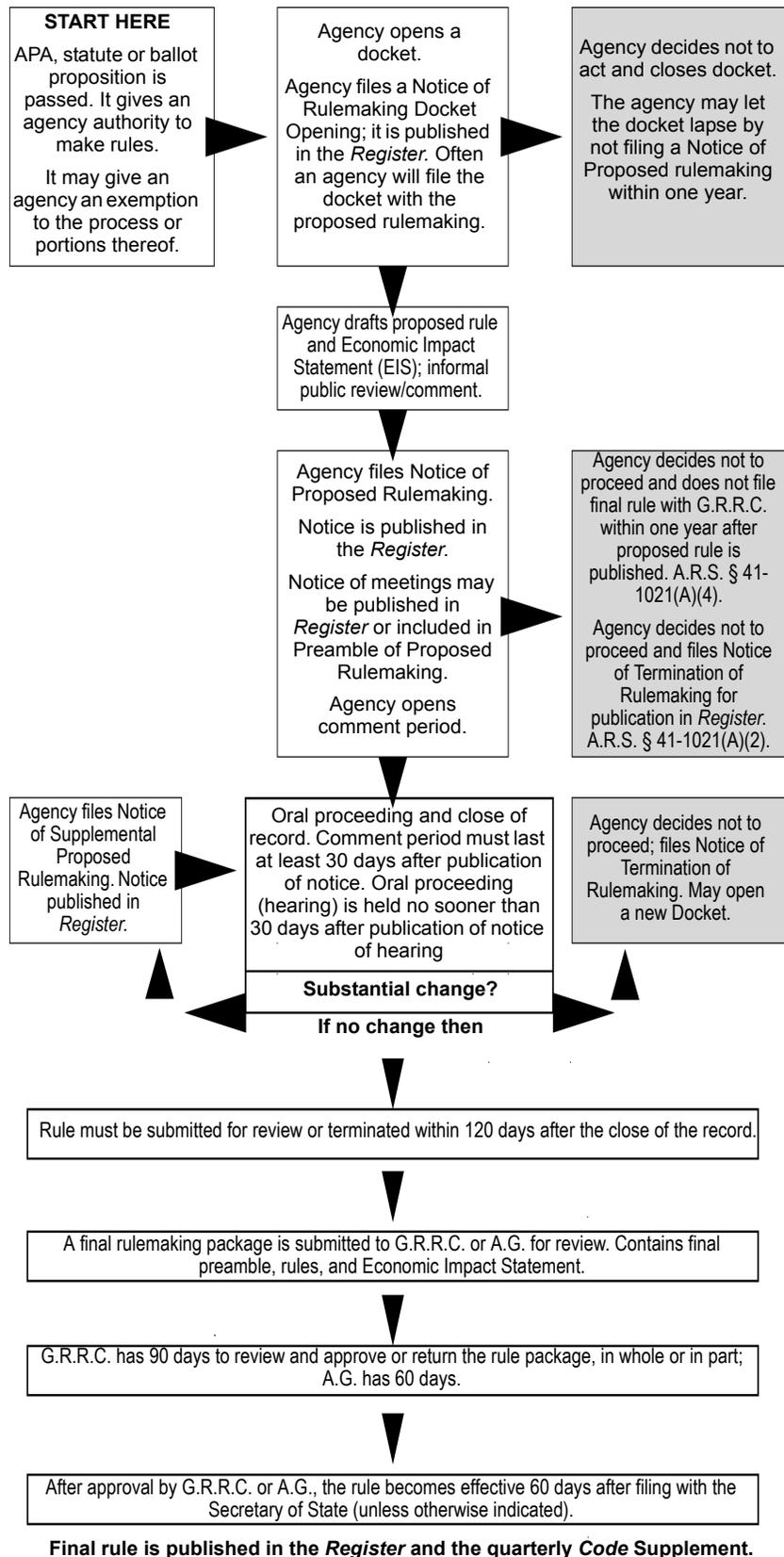
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

## Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.

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## NOTICES OF FINAL RULEMAKING

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This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the *Arizona Administrative Code*.

### NOTICE OF FINAL RULEMAKING

#### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT AND COMPLIANCE FEES

[R15-159]

#### PREAMBLE

- 1. Article, Part of Sections Affected (as applicable)**

Article 3	<b><u>Rulemaking Action</u></b>
R18-14-301	New Article
R18-14-302	New Section
R18-14-303	New Section
  
- 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. §§ 49-202(A), 49-203(A)(8) and (9),  
Implementing statute: A.R.S. §§ 49-352(A), 49-361
  
- 3. The effective date of the rules:**

July 1, 2016

At the request of the Governor's Regulatory Review Council, the Arizona Department of Environmental Quality (ADEQ) requests an effective date more than 60 days in advance in order to coincide with Fiscal Year 2017 and to allow time for ADEQ to seek statutory changes.
  
- 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 rules:**

Notice of Rulemaking Docket Opening: 20 A.A.R. 136, January 17, 2014  
Notice of Proposed Rulemaking: 20 A.A.R. 1744, July 11, 2014
  
- 5. The agency's contact person who can answer question about the rulemaking:**

Name: Wendy LeStarge  
Address: Arizona Department of Environmental Quality  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677)  
Fax: (602) 771-4834  
E-mail: lestarge.wendy@azdeq.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:**

ADEQ seeks to establish new and reasonable fees for the certification of drinking water and wastewater operators that will allow the Operator Certification Program to become financially self-sustaining in anticipation of reduced and unstable federal funds.

#### ADEQ'S OPERATOR CERTIFICATION PROGRAM

Operators of drinking water treatment plants and distribution systems, and wastewater collection systems and treatment plants are responsible for all decisions about process control or system integrity that affects public health and the environment. Once a treatment plant or collection/distribution system has been designed and constructed, it is



imperative that the system be operated correctly, as improper operation can result in public health threats and environmental degradation. The operator certification rules (18 A.A.C. 5, Article 1, Classification of Water and Wastewater Facilities and Certification of Operators) classify a drinking water treatment plant, wastewater treatment plant, drinking water distribution system, or wastewater collection system (collectively defined as a facility) into one of four grades: by facility type, size, complexity and population served. The grade corresponds with the level of system complexity, with Grade 1 being the most simple and Grade 4 being the most complex. A facility is required to retain the services of properly (i.e., appropriately) graded certified operators. A.A.C. R18-5-104(A)(1).

The operator certification rules also establish the requirements for operators, as to experience and education, certification and classification, examinations, renewal of certificates, expired certificates, reciprocity for out-of-state applicants, and revocation. Operators are required to maintain their certification through participation in continuing professional education and must renew their certification every three years.

ADEQ's Operator Certification Program has three major components: initial certification, renewal of certification, and training. A potential operator has a couple of options in seeking initial certification:

- An applicant can take and pass a written examination for the applicable class and grade. Contracted third parties provide, administer and grade the operator certification examinations. Currently, Gateway Community College (Gateway) proctors the Association of Boards of Certification (ABC) operator certification exams for all operator classifications and grade levels. Potential applicants contact Gateway directly for exam dates, times, and exam fees. Gateway notifies ADEQ as to the results of applicants who successfully pass the examinations. ADEQ then creates a record of the operator's pertinent information and issues the appropriate certificate. ADEQ maintains a database of certified operators and this information, in part, is linked to and populates ADEQ's primary drinking water database (Safe Drinking Information System – SDWIS/State), and in turn linked to the database maintained by the U.S. Environmental Protection Agency (EPA).
- At an applicant's request, ADEQ evaluates the experience and education of an out-of-state operator to determine if the operator can be certified through reciprocity without taking the Arizona examinations.
- Also at an operator's request, ADEQ determines if an operator has the necessary experience and education required to be admitted for a higher grade certification examination without having the requisite time at a lower grade.

Operator certification is valid for three years. During the three year period, an operator is required to complete at least 30 professional development hours (PDHs), defined as an "organized educational activity related to engineering, biological or chemical sciences, a closely related technical or scientific discipline, or operations management." A.A.C. R18-5-101. An operator must submit a request to renew certification to ADEQ every three years, along with documentation of the required professional development hours. A.A.C. R18-5-107.

Lastly, a function of the Operator Certification Program is to provide training opportunities. ADEQ's training is open to all operators but is particularly geared toward smaller facilities, which may be unable to afford required training for their operators. ADEQ also assists in the coordination of other events sponsored by such groups as the Environmental Finance Center, Texas A&M Engineering Extension Service, Rural Community Assistance Corporation, and the Rural Water Association. These organizations receive grant funding from EPA to conduct outreach to small drinking water systems.

#### HISTORICAL REQUIREMENTS

The Operator Certification Program is authorized under two separate state statutes. Under A.R.S. § 49-352(A), ADEQ must establish and enforce rules for the classification of systems for potable water and certifying operating personnel according to the skill, knowledge and experience necessary within the classification. Under A.R.S. § 49-361, ADEQ must adopt and enforce rules to classify sewage collection systems and treatment plants and to certify operating personnel according to the skill, knowledge and experience necessary within the classification.

Operator certification is also a requirement under the federal Safe Drinking Water Act (SDWA), for which ADEQ is the designated state agency responsible in Arizona. A.R.S. § 49-202. The SDWA regulates public water systems (PWS), which are defined as providing water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serving an average of at least 25 people for at least 60 days a year. A.A.C. R18-4-103 (incorporating by reference 40 CFR § 141.2, Definitions). The primary purpose of the SDWA is to ensure that:

- Drinking water supplied to consumers by PWSs is safe to drink and does not exceed prescribed maximum contaminant levels;
- Consumers are confident that their water is safe to drink; and
- PWS operators are trained, certified, and knowledgeable regarding the public health reasons for drinking water standards.



Under major amendments to the SDWA in 1996, states were to establish operator certification programs that would meet EPA's minimum standards for certification, taking into account existing State programs, the complexity of the system, and the size of the system. 42 USC §300g-8(a). EPA can withhold 20 percent of a state's Drinking Water State Revolving Fund (DWSRF) capitalization grant unless the state has adopted and is implementing an operator certification program that meets the requirements of the final guidelines, or submits an existing program that is substantially equivalent to the guidelines. 42 USC §300g-8(b). ADEQ's Operator Certification Program predates the 1996 requirements of the SDWA, but in 2000, ADEQ updated its operator certification rules to reflect EPA's operator certification guidelines.

ADEQ previously assessed fees associated with examinations, certification, and renewals, under a regulatory framework where ADEQ administered the operator certification examinations. In 2001, ADEQ repealed the fees as part of larger amendments, which established the current framework of a third party administering the operator certification examinations. Under the prior regulatory framework, the fees assessed for the certification examinations, certification by reciprocity, and certification renewals, ranged from \$10 to \$25. In the 2001 rulemaking, ADEQ estimated that the repeal of fees would result in a revenue loss of not more than \$65,000 annually to the state General Fund.

CURRENT FUNDING SITUATION

Beginning in 2007, ADEQ's portion of general fund was decreased and ultimately eliminated in 2010. ADEQ has been funding the Safe Drinking Water Program, including the Operator Certification Program, through federal grants and federal set-asides from the DWSRF. Since wastewater operator certification is a state requirement only, it must be state funded. The future level of funding through federal sources is uncertain, but will most likely be subject to continuing cuts. Making the Operator Certification Program self-funded through fees will help reduce the drawdown on limited federal funds, which were intended for infrastructure loans to public water systems (under 42. USC § 300j-12; A.R.S. § 49-1243. Other parts of the Safe Drinking Water Program will continue to rely on federal funds, as there is currently no state source of revenue.

Operator certification fees will be deposited in the state General Fund, as required by A.R.S. §§ 49-352(A) and 49-361. ADEQ's goal is to seek a legislative change that operator certification fees will be deposited in the water quality fee fund, established under A.R.S. § 49-210.

In anticipation of this rulemaking, ADEQ met with a broad spectrum of stakeholders to discuss funding issues and fee amounts for the proposed rules. As a result, ADEQ considered stakeholders' comments and was able to incorporate some comments into the proposed rule, such as delaying the effective date to allow stakeholders time for budget planning.

At the time the Notice of Proposed Rulemaking was published, ADEQ distributed a notice to all subscribers of the Drinking Water/Wastewater Operator Certification list serve and established a specific e-mail address folder to receive comments. ADEQ also mailed out a postcard to the approximately 6,500 certified operators in its database, stating:

"ADEQ seeks to establish new and reasonable fees for the certification of water and wastewater operators. ADEQ's proposed fees are directly related to the level of effort expended by the department to administer the operator certification program. The revenue from these fees will be deposited in the State General Fund. The proposed fees are \$65 per new certificate; \$150 per certificate renewal and \$50 for each additional renewal if expiration date is the same; \$150 per early examination request review and \$250 per reciprocity request review.

Failure to establish new fees for the ADEQ State Drinking Water (SDW) program could negatively impact ADEQ's ability to implement the Safe Drinking Water Act requirements and potentially impact the quality and safety of Arizona's drinking water systems. Further, ADEQ's delegated authority could be lost and oversight of the drinking water program could revert to the U.S. EPA.

Please go to <http://azdeq.gov/enviro/water/dw/opcert.html> to link to the Notice of Proposed Rulemaking. The proposed rules will be available for viewing starting on July 14, 2014. All comments may be submitted to [proposedopcertfees@azdeq.gov](mailto:proposedopcertfees@azdeq.gov).

To receive continued fee rule updates please subscribe to the drinking water/wastewater operator certification list serve located at <http://azdeq.gov/subscribe.html>."



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

Not applicable

**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:**

**A. Brief summary of the information included in the economic, small business and consumer impact statement:**

Operators will be responsible for paying any fees and therefore will be most impacted. A certified operator may be required to pay from \$150 to \$300 every three years, depending on the number of certificates. An operator who seeks certification in all four classes, starting with one certification at grade 1 and advancing to grade 4 in each class, would potentially pay \$1040 in new certification fees over the course of time of seeking these certifications.

A facility owner who chooses to pay fees on behalf of its operators will be impacted by the cost of the fees.

**B. Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:**

Name: Wendy LeStarge

Address: Arizona Department of Environmental Quality  
1110 W. Washington St. (MC 5415B-2)  
Phoenix, AZ 85007

Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677)

Fax: (602) 771-4834

E-mail: [lestage.wendy@azdeq.gov](mailto:lestage.wendy@azdeq.gov)

**C. Identification of persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking:**

Water and wastewater operators in Arizona who are certified, who seek to become certified, or seek additional certifications will bear the costs by paying fees for renewals, examinations, reciprocity, or early examination. In Arizona, there are approximately 6,500 certified operators who hold approximately 13,500 certificates. About 3,700 operators hold multiple certifications; about 1,409 operators hold all four certifications.

An operator certified in Arizona can have a maximum of four certificates, meaning they are certified in each of the four classes of facilities: water treatment plants, water distribution systems, wastewater treatment plants, or wastewater collection systems. An operator with four certificates could pay a maximum renewal fee of \$600 every three years (\$150 for each certificate). However, ADEQ has offered an incentive to pay a lesser fee of \$300 every three years. Because the fees are based on covering ADEQ's costs for its workload, the incentive is for an operator to have all certificates due on the same renewal date, so that there is only one renewal submittal every three years, and ADEQ is reviewing PDHs only one time for that operator. In this situation, the operator pays \$150 for the first certificate, and \$50 for each additional certificate. An operator with four certificates with the same renewal dates pays \$300 every three years. Operators holding two certifications would pay on average \$200 in renewal fees every three years.

An operator who seeks additional certifications will pay \$65 after passing the examination. An operator who seeks certification in all four classes, starting with one certification at grade 1 and advancing to grade 4 in each class, would potentially pay \$1040 in new certification fees over the course of time of seeking these certifications.

These rules do not make any changes to current costs for examination or PDHs. An operator will still be responsible for costs or fees paid to the examination contractor or for PDHs. The current cost to sit for an exam at Gateway is \$87, which is paid to Gateway. Generally the fee can be up to \$107 for examinations held off-site from Gateway. The exam fee covers costs for Gateway and ABC operator certification examinations; ADEQ does not receive any part of this examination fee.

If the employer of a water or wastewater certified operator decides to pay the renewal or examination fees for its operators, then the owner of the facility will bear the costs of this rulemaking. There are approximately 1,539 active public water systems and 2,004 active wastewater treatment plants in ADEQ's databases. Public water systems and wastewater treatment plants can be privately or publicly-owned, and can include a variety of entities such as munic-



ipalities, counties, the U.S. government, non-profit organizations, restaurants, RV parks, and subdivisions. The impact to a facility owner will vary depending on its size and the number of certified operators.

**D. Cost-benefit analysis of probable costs and benefits to ADEQ and other agencies:**

**1) ADEQ'S COSTS**

Fees must cover all aspects of administering the Operator Certification Program, not just the specific tasks for which fees are assessed. ADEQ's total costs for the Operator Certification Program are about \$429,000 annually. The Program consists of three and one-half full-time employees (FTEs), which ADEQ believes is the minimum level of staffing necessary to effectively and efficiently implement the Program. No new FTEs are necessary to implement and enforce the proposed rules. The personnel costs for the Operator Certification Program are \$329,000, and are explained below:

	Annual Amount
Salaries =	\$155,500
Employee Related Expenditures (ERE) include: FICA, Retirement, Worker's Compensation, Health, Dental, and Life Insurance, Retiree Accumulated Sick Leave charges, Personnel Division charges and uniforms for certain classes of employees (from the Instruction guide for Arizona's Budget and Development System, June 2014, the Governor's Office of Strategic Planning and Budgeting). ADEQ's ERE rate for FY15 is 44%. Calculation: \$155,500 (Salaries) x 0.44 =	\$68,500
Indirect Cost Pool is for costs that are not readily charged to a specific cost pool at the time the costs are incurred." Indirect costs are general management costs and consist of administrative activities necessary for the general operation of the agency, such as accounting, budgeting, payroll preparation, personnel services, purchasing, rent, utilities, and centralized data processing (from the State of Arizona Accounting Manual Glossary) ADEQ's current Indirect Cost rate is 46.95%. Calculation: (\$155,500 (salaries) + 68,500 (ERE)) x 0.4695 =	\$105,000

Below is an explanation of staff's duties and responsibilities:

- Creating a record of an operator's pertinent information and issuing the appropriate certificate.
- Evaluating the experience and education of an out-of-state operator to determine if the operator can be certified by reciprocity without taking the Arizona examinations.
- Determining if an operator has the necessary experience and education required to be admitted for a higher grade certification examination without having the requisite time at a lower grade.
- Processing renewals and auditing renewal requests for PDH verification purposes.
- Initiating an enforcement action against a PWS:
  - If the facility does not maintain the services of a certified operator,
  - The certified operator does not possess a certificate of the grade and type required for the facility, or
  - The certified operator does not reside within a 200 mile ground travel radius of the facility.
- Providing workshops in various locations throughout Arizona for operators to earn PDHs.
  - FTEs oversee a consultant event coordinator for these events, who is tasked with managing event registration, reservation confirmations, arranging for course materials, workshop reminders for registered attendees, providing event directions, and in some cases reserving the meeting facilities.
  - Staff has begun using online meeting technology to provide remote training, which can increase attendance and facilitate the ability of other ADEQ staff to present at the offsite workshops.
- Establishing and overseeing the contracts with Gateway and ABC to administer certification examinations.
- Maintaining the database of certified operators, including updating operator information, as it changes. Most information is available on ADEQ's website, both for an operator to verify and for the general public to research.
- Answering inquiries via e-mail or telephone about the Operator Certification Program in general, and specific questions an operator may have.
- Generating and sending a 90-day and 30-day notice of upcoming certificate expiration to operators on the list serve.
- Offering and proctoring a practice examination that allows any operator to come to the ADEQ office by appointment to take a free practice examination in order to see how they would score.
- Maintaining electronic communications of webpage and list serve.



In the Operator Certification Program Annual Reports, ADEQ tracks numbers for some of the FTE’s responsibilities. Below are reported numbers for Fiscal Years 2013, 2014, and 2014:

Responsibility	FY13 Numbers	FY14 Numbers	FY15 Numbers
New certifications issued	955	1140	1371
Requests for reciprocity	283	350	297
Requests for early examination	128 requests with 114 approvals and 14 denials.	161 requests with 150 approvals and 11 denials.	131 requests with 118 approvals and 13 denials.
Certificate renewals and auditing for PDH verification purposes	3,616 certificates renewed. 10 – 15% of all renewal requests were audited.	3,586 certificates renewed. 10 – 15% of all renewal requests were audited.	2,397 certificates renewed. 10 – 15% of all renewal requests were audited.
Initiating an enforcement action against PWSs without an operator of record	<ul style="list-style-type: none"> <li>• 45 notification letters sent to PWSs</li> <li>• Referred nine PWSs to ADEQ’s Water Quality Division Compliance Section for enforcement follow-up, which resulted in issuing Notice of Violation against each</li> </ul>	<ul style="list-style-type: none"> <li>• 44 phone calls made to PWSs</li> <li>• Referred five PWSs to ADEQ’s Water Quality Division Compliance Section for enforcement follow-up, which resulted a Notice of Violation against each</li> </ul>	<ul style="list-style-type: none"> <li>• 28 phone calls made to PWSs</li> <li>• Referred six PWSs to ADEQ’s Water Quality Division Compliance Section for enforcement follow-up, which resulted a Notice of Violation against each</li> </ul>
Training and workshops	11 one-day workshops, 6 two-day workshops, 482 operators received training.	3 one-day workshops, 6 two-day workshops, 1 three-day workshop, 442 operators received training.	9 one-day workshops, 7 two-day workshops, 875 operators received training.

In addition to personnel costs, the Operator Certification Program spends about \$100,000 on Program costs, which focuses mainly on training. Costs include: presenter fees, conference room rentals, workbook materials, staff and presenter travel costs, and other miscellaneous supplies for the training workshops.

The fees must cover all aspects of administering the Operator Certification Program, not just the four certification activities for which fees are assessed; therefore the fee amounts include the costs of administering the whole Program.

**2) ADEQ'S REVENUES**

**PROSPECTIVE FUNDING:**

ADEQ has established flat rate fees because the certification and renewal tasks have predictable processing times. ADEQ’s fees are proportionately based on the staff review time for performing the designated certification task. Tasks that generally take more time are assessed a higher fee. However all the fees cover other costs of the Operator Certification Program, as described above in the Cost Section.

The initial certification fee of \$65 is the lowest fee because ADEQ staff spends the least amount of time on creating a new certification record since a third party administers the examinations. The renewal fee is set at \$150 because staff spends more time in processing renewals, verifying PDHs, and performing audits. Likewise, as staff expend more time on early examination and reciprocity requests, those fees are higher, set at \$150 and \$250 respectively. Because ADEQ’s amount of increased work is minimal for each additional certification renewal from the same operator, the rule offers a reduced renewal fee for each additional certificate, and consequently does not penalize operators with multiple certificates. ADEQ anticipates that operators will request to have one renewal date and submit all PDHs together.

It was suggested to base the fee amount on the certification grade level, so that higher grade operators would pay more in fees than lower grade operators. ADEQ did not adopt this suggestion. ADEQ’s level of effort remains the



same, regardless of the certification grade level. ADEQ therefore chooses to base the fees on the level of effort, proportional to other fee-related tasks.

In Arizona, there are approximately 6,500 certified operators who hold approximately 13,500 certificates. About 3,700 operators are certified in multiple classes of facilities. Some operators maintain certificates that are not required for their job. ADEQ anticipates that approximately twenty percent of the 13,500 certificates will not be renewed either because the operator is not currently employed as an operator or does not require multiple certificates. The estimated annual revenue from new fees would be \$400,000 to \$475,000 (based on past annual averages of renewals, new certifications, reciprocity reviews and early examination reviews):

Certification or renewal	Fee	Revenue	Revenue (minus 20%)
3,600 certificate renewals per year	Assuming one-half pay \$150 and one-half pay \$50 for additional certificates	\$360,000	\$288,000
1,000 new certifications (from 2,000 proctored examinations with a 50% passing rate),	\$65	\$65,000	\$52,000
250 reciprocity reviews	\$250	\$62,500	\$50,000
100 early examination reviews.	\$150	\$15,000	\$12,000
<b>TOTAL</b>		<b>\$502,500</b>	<b>\$402,000</b>

ADEQ recognizes that this is an estimate. If renewal certifications drop by thirty percent, ADEQ estimates annual revenues of \$357,000.

**E. Cost-benefit analysis of probable costs and benefits to political subdivisions:**

A political subdivision that owns a drinking water treatment plant, wastewater treatment plant, drinking water distribution system, or wastewater collection system (collectively defined as a facility) can be impacted if it chooses to pay the certification fees of its operator. However, the certificate belongs to the operator.

Political subdivisions would mainly be municipalities, but can include counties, sanitary districts, and improvement districts. Smaller communities will likely be affected more than large communities because they have a smaller population base over which to spread the costs. ADEQ does not collect data on whether a facility is publicly-owned so it cannot give an accurate breakdown based on 1,539 active public water systems and 2,004 active wastewater treatment plants. ADEQ’s rough estimate is that approximately twenty-two percent of drinking water systems are publicly-owned.

Every facility is required to ensure at all times that there is an operator in direct responsible charge, who is certified for the class of the facility and at or above the facility’s grade. A.A.C. R18-5-104(A)(1). “Direct responsible charge” means the day-to-day decision making responsibility for a facility or a major portion of a facility. A.A.C. R18-5-102. Larger or more complex facilities, such as a Grade 3 and 4 facility, also must have an onsite operator, which means an operator who visits a facility at least daily to ensure that the facility is operating properly. A.A.C. R18-5-104(E); R18-5-101. However neither the operator in direct responsible charge nor the onsite operator is required to be present at the facility all the time.

The Operator Certification Program ensures that all water systems, from the smallest to the largest, are supervised by operators who have experience and training commensurate with the sophistication of the system.

**F. Cost-benefit analysis of probable costs and benefits to businesses:**

A business can be impacted by this rulemaking if it chooses to pay the certification fees of its operator, and therefore bear the costs of this rulemaking. However, the certificate belongs to the operator. A business would be a privately-owned water or wastewater system, and can include a private utility with numerous employees, or a smaller entity such as an RV park or restaurant. ADEQ does not collect data on whether a public water system or wastewater treatment plant is privately-owned so it cannot give an accurate breakdown based on 1,539 active public water systems and 2,004 active wastewater treatment plants. ADEQ’s rough estimate is that approximately 1,196 drinking water systems are privately-owned.

Every facility is required to ensure at all times that there is an operator in direct responsible charge, who is certified for the class of the facility and at or above the facility’s grade. A.A.C. R18-5-104(A)(1). “Direct responsible charge” means the day-to-day decision making responsibility for a facility or a major portion of a facility. A.A.C. R18-5-102. Larger or more complex facilities, such as a Grade 3 and 4 facility, also must have an onsite operator,



which means an operator who visits a facility at least daily to ensure that the facility is operating properly. A.A.C. R18-5-104(E); R18-5-101. However neither the operator in direct responsible charge nor the onsite operator is required to be present at the facility all the time.

The Operator Certification Program ensures that all water systems, from the smallest to the largest, are supervised by operators who have experience and training commensurate with the sophistication of the system.

**G. Probable impact on public and private employment:**

ADEQ does not anticipate that private or public employment will be directly affected by these rules since whether a facility chooses to pay for its operators' certifications would not directly impact an operator's employment status.

**H. Probable impact on small businesses:**

A small business facility can be impacted by this rulemaking if it chooses to pay the certification fees of its operator, and therefore would bear the costs of this rulemaking. A business would be a privately-owned drinking water or wastewater system, and could include entities such as an RV park or restaurant. A smaller business that decides to pay the fees for its certified operator could be affected more than a larger business because of a smaller population base over which to spread the costs. Small systems have unique challenges as they may have limited financial resources compared to larger systems. They often lack full-time staff to manage the system, can be geographically isolated, tend to have limited computer capabilities, and have less technical training. Small businesses tend to have a smaller customer base over which to spread the costs of the increased fees. For drinking water systems, there are about 1,400 systems that serve a population of 3,300 or less. ADEQ's database does not distinguish whether ownership is private or public.

However, a small business may not be responsible for an operator's total certification fees. Generally, a smaller facility is less complex and easier to operate than a larger facility. Other than the operator in direct responsible charge, a Grade 1 and 2 facility may employ a "remote operator", which is an operator who is not an onsite operator. R18-5-104(F); R18-5-101. A Grade 1 or 2 facility employing a remote operator must also have an onsite representative who can reach the remote operator at all times, but the onsite representative does not have to be a certified operator. R18-5-104(F); R18-5-101. Frequency of site visits by the remote operator will vary depending on factors, such as the size of the system. R18-5-104(F)(7). Many Grade 1 and 2 facilities employ the services of a remote operator, who may visit daily, weekly, or monthly, depending on the needs of the facility.

A small business can also be a certified operator providing services. A small business operator may pass on the costs of renewal fees to the underlying drinking water or wastewater customers. Costs to customers could vary depending on how many other clients the small business operator serves. ADEQ is aware of some operators who are remote operators for 50 or more facilities.

**1) The administrative and other costs required for compliance with the proposed rule making.**

This rulemaking establishes fees for operator certification. These rules do not have separate administrative costs, or other compliance costs for small businesses.

**2) A description of the methods prescribed in section 41-1035 that the agency may use to reduce the impact on small businesses, with reasons for the agency's decision to use or not to use each method.**

*(i) Establish less costly schedules or less stringent deadlines for compliance, or consolidate or simplify the rule's compliance or reporting requirements in the proposed rule making.*

As a fee rule, this rulemaking does not establish any deadlines for compliance or reporting schedules for small businesses.

*(ii) Establish less costly compliance requirements, including establishing performance standards to replace design or operational standards in the proposed rule making.*

This rulemaking establishes fees. A small utility can choose whether it will pay up to \$300 every three years for its employee operator to maintain certification. As these rules do not contain design or operational standards, ADEQ is unable to substitute performance standards.

*(iii) Exempt small businesses from any or all requirements of the proposed rule making.*

Methods implementing the statutory objectives of this rulemaking to generate fees necessary to support the costs of the Operator Certification Program that might reduce the impact on small businesses or be less costly or intrusive would not be feasible. The fees are based on ADEQ's costs to maintain the Program and the proportionate level of effort to provide the service.

**3) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.**

Generally, private persons (who are not sole proprietor small businesses) will not be directly affected by operators having to pay certification fees. ADEQ expects a minimal indirect impact to consumers and the general pub-



lic. From the consumer’s perspective, if a utility decides to pay the certification fees of its operators, these entities may or may not pass the costs or savings on to the consumer and the public through products, services or utility rates. There is no way for ADEQ to predict whether these costs or benefits will be passed on or what the actual costs or benefits may be for each drinking water or wastewater facility.

The fees will provide sufficient and sustainable revenues for the Operator Certification Program, allowing ADEQ to continue processing operator certifications and renewals and offering professional development trainings, which protects public health and safety. Adequate staffing levels for the Operator Certification Program ensures that operators are trained, certified, and knowledgeable regarding the public health reasons for drinking water and wastewater standards and operations. The Operator Certification Program ensures that all water systems, from the smallest to the largest, are supervised by operators who have experience and training commensurate with the sophistication of the system, and allows citizens to obtain drinking water from a variety of public water systems with confidence that the drinking water is safe regardless of the location or size of the water system.

**I. Probable effect on state revenues:**

Operator certification fees will be deposited in the state General Fund, as required by A.R.S. §§ 49-352(A) and 49-361. ADEQ estimates that fees from this rulemaking will directly affect state revenues by increasing revenues to the General Fund by \$400,000 to \$475,000 annually. ADEQ’s goal is to seek a legislative change that operator certification fees will be deposited in the water quality fee fund, established under A.R.S. § 49-210.

**J. Description of less intrusive or less costly alternative methods of achieving the proposed rulemaking:**

Other methods implementing the statutory objectives that might be less costly or intrusive would not be feasible. ADEQ’s ability to raise revenue is limited by the powers and duties granted it through statute, specifically A.R.S. §§ 49-352(A) and 49-361.

ADEQ’s Safe Drinking Water Program consists of the following sub-programs:

- Monitoring and protection, responsible for managing monitoring data and providing compliance assistance to PWSs;
- Engineering Review for new or changed water systems and treatment facilities;
- Operator Certification;
- Data entry;
- Monitoring Assistance Program (MAP), Arizona’s unique program, which requires all small PWSs to pay required fees for an ADEQ contractor to collect, transport, analyze and report on most listed contaminants in water samples. The MAP allows small PWSs to achieve economies of scale for water quality sampling that larger PWSs can achieve; and
- Inspections and enforcement.

Historically, the Safe Drinking Water programs were supported by the General Fund. Beginning in 2007, ADEQ’s portion of general fund was decreased and ultimately eliminated in 2010. ADEQ has been funding the Safe Drinking Water Program, including the Operator Certification Program, through federal grants and federal set-asides from the DWSRF. Since Fiscal Year 2011, Arizona has seen a nearly sixteen percent decrease in the DWSRF. Expectations for future years are for continued dramatic/significant federal budget cuts across all agencies and programs which will include the capitalization grant programs that currently support the drinking water program.

ADEQ already is authorized to assess fees to provide a variety of water quality protection services which must be deposited in the Water Quality Fee Fund pursuant to A.R.S. § 49-210. These services include the Aquifer Protection Permit Program, the Arizona Pollutant Discharge Elimination System Permit Program, and the Drinking Water Engineering Review. ADEQ assesses fees for MAP, which must be deposited in the MAP fund according to A.R.S. § 49-360(G). Without legislative authorization, ADEQ cannot use other state funds, such as through the Water Quality Fee Fund, to fund the Safe Drinking Water programs, including the Operator Certification Program. A.R.S. § 49-210 lists the purposes for which monies can be used and the drinking water program is not included.

In 2008, ADEQ established fees for the Drinking Water Engineering Review Program but the balance of the Safe Drinking Water programs (other than MAP) are supported by federal set-aside dollars. With this rulemaking, ADEQ is seeking to establish fees for water protection services for which no fees are currently charged.

**HISTORICAL FEDERAL FUNDING**

Historically ADEQ has relied on federal funding to administer its Drinking Water Program, including the Operator Certification Program. But federal funds have been decreasing since the recession and ADEQ anticipates further



decreases in the near future.

The 1996 amendments to the SDWA established the DWSRF, and authorized EPA to award capitalization grants to fund the DWSRF to States. States can in turn provide low-cost loans and other types of assistance to public water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SDWA requirements, and to further the public health objectives of the SDWA. 42 USC §300j-12. In Arizona, the DWSRF is administered by the Water Infrastructure Finance Authority of Arizona (WIFA). WIFA was created by state statutes (Title 49, Chapter 8) to administer the clean water revolving fund and the drinking water revolving fund. A.R.S. § 49-1203(B)(1)(a).

To date, Arizona has received over \$330 million in DWSRF. For the period FY2011 – FY2014, Arizona received the following amounts in DWSRF:

FISCAL YEAR	DWSRF
FY11	\$18,915,000
FY12	\$18,026,000
FY13	\$16,913,000
FY14	\$15,969,000

States are authorized to use a portion of their capitalization grants to fund a range of Safe Drinking Water activities (“set-aside activities”). 42 USC §300j-12 (g), (k). The authorized uses of capitalization grants set-aside activities includes:

- 4% - WIFA Program administration;
- 2% - Technical Assistance Activities to PWSs serving less than 10,000 persons;
- 10% - State Public Water System Program Management (state must provide one to one match, including program administration and implementation of capacity development and operator certification);
- 15% - For Wellhead/Source Water protection activities (not to exceed ten percent on any one activity).

EPA published guidance in 2000 on allowable operator certification program activities that can be funded by the PWSS set-asides, including:

- Providing assistance to third parties to provide operator training;
- Organizing and conducting training course for individuals to become certified, achieve a higher level of certification or renew an existing certification;
- Developing, validating, processing and grading certification examinations;
- Tracking and monitoring the status of certified operators; and
- Conducting enforcement activities (e.g. preparing administrative orders, revoking certificates).

In recent years, ADEQ has used up to \$100,000 annually of the 2% allocated for Technical Assistance Activities to fund operator certification training. ADEQ has used the allowable allocations for State Public Water System Program Management and Wellhead/Source Water protection activities to fund the balance of the \$4 million budgeted Safe Drinking Water Program in Arizona. These costs include employee salaries and benefits, travel, overhead, and equipment. These staff provide one-on-one assistance to PWSs to address issues, provide guidance, rule interpretation, ensure system capacity, conduct inspections and provide consumer confidence reports on system performance.

While using the federal DWSRF set-asides to fund a state’s drinking water program is a means to promote the health protection objectives of the 1996 amendments to the SDWA, there are consequences. The Association of State Drinking Water Administrators in its 2013 State Drinking Water Resource Needs Report: Analysis, explains that a state must balance setting aside funds for programs with the need to fund infrastructure. Any dollars set aside by the state programs are not spent directly on construction for repairing or replacing water system infrastructure (the main purpose of the DWSRF) and will not be paid back into the state’s DWSRF (meaning less funds available for future uses).

Additionally, the DWSRF was never intended to be a permanent source of state funding. It was envisioned that states would use the funds to establish revolving loan funds that would be self-sustaining based on the interest of the loans. Congress is required to reauthorize the DWSRF, but the last authorization from the 1996 SDWA amendments ended in Fiscal Year 2003; Congress continues to appropriate funds for the program but on an interim basis.

Between Fiscal Years 2011 and 2014, Arizona realized a sixteen percent decrease in its DWSRF capitalization grant and a proportional reduction in the set-aside activities available to administer the Safe Drinking Water Program. WIFA’s funding for FY15 was reduced by \$105,395.40 from the FY 2014 amount.



The SDWA 1996 amendments also established the Expense Reimbursement Grant (ERG) program to promote operator certification. 42 USC §300g-8(d). The ERG program provided grants to states so that operators of systems serving 3,300 or fewer persons can be reimbursed the costs of training and certification, including per diem for eligible operators. The ERG was an additional fund that Arizona received and relied on as a one-time allotment of \$1.86 million for a six year period (FY2006-FY2012). Most of ADEQ’s training budget for operator certification during this period of time was using ERG funds, which paid for presenters, equipment, event coordinator, lodging, training materials and examination fees. During a time of recession, ADEQ was able to offer even more training because of the ERG funds, but these funds are no longer available.

Any federal funds ADEQ lawfully uses to fund the Operator Certification Program reduces funds available for making infrastructure loans, which is the intended purpose. Technical Assistance funds are meant to pay for services such as an engineering evaluation for a PWS, in response to repeated violations of maximum contaminant levels. Other programs were intended to assist PWSs especially as to larger infrastructure investments, which tend to be beyond the financial capacity of many smaller PWSs.

**K. Explanation of the limitations of the data available for this economic small business and consumer impact statement.**

ADEQ’s database of certified operators is linked to and populates ADEQ’s primary drinking water database (Safe Drinking Information System – SDWIS/State). There are some limitations with the data that ADEQ collects. Data on the drinking water side, which must be reported to EPA, is much more robust than for wastewater. ADEQ does not track system the size of a wastewater system, either as to population served or amount of discharge, in the SDWIS. ADEQ also does not track whether a drinking water or wastewater system is publicly or privately-owned.

ADEQ believes there is adequate data to provide all of the information required by A.R.S. § 41-1055(B). ADEQ believes it has explained the limitations of the data and the methods employed in its attempt to characterize the probable impacts.

**L. Conclusion**

A certification program provides testing and training requirements for persons who will be responsible for the operation of drinking water and wastewater systems. Through the certification program, persons obtain and demonstrate their ability to safely operate drinking water and wastewater systems. ADEQ believes the benefits to the public health and environment of ensuring the Operator Certification Program outweigh the cost of implementing these fees.

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

ADEQ originally requested an effective date to coincide with the beginning of Fiscal Year 2016, July 1, 2015. With changes in administration, ADEQ received approval on its request for exception on Executive Order 2015-01: Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies on July 10, 2015. At the request of the Governor’s Regulatory Review Council, ADEQ changed the effective date to July 1, 2016 to coincide with Fiscal Year 2017 and to allow time for ADEQ to seek statutory changes. A non-substantive technical change was made at the request of GRRC staff.  
July 1, 2016

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

*Comments are reproduced in this Notice of Final Rulemaking as submitted, with some minor editing, including grouping similar comments together.*

General Fund:

Ted Bailey: As previous commenters have observed, this money is going to go to the general fund and if ADEQ under its purview of being required to have operators, cannot convince, in the past, the state of Arizona to continue its funding through the state government, there’s no guarantee that it will be able to do so in the future.

James Taylor: I feel that this would place an undue burden on water & wastewater professionals. That clearly the Arizona statutes state that the funding should be provided by the general fund and that the funding should be made available from that general fund to adequately provide the resources necessary for ADEQ to do the job that they’ve been doing.

Allen Lohn: I’m just wondering how are funds going into the general fund going to turn around and stay with ADEQ. I’m worried about paying DEQ to renew my certifications and the money going elsewhere. That’s one of my major concerns.

Don Ascoli: There needs to be a short term goal for ADEQ to put this money in the budget of ADEQ not the general fund. I think the sooner that’s accomplished the better everyone will be. I think that people who are being asked to pay this will feel more secure and comfortable knowing that the money is going where the actions is, where they’re having to report their activities.

I really think ADEQ, as part of this package, if they’re going to do the fee thing, that whatever political way you can, insist that that fund or what is collected go to ADEQ. I really think it would be a travesty for the people



who contribute to the fund to find that's it's going for dog catching or whatever other programs you got. If the state is partly behind you having a fee, then they should at least support the fact that it is almost like a lock box. It's money for ADEQ to support the manpower that it needs to support us. That's what you're here for. And we work together, it's a team thing.

If you can't get the commitment, a promise, whatever from the state government, the general fund folks, then I don't think you should have a fee. Because there's too much doubt among operators. They might be much more willing to pay if they knew it stayed here. I understand you have statutes. But you have leverage too. If you can tell the state we're going to cover our own so you don't have to steal as much general fund money to keep us operating, at least protect and give us the commitment that you'll reroute that money back to ADEQ. I would strongly recommend that you do that as part of your package.

Gary Boileau: I'm disappointed that the proposed fees would go into the general funds as required by statutes. Why is it that the long term goal of the state would be to set up the WQFF instead of the short-term goal? If the purpose of the fees is to ensure the survival of ADEQ, how is giving \$400,000 plus to the General Fund going to ensure ADEQ's survival. My concern is that if and when the state legislature sees that there is an additional \$400,000 in the general fund, there could be a feeding frenzy on how to spend it.

A question – I don't know how it was first established that the fees would go into the general fund. But the long-term goal is to go into a dedicated fund. Why is that a long-term goal instead of something you want to jump on now?

Jennifer Hetherington, City of Mesa: If ADEQ cannot prevent current funding from being swept to other programs, there is no assurance that new fees will not be subject to similar action. As long as the fees are deposited into the General Fund, they can be used for other purposes and therefore the City cannot support a fee that not only is not required but will also not resolve any ADEQ funding issue.

Notwithstanding the above, the City does support ADEQ's long term goal as stated in AAC R18-14-89(5) "ADEQ's long-term goal is to seek a legislative change that operator certification fees will be deposited in the water quality fee fund, established under A.R.S. § 49-210." This goal should be the main focus currently, as opposed to the short term goal of collecting "fees" which will also be deposited in the General fund. As discussed above; the short term goal is unlikely to yield any revenue applied to the OpCert program.

Dale Oviedo: I don't have a problem with ADEQ charging a reasonable fee for obtaining or renewing a certificate. What I do have a problem with is the AZ State Legislature diverting revenue from ADEQ programs. Also, these new fees will go into the General Fund- not to the ADEQ. That's not right. The legislature has taken revenues from other government programs and offices in the past with no regard whatsoever for the ramifications of that action. I believe they'll do it again in the future. These fees will increase when that happens.

Donald R. Baker: I am a resident of Arizona and a longtime certified water, wastewater, distribution and collection system operator. I have no issue with the proposed certification and renewal fees provided that are placed directly into the operator certification program. However, I am vehemently opposed to the collected fees being channeled into the State General Fund. I have no confidence whatsoever that the placement of the fees into the general fund will do much to help "implement the Safe Drinking Water Act requirements" or help protect the quality and safety of Arizona drinking water and wastewater systems. Contrarily, I do have supreme confidence that the collected fees will be subject to raids by the Arizona legislators to be used for every whim and legislative boondoggle that they may conjure up. I have seen our legislature in action. Their history precedes them.

Collect the fees and place them where they belong; in the operator certification program. Anything else make the fees an open ended tax, subject to confiscation by the Arizona legislature.

James Manning: From the way I see it, this is just a special state tax specifically aimed at operators, since the fees are going into the general fund. I have already discussed these fees with other operators and most of them have stated that they will simply drop any certifications that they are not currently using, so they do not have to pay hundreds of dollars extra. We don't need operators with fewer certifications... holding certifications should not be punished.

Chris Smith, City of Goodyear: "The revenue from these fees will be deposited in the State General Fund..." yet you fear-monger by stating, "Failure to establish new fees for the ADEQ State Drinking Water (SDW) program could negatively impact ADEQ's ability to implement the Safe Drinking Water Act requirements and potentially impact the quality and safety of Arizona's drinking water systems. Further, ADEQ's delegated authority could be lost and oversight of the drinking water program could revert to the U.S. EPA." If that's the case, why wouldn't that money go directly into ADEQ's budget? Shame on you

Brian Smith, City of Scottsdale: I am against the fees going to the general fund, if this is truly to continual the ADEQ program the money should go directly to ADEQ.

Lou Buranich, City of Peoria: I am very disappointed regarding the proposed fees for certification. I have been an certificated operator since 1989, and I believe this is extreme for the starting of new fees. Why would the "received fees" from certification of the WATER INDUSTRY, go to the General Fund for everything? The monies should stay in the related field (similar to the gasoline tax for roads).

Lee Williams, City of Flagstaff: In addition, it is rumored that the revenue generated by the new fees will go to



the general fund. As it says on the information card sent to us, “proposed fees are directly related to the level of effort expended by the department (ADEQ) to administer the operator certification program.” If this is true, then shouldn’t the revenue go directly to ADEQ rather than creating more paperwork, legwork and headaches for those that will be using the funds. Or, is this just a way for the legislature to siphon money from a functioning department under the guise of trying to recoup costs? I would not be in opposition if the proposed fees were more reasonable and went to the department that they are supposedly being created to fund.

William T. Cox (Bill), W/WW Treatment Plant Superintendent, City of Yuma: The proposed operator certification and renewal fees is un-warranted this fee will not be for operator training and certification programs as long as it is going into the General Fund.

Martin Jones: Any monies that are received through certification renewal should go directly to ADEQ, which maintains the operator certification program, not the General Fund.

Leanne Nieukirk, Tucson Water Quality Laboratory: In addition, any money generated through operator certification should go to ADEQ, not the General Fund. These fees allow ADEQ to oversee the operator certification program, provide required training, and regulate the various water/wastewater programs, all of which are essential functions of the department.

Brian Huntzinger, Flagstaff Municipal Water System, Flagstaff, AZ: I would be more supportive of the proposed fees if they went directly to support the program rather than into the general fund of the state.

Ward Seibel, Treatment Plant Superintendent, City of Yuma: Any fees generated should not go into the general fund but to ADEQ programs for operator training.

Doug Cameron, City of Mesa: I don’t understand why fees are going to the state’s general fund.

Arlen C Ritter, Chief Operator WPCF, City of Yuma: If fees are going to be added to the Certificates then all money should be directed to ADEQ and not the general fund. Using the lottery as an example, all profits were suppose to go to helping with the parks and schools but started to be diverted to other miscellaneous items that we are not even aware of.

Kurt Novy, Flagstaff Municipal Water System, Flagstaff, AZ: Any fees generated should not go into the general fund but to ADEQ programs for operator training. Trained operators are essential for the public health.

Brad Shattuck, Saguaro National Park: I'm not a fan of it going into a general fund ... this should go into a water/wastewater management fund so the fees help pay for the costs of administering the program.

Dennis Price, Manager, Ehrenberg Improvement Association: Our organization is opposed to the proposed fees. We oppose it primarily due to the fact that the fees will go into the General Fund and will not be used for the purposes for which they are levied, i.e drinking water related activities.

Gary Boileau, T.H.Enterprises: While I do not believe that this rule should go into effect, I do not like the possibility of the State's primacy be replaced by the EPA. But, should the fees go into effect, I strongly oppose the fees going into the general account. They should be allocated strictly to the ADEQ department (if one exists). We all know to well that the politicians love to raid or “borrow” from the general fund.

Scott McClinton, City of Prescott: Why are the fees that would be generated for a specific need (administration of the program) potentially be going to the general fund where they will be used for things other than the program they would be generating them for? Everyone knows this is a true statement. This appears to all like a generation of funds for something other than expressed.

Randy Baldauf, City of Prescott: I think that if you are going to raise them (cause you’re going to do what you want anyway) the fees/taxes should go to the ADEQ instead of the State General Fund where it will do absolutely no good.

Christopher C. Grant, Pima County, RWRD: It would seem that monies raised from the new fees will not be used for improvements to Operator Certification Program but rather to infuse the general fund.

Gerry Morgan, Software Mechanics: Finally, I understand that the revenue that would be generated from this proposed scheme will go into the general fund, rather than being used to cover the administration of wastewater plant operator licenses. I think it is inappropriate for ADEQ to be levying fees from low-paid workers to support the general fund.

Betsy M Bowman, Laboratory Director, City of Yuma: Any money from the fees for operator certification should NOT go into the general fund, but should go into a separate fund in order to be used for the statewide training workshops and testing costs for water and wastewater operators.

John Mussulman: With regards to the proposed fees, I have a few questions: these fees would go into the state general fund, and ADEQ would then only receive a portion of each fee. What is the estimated turn around time for these fees to be explicitly for ADEQ? It seems like a process like that could take a few years to legislate out.

Thomas Bolyen: I find that there are many unanswered questions concerning the current fee proposal for ADEQ Operator Certifications? Where will this new fee go? What will be done with the money? How will it benefit ADEQ? Will it benefit the ADEQ Operator Certification Program at all? How will it benefit the citizens of Arizona? This has not been made clear to me.

David D. Klingensmith, Plant Operator: If failure to establish new fees for the ADEQ State Drinking Water program could negatively impact ADEQ’s ability to implement the Safe Drinking Water Act requirements and



impact water quality then why will the fees be deposited in the State General Fund. ADEQ doesn't even administer the certification exams it is contracted out through Gateway Collage with a large fee for testing.

*RESPONSE:* Operator certification fees will be deposited in the state General Fund, as required by A.R.S. §§ 49-352(A) and 49-361. ADEQ does not receive General Fund monies, but has conveyed to members of the Legislature that the Operator Certification Program is not general or fee-funded and requires a source of steady, permanent funding. In the last legislative session, the Legislature did authorize ADEQ to use other agency funds to partially fund the Safe Drinking Water Program.

In the Notice of Proposed Rulemaking, ADEQ stated "ADEQ's long-term goal is to seek a legislative change that operator certification fees will be deposited in the water quality fee fund . . ." ADEQ's goal is to seek a legislative change that operator certification fees will be deposited in the water quality fee fund, established under A.R.S. § 49-210

#### Federal Funding Alternatives:

Jason Bobko: "ADEQ's proposed fees are directly related to the level of effort expended by the department to administer the operator certification program." "ADEQ's delegated authority could be lost and oversight of the drinking water program could revert to the U.S. EPA.": Public Water System Supervision (PWSS) Grant Program is a program established under the Safe Drinking water act that allots federal funds for state agencies who have been granted primacy to fund their individual program. According to the Federal Register, see link below, the 2014 allotment for Arizona from the Drinking Water State Revolving Fund (DWSRF) is \$14,419,000. Where is this money going if not to support the primacy agency and who is accountable for this? <https://www.federalregister.gov/articles/2013/06/17/2013-14333/state-allotment-percentages-for-the-drinking-water-state-revolving-fund-program#page-36185>

"ADEQ seeks to establish new and reasonable fees" - With an allocation of over \$14 million dollars in federal money placing this financial burden on individual certified operators is not reasonable. "The revenue from these fees will be deposited in the State General Fund." This is unacceptable.

Jennifer Hetherington, City of Mesa: This letter hereby serves as our formal response to the above referenced Public Notice. The City of Mesa Water Resources Department employs 161 Certified Operators. However the funding in the general fund still exists but has been used for other purposes. In addition; speculation of future cuts are part of the justification to create fees, as opposed to actual cuts. "ADEQ's Operator Certification Program has been funded by state general fund, federal grants and federal set-asides through the Water Infrastructure Finance Authority. Beginning in 2007, ADEQ's portion of general fund was decreased and ultimately eliminated in 2010. The future level of funding through federal sources is uncertain, but will most likely be subject to continuing cuts." The city contends the funding still exists to run the OpCert program.

Robin Merchant, City of Kokomo: Find other sources of revenue other than the general fund. Since most of the ADEQ's requirements are mandated by the Federal EPA why is there not Federal Funding available for the operator certification program and the educational requirements of current and future operators.

Tom Sherman: I strongly recommend NOT increasing fees. As both a licensed wastewater and distribution system operator, I already pay for my education and testing in order to comply with the regulations set forth by the state of Arizona and the federal EPA. Placing an additional financial burden on operators trying to made a livable wage I feel is unjustified. I'm sure that the financial burden of checking on the validity of licensing by the state, can be recovered from federal funding which is already received.

*RESPONSE:* ADEQ explains how it has used the authorized set-asides from the DWSRF in Section J "Description of less intrusive or less costly alternative methods of achieving the proposed rulemaking" in the Economic Impact Statement. ADEQ is proactively reducing its reliance on funding the drinking water programs through the DWSRF, where possible. ADEQ has statutory authority to assess fees for services of the Operator Certification Program. A self-supporting Operator Certification Program means less drain on federal funds that ADEQ continues to use in order to fund the remaining and largest part of its Safe Drinking Water Program, which includes activities for which the agency cannot charge a fee.

Of the available set-asides, a state agency can only use DWSRF funds for the operator certification program. According to EPA guidance, ADEQ has used monies under the ten percent allowed of the State Public Water System Program Management to fund employee cost and used up to two percent of the Technical Assistance Activities' to fund training.



Tiered Fee Amounts:

Eric Brennan, Water Operations Manager City of Brentwood, Public Works Department: A tiered rate per grade level may be an option also. Fee example

Grade	Renewal Fee	Discount Fee (currently certified in both water distribution and treatment)	First Late Fee	Second Late Fee
1	\$70.00	\$55.00	plus \$50.00	plus \$100.00
2	\$80.00	\$60.00	plus \$50.00	plus \$100.00
3	\$120.00	\$90.00	plus \$50.00	plus \$100.00
4	\$140.00	\$105.00	plus \$50.00	plus \$100.00

Dave Rath, City of Mesa, NWWRP Operations Supervisor: I have a few comments relating to the proposed fees for certification: I think a tiered fee schedule makes more sense instead of a flat across the board, i.e. Grade 1 would be the lowest fee to Grade 4 being the most. Most people who have obtained a grade 4 would likely be making more money compared to a grade 1 operator. I currently have grade 4 in WW treatment and collections and would be willing to pay more.

Roger Biggs, City of Cottonwood (total 19 signators): please accept this signed petition as presented by the Operations Staff for City of Cottonwood Water and Wastewater Utilities. While we agree changes need to be made, we strongly disagree on the proposed process. We believe the ideas expressed offer a compromise that best serves all interested parties.

We the undersigned water and wastewater system operators and administrators for the City of Cottonwood having found grievance with the Arizona Department of Environmental Quality’s proposed rulemaking seeking to establish “new and reasonable fees for the certification of water and wastewater operators do affix our signatures to this petition as a sign of protest against the aforementioned proposal.

We believe that the proposed flat rate structure places an unreasonable burden on younger, less experience, lower paid operators. A tiered system based on certification level would provide the same income to the department without causing undue hardship on operators. It is our wish that these concerns be addressed and included in any future proposed rulemaking policy affecting fees and charges related to the operator certification program.

RESPONSE:

In anticipation of this rulemaking, ADEQ met with a broad spectrum of stakeholders to discuss funding issues and fee amounts for the proposed rules. As a result, ADEQ considered stakeholders’ comments and was able to incorporate some comments into the proposed rule, such as delaying the effective date to allow stakeholders time for budget planning. Some stakeholders suggested basing the fee amount on the certification grade level, so that higher grade operators would pay more in fees than lower grade operators. Although ADEQ considered the idea and reason behind it of not burdening newer operators, ADEQ ultimately rejected the idea. The fee amounts are based on the proportionate level of staff effort to perform a certification task, which remains the same, regardless of the grade level.

Alternatives for Renewal Term:

Adam Bliven: I do understand the financial pressures ADEQ operates under, so I propose an alternative solution. If the cost to maintain the operator's licenses and renew them every year is so expensive, then why not make the operator's license valid for 3 or 5 years? This would actually reduce the ADEQ labor necessary for managing the licenses which would free staff time for other SDW program activities.

Norm Clark: Or another options is to stagger the increases over a course of five years to minimize the impact on renewals and new certification applicants.

Rus Medlock, Brown Road Water Treatment Plant, City of Mesa: I believe that once we have already paid for the test... we should not have to pay for re certification since it is ADEQ that requires us to recertify. If a payment is required to recertify then the renewal time frame should be extended out to 10 years or when someone changes to a new job. Or just do 10 year certifications. Then in 10 years everyone on that anniversary must pay the fee and retest.

RESPONSE: Under A.A.C. R18-5-107(A) a certificate is renewed for three years unless the operator requests a shorter renewal period. Three years is the maximum amount of time allowed under EPA’s 1999 “Final guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems”. 64 FR 5916- 5921, February 5, 1999. Under the Final guidelines, States must have a fixed cycle of renewal not to exceed three years. 64 FR at 5920. EPA can withhold 20 percent of a state’s DWSRF capitalization



grant unless the state is implementing an operator certification program that meets the requirements of the final guidelines. 42 USC §300g-8(b).

Alternative Fee Amounts:

John Mussulman: I also disagree with the three layers of fee structure that you guys have proposed, with \$75 for the initial certificate, is that right? \$65 for a new certificate and then \$150 for the first renewal certificate and then \$50 for every one after that, but not to exceed \$250, if I'm reading that correctly. Anyways, if I have to spend that long on it, its too complicated.

I agree with you guys charging fees if you can have a streamline way to get that money back out of the general fund and back into DEQ. My main concern is simplification of the fee structure – I shouldn't have to think this hard. I think you could break the \$300 down if you have all four certificates. I think you could break it down a little more efficiently so you're not thinking you're going to renew this one for \$150 and the other ones are going to cost me \$50 each. If you could streamline those numbers a little bit better, I would be less opposed to it.

Don Ascoli: I work up in the Payson area and work with several small water systems up there. I do actually support the fee structure you're talking about; I think there should be something involved that goes behind the responsibility of being a water operator.

I'd suggest looking at a lower number; instead of \$150 and \$50 for each renewal, I might suggest \$125 to help the burden of small folks, as the previous speaker talked about, so we could have a fairer balance, so they can afford to do this and continue on.

Michael Moraga, Locating Supervisor, Maintenance Division: I understand a need to charge for renewals to offset the costs of administration work but going from zero to several hundred dollars is absurd. I think \$150 total would be a reasonable request. Maybe even \$35-\$50 per certification is understandable. I think \$300 is going to have a negative impact on the amount of people who decide to maintain these certifications, especially when they are not required in many positions throughout various water and waste water departments.

Ernest Jay Garlick: To me a cross trained operator in all four areas the fee's seem very excessive. My cost would be \$300.00 per cycle. I am sure due to the current economic times my employer would be unwilling to pay these fee's. For most operators these fees would be passed down to the operator thereby making them less likely to maintain multiple licenses. It is my opinion that the fee for additional licenses should be much lower than the proposed \$50 each because it requires little effort to print the information on the same card. Taxation for the sake of taxation without improvement is foolishness. Each license makes for a better operator and to make it that expensive you'll end up limiting the knowledge base of those who protect the public health. A more reasonable fee for multiple certification would be \$10.00 per additional certification.

John Mussulman: \$150 seems high for a renewed certificate. What about making a new or upgraded certification \$100, renewed certifications \$75 and lapsed certifications \$125? Then the incentive is to stay current on our certificates.

David Tingué, APS: I am in opposition of installing fees on operators- The term "reasonable" is anything but. The proposed fees are way out of proportion- if you want operator buy in- I suggest the fees be 25.00 per cert.

Betsy M Bowman, Laboratory Director, City of Yuma: The renewal fee should be \$125 for the first certificate (and not \$150) as based on your \$122/hour cost basis with \$50 for each additional certificate renewal.

Joel Johnston, Navajo County: So that's \$300.00 for people with 4 certificates from \$00, that's a little steep don't ya think? How about \$150.00 regardless of the number of certificates, I don't think the extra ink for multiple certificates is justified,

Rus Medlock, Brown Road Water Treatment Plant, City of Mesa: The other viable option is to charge a minimal fee of \$10.00 for each variant of certification each person has. This would be an affordable amount that most could afford. Water Treatment is not a very lucrative line of work.

Gerry Vawter, Pima Utility & Picacho Water, Sun Lakes: I have been looking over these proposed ADEQ fees, it is my understanding that this money would be used to cover your processing costs and provide operators with training? The fact is that this state needs licensed operators and obviously the state also needs more money to maintain the operator certification program. I assume most companies will pay these new operator fees (if passed) for its employees, but going from zero \$ in fees to \$150 per certificate renewal plus \$50 for each additional is sticker shock. My suggestion would be to cut your initial proposed \$ amount in half, \$75 per certificate renewal plus \$25 for each additional certification. I don't know exactly how many certified operators there are in AZ but \$150 or \$75 per operator is going to generate a large new revenue that will need to be properly managed and only used in the drinking water program, is that something that can be guaranteed that the money will stay in the drinking water program?

Paul Burris: I truly feel that ADEQ should be able to staff appropriately to assist operators with licensing. Then most operators have more than one license. I have 4 so it would be \$300 to renew all of my license once every 3 years. If this fee goes into effect it might be wise to extend the period between licenses to 5 years. Or decrease fees of 1st renewal to \$50 and \$25 for others. It seems that the burden is being placed on currently licenses holders over new people attempting to get licenses. Maybe increase fees for those coming in to test or those seeking reciprocity.



Putting \$100 a year fee on an operator who in some cases already is paying for those 30 CEU's that are required gets burdensome.

Mohd Hasan: Even after all objections and if at all the fees must be raised it should be more reasonable and justified. The fees should not be more than listed below:

- Initial certification fee -- \$ 25
- Renewal fee (first certificate) -- \$ 50
- Fee for any additional certificate renewal -- \$ 5 (each)
- Reciprocity review fee -- \$ 100

Brian Day, Integration Project Manager: I am concerned with the proposed increase in operator renewal fees. I believe the proposed fees are excessive and unreasonable. I currently have 3 certificates in Water and Wastewater and I believe I haven't had to pay for renewals at all in the past. Going from \$0 to \$150 per certificate is a huge jump in costs!

The proposal cites that the funding for the certification program has been cut so it is obvious some means does need to put into place to cover the state's costs for administering this program. However, most operators will have to pay for the renewal fees out of pocket since most employers have also cut their funding for re-paying employees to gaining their certifications and maintaining their certifications. I believe a more reasonable cost is needed. For myself I'm going to have to spend \$250 for renewal of my 3 certifications. That is a significant cost to cover for me. Many operators, particularly outside the state's major cities aren't making a lot of money for their positions and they will have an even more difficult time covering these costs.

My recommendation would be for the renewal costs to at \$25 per certification renewal and the costs for taking a certification test be \$50 per test. The reciprocity costs could be kept the same. I feel this is a more reasonable and affordable rate structure than is being currently proposed.

Jay Tom, City of Glendale: If you are going to charge for certificates why not charge \$75.00 per 3 year renewal. ADEQ use to charge 25.00 per year for renewal back in the early 90's. Do it for 3 years otherwise if charge \$150.00 for 6 years renewal. That would be fair.

Michael R. MacKenzie: I am shocked at the proposed cost of future Certificate Renewal. The cost would be \$200.00 for my 2 Water Certificate Renewals. I would suggest a higher cost of \$150.00 ea for a New Certificate and a reduced cost of \$50.00 for Renewals.

Bradley Smith (RWRD), Pima County: Please reconsider your proposed fee schedule 4 licenses should not cost an hourly employee \$600. At most the \$150 should cover all 4. If additional income is required consider raising the fees for plant permits.

Edward Ellyatt, Lee County, Florida: In the case of reciprocity licensure \$100.00 fee would be more in line and affordable to much needed out of State Arizona Wastewater licenses to maintain the pools of potential candidates as more Arizona baby boomers continue to retire.

Edward Urias, City of Prescott: Bad idea, fees too high and the general fund gets raided for other uses. Come up with some other ideas. How about out of state reciprocity fee increase?

Dana R. Trompke, P.E., Carollo Engineers, Inc.: You must also consider that there is an exam fee of \$89 in order to take the test. Therefore, for an operator to advance in certification, he would have to pay both the \$89 exam fee and a \$65 certificate fee for a total of \$154 per certification. In order to achieve reach a grade 4 in all four categories, that is 16 tests and 16 certificates, totally \$2424. That is beyond reasonable. I would support an initial certificate fee of \$65 to begin at a grade 1. A reduced fee of \$25-\$30 could be charged to advance a level.

I would not support a renewal fee higher than the original certification fee. That does not make sense. I would support a renewal fee of \$25-30 per certificate, regardless of common or dissimilar expiration dates. A three year renewal of a total of 4 certificates would be no more than \$120.

Damon S. Williams, PE, BCEE, Managing Member, DSW Water Strategies, LLC: The proposed fee structure seems way out of whack. I have not seen the figures, but it would seem to me that the State would get many more new certification applications annually than renewal applications. Further, a lot of existing applicants will not renew. Hence, it would seem that to make more sense to charge the new applicants more than the existing certified operators to renew. So the proper fee structure should be reversed from that which is shown, i.e.- \$150 for new applicants \$65 for renewals. If you charge so much to renew, I think you will find that a lot of old timers won't bother to renew, so the State loses that competency. Furthermore, the \$250 for reciprocity review is really outlandish, and will discourage competent operators from other states to move to Arizona. The net result of all of this is to deplete an already diminished stable of competent operators in the State of Arizona at a time when they are really needed the most.

*RESPONSE*: Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The renewal process takes ADEQ staff more time than a new certification so the renewal fee is higher. The level of effort is in line with how ADEQ has evaluated fees necessary to cover program



costs in other areas of the agency. With the \$50 renewal fee for an additional certificate with the same expiration date, ADEQ is seeking to offer flexibility and incentive for operators with multiple certificates.

The fees must cover all costs for the Operator Certification Program, not just the costs of the four certification activities for which fees are assessed. As detailed in the EIS, the fee amounts include other costs of administering the whole Program, such as all personnel costs and training. An operator would pay \$1040 in fees to ADEQ to begin at grade 1 and advance to grade 4 in all four classifications. Separate from the certification fees, an operator would pay \$87 to Gateway for each examination in all four grades and all four classifications, totaling \$1,392.

Prior to this rulemaking, ADEQ met with stakeholders to discuss fee amounts; ADEQ originally presented an initial certification fee of \$75 and a certificate based on reciprocity review fee of \$300. ADEQ reconsidered its costs and stakeholders' concerns about burdening new applicants, who usually enter at the lower end of the pay scale. The proposed rules reduced the initial certification fee to \$65 and the reciprocity review fee to \$250. ADEQ has set the fee amounts, that based on past numbers and with an anticipated drop off of 20 percent of all renewals and certifications, will generate revenues sufficient to cover the Operator Certification Program costs. Fee amounts any lower than proposed will not cover the costs of the program.

Some of the suggested fee amounts are similar to what ADEQ previously assessed under the rules repealed in 2001, ranging from \$10 to \$25. Fee amounts included ADEQ administering the certification examination, which was set at \$25 for the Grades 3 and 4 applications for examination, a function ADEQ no longer performs. ADEQ anticipated that revenue loss in repealing the fees would be \$65,000 annually. As detailed in the EIS, ADEQ's personnel and training costs for administering the Operator Certification Program are \$429,000. The low Operator Certification fees from before 2001, and as suggested by comments, will not support the Program in 2015.

#### Comparing Fee amounts to Fees for Other Professions or in Other States:

John Mussulman: I'm a certified operator. I don't object in principle to paying ADEQ to maintain licenses. ADEQ requires us to have them and it's a good public safety thing for us to have them. I like it. I don't think the scale of what you're wanting to charge us for the certificates is commensurate with what we do. Lawyers have to get recertified every two years, and its like a \$500 certificate for them, but lawyers also make more typically than a water or wastewater operator does. We'd have to pay for ours on a tighter timeframe. It wouldn't be the 3 or 5 years or whatever lawyers have, ours is every 2 years.

Steve Cottrell, Enco Southwest, Inc. Boulder City, Nevada: I am an Arizona certified operator in all categories. I served as chairman of the AWWA Certification Committee and on the Nevada Board of Certification for Wastewater Operators. I was on the Nevada Board for over twenty-five years and was chairman for twelve of those years.

I feel that the renewal fees are exorbitant and that the initial certification fees are too low. Nevada charges \$30 for a two-year renewal for wastewater. California charges \$75.00 for a two-year renewal of a Grade III water certificate.

From experience, I know that the main burden of work is the initial certification and examination process. A renewal fee of \$75.00 for three years seems to be a reasonable cost. That puts it at more than Nevada, but less than California. It is mentioned in the proposal that the fees should be reasonable and directly related to the level of effort expended by the department. The level of effort for a renewal is less than thirty minutes, and more likely less than 15 minutes. In essence, the department is proposing to charge \$300 to \$600 per hour for processing renewals. This is not reasonable. I firmly believe that the fee basis needs to be reviewed and brought more in line with reasonableness.

Gerry Morgan, Software Mechanics: I also believe that, if a fee were to be introduced, the amount you are proposing is too high. A person with several types of license might end up paying \$600 every three years, so \$200 per year on average. Compare this with renewal fees for the Arizona State Bar, which charges lawyers \$465 per year to renew their license. But lawyers earn many times more per hour than a wastewater plant operator. For senior lawyers, it might take only one hour of their time to pay for the annual license. If the same criterion were applied to wastewater plant operators, a renewal fee of approximately \$20 per year would be more appropriate.

Christopher C. Grant, Pima County: The renewal fees for a CPA in Arizona are \$300 dollars every two years while the proposed renewal fees for wastewater workers could be as high as 600 dollars every three years depending on the number of certifications and the renewal dates.

Dana R. Trompke, P.E., Carollo Engineers, Inc.: I do understand the need to charge a small fee to cover the administrative costs of issuing certifications. However, the proposed fees are too high and I would not considered them reasonable. I would support the fees, if they were lowered to a more reasonable level.

It is not uncommon for someone to work toward obtaining 4 certificates, a Grade 4 in all four categories. At the proposed fee schedule, one would pay \$300 every renewal period if the expiration dates are the same, and \$600 if they are different! That is not a reasonable fee. In fact it is lower than many of the professional registrations required, such as for professional engineers. The proposed fees do not seem to be proportional to the lower pay



range operators are often paid. Please review the fees charged for other professional licensure (building inspectors, professional engineers, lawyers, etc.) and consider the average annual salary across the professions.

Jackson Jenkins, Director, Pima County Regional Wastewater Reclamation Dept. Alan Forrest, Director, Tucson Water Department: The City of Tucson Water Department and Pima County Regional Wastewater Reclamation Department are the largest employers to Southern Arizona of water and wastewater operators. We consider the proposed fees to be excessive. A quick search of other similar renewal fees charged by other states indicates that this newly proposed Arizona licensure fee to be significantly higher than others such as Florida, Oklahoma. We hope you will implement a more reasonable fee structure, one that is more gradual and that is more cost effective for the operators.

Adam Bliven: I am opposed to raising the annual fees for the operators to the extent proposed. The annual fee for one license (\$150) makes it more expensive than the license for professional engineers (\$250/3 years). In general the professional engineers have higher incomes than w/ww operators, so charging the operator's a higher fee than professional engineers does not make sense.

Paul Burris: In most states there is a fee for renewal. Most fees range from \$10 to \$50 a license. The \$150 for 1 certificate renewal would be one of the highest in the U.S. that I know of.

*RESPONSE:* The fees are necessary and sufficient to cover all costs for ADEQ's Operator Certification Program. As detailed in the EIS, the fee amounts include other costs of administering the whole Program, such as all personnel costs and training. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The renewal process takes ADEQ staff more time to verify PDHs and audits than a new certification so the renewal fee is higher. The level of effort is in line with how ADEQ has evaluated fees necessary to cover Program costs in other areas of the agency.

There are a number of unknowns in comparing ADEQ's fees to other professional fees or other states' operation certification fees. Lower fees for other regulatory agencies or other states could mean that other funding sources are available to help support their programs because the fees do not recover the full cost of program administration. Additional factors also include:

- The number of regulated entities is different,
- Extent of regulation is different,
- The number of staff at the regulatory agency is different.

Reduced Fees for Retirees or Outside of Industry

Keith F. Greenberg: I think this is fine for people who work for companies that will pay these fees for them. Many of us are now retired and are more than willing to continue to spend the necessary money to obtain PDFs to keep our certificates valid but these renewal fees can have a negative impact on retired people on fixed incomes. I would recommend a greatly reduced fee for retirees.

Harold Schroyer: I have 4 certs. I have 4s in water and 3s in wastewater. Currently I am not employed due to a disability. The new costs to renew will cause me to lose my certs because I will not be able to afford to pay for renewals. I would like to request that a exception be made for operators that are not employed. I think allowing operators that are not employed to have their certs put on hold and then pay to have them renewed when they feel they will need them to gain employment is fair. Operators that are employed will most likely have their costs to renew their licenses paid by their employer. There should be no hard ship for them but in my case living on disability is already a hard ship. I hope to someday be able to go back to work.

Michael R. MacKenzie: Please take into account some AZ Certificate holders are retired and the high cost of Renewal would force some Retired Operators to Not Renew due to the high cost. That would be a negative impact on the Certificate Program and to the State which would lose Qualified Operators.

Shawneen Michaud, Pima County: Currently I have all of the water/wastewater certifications because they were required where I used to work. Now that I'm working in a wastewater lab only, I am not required to keep up these certifications. If these proposed fees are approved and my current employer is not able to pay for the renewals, then I will have to let them expire. Therefore, I'd like to propose that a for a much smaller fee, certifications may be put on hold for a period of time so that they are not lost entirely and can be renewed in the future.

Norm Clark: Another concern of mine is that my current certifications are valid until 02/2016 and although I'm retired there is a possibility that at sometime in the future I may return to water treatment but would not likely to renew my certifications with the new fee structure unless I'm already employed in the industry (my understanding is that for the four certifications would cost me \$300. \$150 for the first and \$150 for the additional three). My suggestion is to lower the initial cost for non-employed operations certificate holders and possibly charge the higher renewal fees to those employed in the industry where the employer subsidizes the renewals to insure certification.

Dave Rath, City of Mesa, NWWRP Operations Supervisor: 2. I think people who still maintain licensure but are not currently employed with a utility should pay more. 3. I think people who are employed in a capacity other



than direct operations of a system or plant i.e. consultants, engineers should pay more. This group of individuals are for the most part compensated well and can burden a larger fee.

*RESPONSE:* As detailed in the EIS, the fee amounts include other costs of administering the whole Program, such as all personnel costs and training. The fee amounts are based on the proportionate level of staff effort to perform a certification task. ADEQ's level of effort remains the same regardless of whether the operator is employed in the drinking water or wastewater industry, retired, or disabled. ADEQ anticipates there will be a drop of in the number of certified operators, as operators who do not need the certification for their employment will not pay for renewing that certification. However ADEQ incurs its costs of administering the Operator Certification Program, and as a fee for service agency, is seeking to recover those costs through the assessed fees. Reducing fee amounts based on an operator's employment status would require ADEQ to recoup the needed revenue in some other manner, such as increasing fees for other operators.

#### Impacts on the Profession:

Ted Bailey: I have 4 certifications in all 4 disciplines. I have concerns with what's been happening in the past 30 years in Arizona with regards to certification of operators and operator availability. When I first started there were many operators close to my age. Now they're still close to my age which is significantly older. But there's many fewer operators applying for jobs in AZ. And the organizations that help train operators have been reduced significantly. For example Rio Salado Community College and Pima Community College both have had their environmental programs reduced significantly if not totally eliminated. That has left Gateway College as the only college where you can get training and of course they're the only ones you can get exams as well.

So the idea of fees may create a serious barrier to getting more young operators.

Gerry Vawter, Pima Utility & Picacho Water, Sun Lakes: My other concern is will these proposed fees could discourage new AZ operators, especially if companies don't step up and pay them for their employees.

Gary Boileau: I'm opposed to fees being assessed for certification renewal. As well as create hardship for some operators. For some small operators they would be required to pay the operator fees for recertification themselves. This could force some operators out of the business at a time in our profession when certified operators are becoming a scarce commodity.

I wouldn't want the certification department to close shop if ADEQ were dependent on these fees for its survival. I'd much rather deal with ADEQ than the department of EPA.

Michael Moraga, Locating Supervisor, Maintenance Division: I currently work at Tucson Water and hold Grade 4 certifications in Water Distribution and Water Treatment and Grade 2 certifications in Waste Water Treatment and Collections. I feel these cost proposals are ridiculous! Many of my certifications are not needed for my current position. I have acquired these certifications for personal interest of being more educated in the water and waste water industries as a whole. They also keep potential job opportunities open within these industries however, I would let many of my certification expire if these rules are put in place. I feel many other workers would do the same, given these cost. I have worked for the government for 15 years and have not received a raise in nearly 8 years to budget problems during the last decade. If you intend to impose Certification Fees, at least make them reasonable.

Norm Clark: Although I understand the need for ADEQ to enhance the financial viability of the Operator Certification Program it seems that the proposed fees are going to deter current certifications holders and potential new certification holders from obtaining new certification in the hope that it may enhance their employability. It's my understanding that in the municipal sector which I recently retired from already is having difficulty in recruiting qualified applicants. Having less qualified applicants will not help the situation. One other consideration is that there would be a significant negative impact to the industry with the loss of experienced, qualified plant operators not renewing based on the cost.

Mohd Hasan: In my view ADEQ is going to raise certification fees at the cost of losing a large number of certified operators by creating financial pressure on them (existing certified operators and interested to be operators).

James Donnelley, City of Glendale: This is in response to the proposed fees. I believe the amount being proposed is extremely high. We are talking about filing paperwork. Hard to believe that one needs to move the cost to such a substantial amount after not having fees associated with such. Sadly I am led to believe it's a way for the State to take more money into their coffers on the backs of professionals. Every time in the last four years I have attended any functions where the ADEQ has been involved it has been preached about the shortfall that is projected for licensed operators. This would be a way to cause even fewer licensed operators because of the cost associated with such.

Keith R. Edwards, Public Works Department, City Of Goodyear: As a certified operator, holding 4 certifications, I find this fee proposal unrealistic. Having to pay \$300.00 to renew the certifications is unaffordable, unrealistic and unjustifiable. As a field worker I know that myself and many others who will be facing financial burdens in order to try keeping their operators licensing. Working for a Municipality I can't see them paying for everyone's certifications either. It is my personal belief, that if this fee program is implemented it will greatly hurt the number



of certified operators and discourage others who wish to make a career in the Water and Waste Water industries.

Geoff Caron, Sahuarita Water: Additionally, please keep in mind that many operators are under compensated and some small water providers may not have the financial resources to pay for certifications either. This additional cost burden on certified operators will only discourage individuals and detour them from the operator certification program. Using ADEQ terminology, Exorbitant “new fees for the ADEQ State Drinking Water (SDW) program could negatively impact ADEQ’s ability to implement the Safe Drinking Water Act requirements and potentially impact the quality and safety of Arizona’s drinking water systems”

Our State needs quality, educated water operators to ensure water systems are operating in a safe effective and efficient manner. I urge you to consider drastically lowering ADEQ’s proposed certifications fees.

Timothy Brown, City of Goodyear: I think the fees will be counter productive. The fees you are looking to implement are going to discourage new certifications from being obtained. As it sits right now, I hold multiple certificates. However, other than in company policy, my certificates are unnecessary. If I were to drop all of my certificates and continue in my current position, nothing would change. Proposing such high rates will encourage many people to drop their certifications since they operate under their director, superintendent, or supervisor's certificates at the plant anyhow. Also, most companies already have to pay for the 30 pdhs required to renew, so these are potentially fees that will be passed on directly to the certificate holder, which many of us are struggling in the economic downturn already.

Dana R. Trompke, P.E., Carollo Engineers, Inc.: Many operators strive to achieve the highest level of certification in all 4 categories to further their proficiency in water and wastewater treatment, increase their overall knowledge of both systems, and continually improve in their profession. The fees as proposed are burdensome and not reasonable and will only stifle the desire to advance in one’s profession.

Jeremiah D Loyd: I feel these proposed fees are excessive, especially when one considers that the exam fees are already near \$100 per exam of which takes little effort on the part of ADEQ since the examinations are written by ABC. The burden of these proposed fees could potentially be shifted to operators therefore discouraging them from renewing their certificates & thereby compromising the integrity of the states water systems when new & inexperienced individuals take there place.

Leanne Nieukirk, Tucson Water Quality Laboratory: I feel that the proposed operator certification renewal fee of \$150, plus \$50 for each additional certification is too high. This places a financial burden on the certified operator, and may prevent an operator from continuing training or maintaining certification in any classification that is not directly required for his job.

Dennis Price, Manager, Ehrenberg Improvement Association: In addition, they will cause unnecessary hardship on what is an underpaid occupation.

Christopher C. Grant, Pima County: I am opposed to these fees as it targets those individuals who can ill afford it. People certified in the operations and maintenance of wastewater, collection, water treatment, and distribution systems do not make a lot of money.

Gerry Morgan, Software Mechanics: I am a software contractor and am currently working with Pima County Regional Wastewater Reclamation Department. I understand that you are considering introducing fees for the renewal of wastewater plant operator licenses. I am opposed to this idea because the people whom it will affect are not highly paid and can ill afford the proposed license fee.

Robin Merchant, City of Kokomo: I have reviewed the ADEQ’s proposal for helping subsidize the State Drinking Water Program by charging the licensed operators & new operators fees. I understand the cost associated with administering the operator certification program, but I feel it is unfair to make the current and future operators pay fees for this. Most of us in the public drinking water & wastewater industry have seen our wages continue to shrink in respect to the cost of living, with many operator salaries actually being reduced and job responsibilities broadened. In many cases, because of municipal and corporate belt tightening, operators have had to go several years without any wage increase while at the same time seeing benefits reduced or benefit cost increased.

Many operators already are paying significant amounts of money to attend seminars & classes each year for continuing education units (CEUs) to maintain their license. This would be yet another required expense that has no direct impact on increase revenue for the operator, but simply allows them to keep his or her job. Many of us at best have been living on a fixed income as companies and municipalities try to cut operating cost by reducing work forces and overtime. I think it is unfair to ask the operators to incurred yet another cost of trying to earn a living for themselves and their families.

The water & wastewater industry is facing an operator shortage and over the next several years a majority of the certified operators will be retiring, many are already eligible for retirement, but cannot afford to financially. To me, we should be finding ways to bring more people into the operator program not putting up barriers like new & additional fees to become an operator or additional costs to maintain licenses.

James Manning: Also, these proposed fees will dissuade potential new operators from becoming certified. I would understand if the fees were simply for covering administrative processing costs, but it does not appear that this is the case. Please do not tax the people who keep our state's water clean.

Brian Huntzinger, Flagstaff Municipal Water System, Flagstaff, AZ: I also believe the proposed fees will place



an undue burden on those operators in the state of smaller locals with smaller budgets. I believe the proposed funds will not result in an increase but a decrease in trained operators and public health.

Roger Biggs, City of Cottonwood (total 19 signators): While we understand the department's operator certification program's requirement, need and desire to be self-supporting, we strongly object to this approach. We believe that the proposed rulemaking will have a chilling effect on an industry that is already suffering from a high rate of loss due to an aging workforce and difficulty in hiring and retaining new, younger employees.

Ward Seibel, Treatment Plant Superintendent, City of Yuma: The proposed fees of \$150 per renewal plus \$50 for each certification are too high and will place an undue burden on operators and water/wastewater systems.

Thomas Bolyen: Operator certification is an important part of any community commitment to ensure qualified and capable personnel work for the public good. Certified operators are getting harder and harder to recruit in many areas. Why this unnecessary burden placed on a few, for the good of the many? We have currently accepted operator certification as the mandated requirement placed on all of our agencies and operators for our betterment.

Our own state statute stipulates: The facility owner shall ensure that at all times: A facility has an operator in direct responsible charge who is certified for the class of the facility and at or above the grade of the facility; Should all agencies now request a variance from this requirement in the future due to the potential loss of individuals from the labor pool? Do you have any information as to whether or not fees will decrease participation in the Operator Certification Program? We cannot afford to have less certified operators in the Arizona employment base.

Why so much for entry level certifications, if we are trying to encourage participation and adherence to the state statutes? It would be prudent to have a graduated fee schedule, allowing first time workers opportunity to participate. The cost of the first round of new fees is a troublesome burden. \$150.00 is an operator's daily average wage nationally, based on the information available from the Bureau of Labor Statistics for 2012. With the downturn in the economy and the slow recovery, many of our Arizona Certified Operators do not make this average national wage of \$20.56 per hour, how did you come up with this proposed fee of \$150.00 to charge each certified operator? Historically fees have never been that great. Fees have been as much as \$25.00 here in Arizona. Current costs are at \$0.00 and this very low fee has been offered for a great while.

Jackson Jenkins, Director, Pima County Regional Wastewater Reclamation Dept. Alan Forrest, Director, Tucson Water Department: The new proposed rate increase is a significant increase. Many of our water and wastewater operators will bear the burden of this increase and newly established fees. This will create a hardship for many of our employees.

Additional, several of our operators hold multiple certifications with various grade levels. Many of these operators only require a single certification and grade level for their current position. Traditionally as they advance in their career they require only a higher grade level in the same classification. Bottom line, they do not require multiple certifications for their current job. Given the significant increase in the cost of the renewals for each additional certification from no charge to \$50 per each additional certification they voluntarily hold we believe many will potentially let their multiple certifications lapse. Should this happen, your anticipated revenue figures are skewed. Additionally, we have no clear understanding of what the funds from the increased fees are being used for or if they are being returned to the ADEQ education system. Many of our operators need the continuous training opportunities to stay current in their field.

Jennifer Hetherington, City of Mesa: In the last 10 years it has been increasingly difficult for Cities to obtain and retain good qualified operators. These positions require applicants to have the certification before the job is accepted and the City is very concerned that adding fees could further deplete the applicant pool. Increased fees could deter future applicants from seeking certification. Even employees already in an operator job may acquire other certifications in order to move up in the organization. The hardest hit will be the small systems that may require operators to pay for the certifications themselves. These are jobs that have already taken pay cuts, gone without raises and in some cases had layoffs due to the economy. While it may not seem that \$150-\$300 every three years is a lot, it can be to these very important positions. The result of a reduction in the number of qualified persons is counter to the program and the best interests of the public.

*RESPONSE*: ADEQ no longer receives General Fund monies. Over the past few years, the Arizona legislature has determined that regulated entities must bear the costs of the regulation. Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The fees are designed to cover all costs for the Operator Certification Program, not just the costs of the four certification activities for which fees are assessed. As detailed in the EIS, the fee amounts include other costs of administering the whole Program, including all personnel costs and providing continuing education opportunities for operators.

ADEQ has set the fee amounts, based on past numbers and with an anticipated drop off of 20 percent of all renewals and certifications, to generate revenues sufficient to cover the Operator Certification Program costs. Fee amounts any lower than proposed will not cover the costs of the Program.



ADEQ anticipates there will be a drop in the number of certified operators, as operators who do not need the certification for their employment will likely not pay for renewing that certification. A maximum renewal fee of \$300 every three years does not impede operators from seeking employment in Arizona.

Impacts to Facilities

Gary Boileau: I believe this would create an undue hardship for small Mom & Pop operations in our state. As well as for small communities that operate on a break-even budget.

William T. Cox, W/WW Treatment Plant Superintendent, City of Yuma: This also puts a bigger burden on the small rural operations i.e. water treatment plants, waste water treatment plants, and distribution / collection systems etc/etc. These small rural systems which run on a very tight budget sometimes don't have the funds to do repairs and routine maintenance or replace parts they can't afford any additional cost to maintain their certifications. They are already required to pay in order to maintain their certifications they have to by acquiring the 30 PDH's every time their license comes up for renewal every 3 years (Per ADEQ) this cost them the small rural employee or their company roughly \$1,000+ (per employee) for additional training, registration (for conventions), hotel rooms, per diem, rental vehicles, gas and time off work.

Unlike larger systems (big Cities) who can absorb these additional cost, smaller rural system are often strapped for funds, I do know that some larger Cities are already experiencing problems with not being able to find qualified operators, I believe that adding this additional cost for the Operator Certification and Renewal Fee as I said in the beginning is un-warranted.

Brian Huntzinger, Flagstaff Municipal Water System, Flagstaff: I also believe the proposed fees will place an undue burden on those operators in the state of smaller locals with smaller budgets. I believe the proposed funds will not result in an increase but a decrease in trained operators and public health.

Ward Seibel, Treatment Plant Superintendent, City of Yuma: The proposed fees of \$150 per renewal plus \$50 for each certification are too high and will place an undue burden on operators and water/wastewater systems.

Kurt Novy, Flagstaff Municipal Water System Flagstaff, AZ: The proposed fees of \$150 per renewal plus \$50 for each certification are too high and will place a burden on operators and water systems.

Lee Williams, City of Flagstaff: I am against the implementation of the proposed large fees for operator certification. In many cases the municipality or water system will pay for their operators to be certified, so this new fee system would be unloading the financial burden from the state to place it on the water system. You might argue that the water system is the one benefitting from licensed operators and thus should shoulder the financial responsibility, but when viewed from a broader perspective this is a state-wide issue. If you've heard the saying that, "We all live downstream." Then you know that inexperienced or under trained operators that live upstream can have a huge impact on the water quality of the towns and cities that reside below them in the watershed

Barbara Stockwell: I think that the fees are a good idea to cover some of the expenses of AZDEQ. However, some of the water operators are very "small time". For instance, I serve two clients. They are so distant from other operators that no one "wants" them! You have programs for very small systems. This might make having two levels of fees easier by using size of systems.

Wendy Gort: I completely understand that the operator certification program needs to be self-funding, but \$400,000/yr seems like an unreasonably high cost to run the program. As an independent operator of small water and wastewater plants, and a holder of all 4 certifications, it seems like the certificate renewal fees will penalize other small operators like myself. For the large municipalities and systems, the certification and renewal fees will be part of the budget and therefore will be paid for by the rate payers/taxpayers (of which I am one). Independent operators of small systems will have to foot the bill themselves as we mostly work at plants on shoestring budgets that do not generate a profit for the owners.

I hope the ADEQ will consider the situation of small, independent operators who work for small systems that have very limited funds.

Thomas Bolyen: How does this new fee demonstrate a commitment to keeping Arizona water affordable? Was it your intention to pass this proposed new fee on to my employer and invariably my community? Was it your design that operators coerce employers into reimbursements due to the current requirement utility and system owners have to maintain certified employees? This is a significant cost to any agencies with a large complement of operators. This cost will require a different allocation of their resources, this cost will be reflected in their rates, and ultimately this cost will be paid by their customers. I would argue this is not an essential cost for our state to require of its constituency. Would it not be more appropriate to give the citizens a say in this additional expense when it comes to their clean water?

**RESPONSE:** ADEQ no longer receives General Fund monies; over the past few years, the Arizona legislature has determined that regulated entities must bear the costs of the regulation. Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportion-



ate level of work required for FTEs to accomplish the specified certification responsibilities. The fees must cover all costs for the Operator Certification Program, not just the costs of the four certification activities for which fees are assessed. As detailed in the EIS, the fee amounts include other costs of administering the whole Program, such as all personnel costs and training. Fee amounts any lower than proposed will not cover the costs of administering the Program.

Under A.A.C. R18-5-104(A)(1), a facility owner must ensure that a facility has a certified operator in direct responsible charge. Neither the Operator Certification rules nor these proposed fee rules require that the facility pay the fees of its operator. It will be the facility owner's choice.

ADEQ understands that operator certification fees can have a larger impact on smaller systems. As part of the larger picture, a disproportionate number of small and very small facilities face violations with ADEQ. Many of these non-compliant water systems do not have adequate managerial, technical and financial capabilities and may not manage the systems sufficiently to maintain baseline maintenance and operation costs to undertake needed infrastructure repairs and upgrades. However ADEQ incurs its costs of administering the Operator Certification Program, and as a fee for service agency, is seeking to recover those costs through the assessed fees. Reducing fee amounts based on the size of a drinking water or wastewater facility would require ADEQ to recoup the needed revenue in some other manner, such as increasing fees for operators that serve larger facilities.

#### Other Alternatives:

##### Renewals:

Eric Brennan, Water Operations Manager City of Brentwood, Public Works Department: I recommend a discount for holding dual certifications that are renewed at the same time, not an additional charge.

D.Rodriguez: The renewal fee is set at \$150 as staff expends more time in processing renewals. However, because ADEQ's amount of work does not increase much with each additional certification renewal from the same operator, the proposed rule penalize operators with multiple certificates. I will not pay the additional cost for multiple certificate. ADEQ will loose operator (*NOTE: comment reproduced as received through e-mail*)

*RESPONSE:* The renewal fee as proposed is "discounted" for those operators with multiple certificates that have the same expiration date.

##### Fees for Other Entities:

Scott: I would think these should be put on the end users as an impact fee to all water users bill.

Bruce Warwick, WWTP Quality Control Coordinator, Winslow: I understand the need to generate revenue to support the certification program, however, I believe that increasing the permit fees for each employer would be a more constant method. For those employers who pay for the operators certifications it would be an obvious additional expense and the likelihood of reducing the number of certified operators for each plant would increase. It is to everyone's benefit to have certified operators available to run and maintain each plant, as opposed to having laborers without certifications and the requisite knowledge trying to effectively operate a plant.

Employers are only required to have one certified operator at the level of the plant to make operational changes, but when this person quits, retires, etc. they would not, necessarily, have anyone available to step up and keep the plant operational. ADEQ's goals and objectives would be jeopardized by such a failure and there could be adverse effects to public health and safety as well as environmental concerns.

If ADEQ were to incorporate the proposed fees in the current permitting fees, the employer would be more likely to continue to encourage its employees to become certified and remain current with the rules and regulations. The amount of fees could be computed on the number of plants, size (MGD, etc.), and number of employees. Rather than having a sharp reduction in the number of certified operators and a corresponding reduction of fees collected, ADEQ would have a consistent revenue flow and would be able to maintain all of their current programs regardless of the total number of operators.

Bradley Smith (RWRD), Pima County: If additional income is required consider raising the fees for plant permits.

Robin Merchant, City of Kokomo: Revenue to help run the program could be raised from other sources such as:

1). Usage fees paid through utility water & wastewater bills since having required certified operators is part of the cost of doing business like chemical and equipment costs.

2). These new fees could be paid by the individual companies / cities that employ the operator: again, these companies/cities are required by law to have licensed operators and are requiring their employees to be licensed and qualified. Some of these organizations in other states pay the certification fees or license fees for their employees or reimburse them, but some do not.

Edward Urias, City of Prescott: How about taxing water that is imported by users to generate funds for op



certs. ?

RESPONSE: As a state agency, ADEQ must have specific statutory authority to charge a fee. A.R.S. § 41-1008(A). ADEQ's ability to raise revenue for this Program is limited by the powers and duties granted it through statute, specifically A.R.S. §§ 49-352(A) and 49-361, which limits ADEQ to assess and collect reasonable certification fees to reimburse the cost of certification services.

ADEQ already is authorized to assess fees to provide a variety of water quality protection services which must be deposited in the Water Quality Fee Fund pursuant to A.R.S. § 49-210. These services include the Aquifer Protection Permit Program, the Arizona Pollutant Discharge Elimination System Permit Program, and the Drinking Water Engineering Review. A.R.S. § 49-210 lists the purposes for which monies can be used and the Safe Drinking Water Program is not included. Without legislative authorization, ADEQ cannot use other state funds, such as through the Water Quality Fee Fund, to fund the Safe Drinking Water Programs, including the Operator Certification Program.

For the Safe Drinking Water Programs, ADEQ assesses fees for MAP, which must be deposited in the MAP fund according to A.R.S. § 49-360(G); funds must be used for the MAP Program. Arizona PWSs, although highly regulated, do not have permits for their operation and maintenance and do not pay fees to ADEQ. Major parts of the Safe Drinking Water Program for enforcement and day-to-day administration rely solely on federal grants, which are diminishing annually. ADEQ does not have statutory authority to charge fees to PWSs. With the fees in this rulemaking, MAP fees, and the design review fees for PWS construction or other improvements, ADEQ will be charging fees for the only three areas of the Safe Drinking Water Program for which it has authority to charge fees.

Testing:

Greg Homol Utility Services Department Town of Queen Creek: This has huge implications for costs to Town's and cities with a lot of operators with certifications, and even bigger for those that find themselves temporarily out of the field or out of work that want to keep their certs. Is there any chance that with the addition of this fee, that testing could be made available at the state instead of having to go through Gateway, which is a very cumbersome process? I would much rather pay the testing fee to the state to add some convenience to the testing process.

Robin Merchant, City of Kokomo: I would suggest that the ADEQ find ways to reduce cost by: Streamlining where possible by reducing such things as frequency of testing and reducing testing locations.

Betsy M Bowman, Laboratory Director, City of Yuma: I understand the justification for proposing and implementing the fees for certification of water and wastewater operators. Consider increasing the cost of the test with the difference between the test fee and Gateway's cost going to ADEQ and funding the operators' training workshops.

John Mussulman: The \$65 new certification fee would be in addition to the fees that ABC and GWCC charge for the testing/facilities, right? I think they charge \$87 or \$107, depending on where the test is held. That means that a passed test would cost a new operator either \$152 or \$172 (depending on where the test is taken.) What if you just made the test for a new certificate \$175 all the time, checks payable to ADEQ. Then you guys cut the checks for the difference to ABC and GWCC. Re-certifications would cost \$75, maybe? ADEQ keeps the difference from all the tests, and gets that re-cert fee without paying for the ABC/GWCC tests.

I understand that the \$65 proposed is supposed to be making it easier for newer/younger operators to break in to the industry, but honestly adding a fee on top of the testing fee isn't helpful. I think streamlining the process for new operators might be the way to go, even if that means raising the price. As it is now, we have to schedule the facility time with GWCC, have them host ABC testing and grading, and then they report testing to you. The way I'm imagining it, new operators still schedule the facilities and tests through those other companies (through your site, and you charge them a small fee for guiding them business, natch) but we cut you the check. It's a steep buy-in for a new certificate, but only barely more so than what are proposing now. And testing at GWCC makes ADEQ about 12% more than off-site testing, that makes a big difference. ADEQ makes money coming and going, our fees are simplified and everyone makes a little bit. There's the extra layer of ADEQ paying out the test fees to GWCC, and probably some other problems with my idea that I'm not experienced enough to foresee, but I think those offset ADEQ requiring us operators to pay for something we previously didn't have to.

RESPONSE: Under the current Operator Certification rules, contracted third parties provide, administer and grade the operator certification examinations. Currently, Gateway proctors the ABC operator certification exams for all operator classifications and grade levels. Potential applicants contact Gateway directly for exam dates, times, and exam fees. Gateway notifies ADEQ as to the results of applicants who successfully pass the examinations. Gateway offers the exam about 70 times in the Phoenix metropolitan area and 36 times around the state per fiscal year. Gateway pays ABC for the examination. ADEQ annually pays \$1800 for the ABC membership and \$2000 for the examination reports to ABC.



The applicant operator pays the examination cost of \$87 to Gateway. ADEQ does not receive any of this amount. An applicant operator will pay ADEQ the \$65 new certification fee only after passing an examination. The certification fee will help support ADEQ's costs for administering the Operator Certification Program.

ADEQ previously assessed fees associated with exams, certification, and renewals, under a regulatory framework where ADEQ administered the operator certification examinations. Under the prior regulatory framework, ADEQ offered examinations on a quarterly basis. ADEQ believes that operators are better served by the current framework for providing examinations. Without doing a cost analysis, ADEQ believes that if it were to administer examinations again, costs to operator applicants would be much greater than \$87 per examination and would likely require ADEQ to add additional FTEs.

Robin Merchant, City of Kokomo: Many cities are trying to become more efficient and one way of doing so is to combine many of their services and departments. An ever increasing number are combining their water and wastewater operations and requiring their operators and managers to be licensed for both. The income of these operators does not necessarily increase. But their responsibilities do. The cost under the current proposal would mean that an employee that was required or wanted to be able to operate or manage both water & wastewater utilities would have to pay \$300 each renewal cycle, more if the renewal dates were not the same? If an individual from another state wanted to move to Arizona to fill a vacancy that an employer could not find a candidate they preferred within the state then that individual would be required to pay \$1,000. This would essentially be a tariff and a restriction of free enterprise and basic human rights. Because of the increasing operator shortage I think the State may be shooting itself in the foot by either directly or indirectly obstructing the ability for it to recruit experienced and qualified professionals from relocating to Arizona for their careers without being required to pay more than a state resident has to do. I would suggest that the ADEQ find ways to reduce cost by: Some of the program work activities could be performed by volunteers from an Operators Association or by the employers of the operator with oversight by the ADEQ.

*RESPONSE:* ADEQ is not aware of any operator associations in Arizona and has not received any inquiries for volunteers from other water-related associations. ADEQ has received some inquiries from operators who are not certified that seek to volunteer with a facility in order to obtain experience. ADEQ no longer receives General Fund monies; over the past few years, the Arizona legislature has determined that regulated entities must bear the costs of the regulation. Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The fees must cover all costs for the Operator Certification Program, not just the costs of the four certification activities for which fees are assessed. As detailed in the EIS, the fee amounts include other costs of administering the whole Program, such as all personnel costs and training.

The Operator Certification Program has been working on improvements such as:

- Electronic submittal of renewal, submittal, reciprocity and early exam requests to the general azopcert email box for quicker processing.
- Training videos to be developed and added to ADEQ's website that would contain testing and a certificate of completion to document professional development hours.

Betsy M Bowman, Laboratory Director, City of Yuma: Each person who obtains additional certifications will automatically have all certifications contain the same expiration date.

Jennifer Hetherington, City of Mesa: The City recommends having a way to allow streamlining of pdh approvals that would result in reduced ADEQ staff time during renewals. There are a variety of ways this could be accomplished; preapproval by ADEQ of the class with an approval number issued; ADEQ training of a designee at each City to be sure the classes meet ADEQ's expectation, with an approval number issued or electronic submittal of pdhs that are then directly applied to the operators pdh count. These are just a few suggestions that would speed up the determination of approved pdhs during renewal.

*RESPONSE:* Suggested changes are outside the scope of this rulemaking as it would require that ADEQ change the underlying Operator Certification rules, most likely in A.A.C. R18-5-107. ADEQ will consider these suggestions for future rule amendments.

#### Reasonableness of Fee Amounts:

William Turner: All 4 ADEQ certificates have the same expiration date. If I understand the proposed fee structure correctly, to renew my certificate I will be paying \$150 for the first certificate and \$50 for the following three, totaling \$300!! In the proposal it states, "ADEQ's proposed fees are directly related to the level of effort expended



by the department to administer the operator certification program". \$300, seems quite excessive considering it would only require an update in the ADEQ database and a single printed certificate. I do agree that ADEQ should require a renewal fee to cover its costs, but please make the fees a little more reasonable.

Doug Cameron, City of Mesa: How is \$150 justified for the renewal of a license? I do not believe this is reasonable since the licensed operator is paying for the continuing education. What is ADEQ's part that requires \$150 for the renewal?

Geoff Caron, Sahuarita Water: While I am not opposed to ADEQ charging fees to renew certifications, the fees proposed are exorbitant. I also understand the need to make up for the cost of proxy services to administer testing however; it is not possible that the cost to review, reprint and mail a certificate costs ADEQ \$150 or that it costs \$50 to add additional lines of text for other certifications to a certificate. For a certified operator in all classes (such as myself) we will now have the burden of \$300 every three years or \$100 a year to maintain our certification.

Jeff S. Johnson, Pima County: What ever happened to the little guy being able to make a living, this is highly inappropriate for this heavy of an increase. Cost if leaving gives maybe a 3% if we're lucky every 2 or 3 years. This is ludicrous and should never reach the deciding person's desk.

Juan Mancha: I have been a certified operator in AZ for over 20 years. I know that this is good and bad it will cost system more money to run their systems and it will make the operator ask for more now that they have to pay. I would think that you could ask for half of what you are so it does not impact the public so much.

Jim: I think the fees are too much. for a state with such high unemployment, and such low wages this is stupid. 160.00 for a required cert is too much. some operators are barely making it after paying ASRS.

Adrian De La Tres Rios WRF (Ina O&M), Tucson: I believe that the proposed fees are a bit high for an introductory program. It seems that during these most difficult economic times that more and more people/governments and agencies are looking to take more monies from families and from people who are struggling more than ever. I know that it sounds one sided, and it is not just this proposal. Entities are seemingly devising ways to affect the public because the Government is affecting them. Please do not take this unfortunate situation and put it on the little people.

P.S. I would like to point out that previously it was a free service for me to stay re-certified. But saying that; I have to pay my money and my time to obtain my CEUs and PDHs. Is this really what the cost of being a certified professional is coming to. Someone who serves the environment, government and public 24/7/365.

Sherman McCutcheon, City of Tempe: You state that the proposed fees will generate \$400,000 to \$470,000 per year. You only have a staff of two people and @ \$100,000 per year that is costs of \$200,000 Not sure where you got an hourly cost of \$112 per hour, that would be \$232,960 on an annual basis. The proposed fees are excessive. With costs of \$200,000 a year why do you need to generate \$400,000 to \$470,000?

Tyler Brown, City of Glendale: These are not reasonable fees.

Donald Lane: The question that I have for the ADEQ is why should operators pay for any fees. ADEQ is already funded with our tax dollars and enough is enough. Should police have to pay to do their service? Should fireman have to pay to provide their service? How about the border patrol, should they pay? This fee is uncalled for in any amount. ADEQ should be required to live within their budget the same way that I have to live within my budget. My pockets already have to pay for my required training and hotel costs, and now ADEQ wants me to pay more. My response to this is NO NO NO. I look at this as my way of "retiring" and I'm sure other operators will do the same since many of us are at or over retirement age.

David Campos, OCC Operator, Tres Rios RWRD: First of all I would like to know how these fees will keep the Clean Water Act in effect? I don't know who came up with these fees, but Please be aware that money does not grow in trees and contrary to popular believe, I do not have so much money it is coming out of my Wazoo. I would rather drop 3 of my certificates and only keep the one I need for my job description, Rather than pay these exorbitant fees!! You need to re- think this over and come up with a better idea!

Brad Hirter: These fees would be the most expensive operators certification fees in the US. I understand establishing a fee to cover ADEQ operations, but consider the public best interests, not filling some CEO's pocket!! Crooks. You should be ashamed of yourselves.

Stephen A. Flood, Lake Mary WTP, Flagstaff: I can understand a nominal processing fee for new and updated Operator certifications but these fees seem extremely excessive to me.

Troy Dagenhart, City of Flagstaff: I do not believe an increase of this size should be implemented this soon. To go from 0 to 150 dollars in one day is excessive! A lower amount should be considered.

Don Mudd, City of Flagstaff: The proposed fees for operator renewal seem to be very excessive to me.

Chris Smith, City of Goodyear: This is pretty sad. I understand state and local government is always trying to figure out what other ways they can hustle up some more revenue, but to directly do it this way off the backs of hard working people is sickening. For starters, for a renewal, to charge nearly \$100 more than a new certification is sad. ADEQ and the state of Arizona are shoving the quality people out of this line of work. There is no logical reason for your proposed fees.

Brian Smith, City of Scottsdale: The second concern is the fee amount the renewal fee should be \$25.00 per certificate the cost for a person with four certificates would be \$300.00 and that is too big of a hit for operators on a



budget.

Martin Jones: The proposed operator certification renewal fee is too high. \$150 to renew a certification, plus \$50 for each certification held, will place a large burden on an individual operator as well as the associated water or wastewater system.

Scott McClinton, City of Prescott: This is a bad proposal, first of all the fees that are being proposed are too high.

Nelson: These proposed fees are NOT reasonable. The fact that they are targeted for the General Fund is equally unacceptable. If you really believe it costs \$150 worth of your staff's time to do an early exam review then you are either totally out of touch wit...(NOTE: comment reproduced as received through e-mail)

Jennifer Hetherington, City of Mesa: The pdhs can apply to the renewal of one certification or up to all four certifications. In addition, \$50 per certification after the first certification renewal appears unreasonable considering all the research was generally completed for the first certification. The Notice of Proposed Rulemaking does not contain a complete breakdown of current and future costs of the program. The City would like ADEQ to list data on how much time was spent on each new certificate and renewals to show how the fees were calculated. The "certification and renewal reviews have predictable average times."; yet there is no documentation provided the stakeholders to support that statement. In addition the estimate of annual revenue appears to be flawed and the amounts listed are a minimum of the revenue the fees will provide "the estimated annual revenue from the new fees would be \$400,000 to \$475,000 based on the following:

- 3,600 certificate renewals per year = \*See Below
- 2,000 exams with a 50% passing rate = 1,000 new certificates = \$65/cert = \$65,000/yr
- 250 reciprocity reviews = \$250/review = \$62,500/yr
- 100 early exam reviews = \$150/review = \$15,000/yr

Randall Sanders, Town of Gilbert: The fee schedule appears to be expensive and I would question the justification for such high fees? With the fees going into the general account what provisions are there that the money would not be used for something else. I believe a good Excel Computer Program would help keep costs down. I would also suggest lowering the fees and see how much money is actually needed. Fees rarely are reduced but are increased more often than not.

Randy Baldauf, City of Prescott: I think your proposed fees are too high.

David D. Klingensmith Plant Operator: The proposed new so called reasonable fees would cost me \$300.00 each renewal, added to the cost of the current required continuing education to maintain my certifications at each renewal of anywhere from \$50 to \$200.00 makes this rulemaking very unreasonable.

The way I look at it, it's a TAX on Water Plant Operators. Operators who work very hard to provide the public with safe drinking water and treat your wastewater at a reasonable cost. So when was the last time you got up at 02:00 AM and turned on the tap and or flushed the toilet and thought hay there's someone on the other end making it happen, I bet not! Most just take it for granted. Operators know it's a thankless job but we still take pride in the trade.

So let me be strait I'm not opposed to reasonable fees. I am opposed to being TAXED for being an Operator. All my certifications are on one piece of paper sent every three years after I fill out a renewal form with my continuing education information. So how much does it cost to print that one paper certificate and mail? Remember the certification exams already are contracted out with large fees. \$350.00 for striving to be the best at your craft for rate payers is very unreasonable.

*RESPONSE:* Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The renewal process takes ADEQ staff more time than a new certification so the renewal fee is higher. The level of effort is in line with how ADEQ has evaluated fees necessary to cover Program costs in other areas of the agency

The fees must cover all costs for the Operator Certification Program, not just the costs of the four certification activities for which fees are assessed. As detailed in the EIS, the fee amounts include other costs of administering the whole Program, such as all personnel costs and training. ADEQ would note that an operator would pay \$1040 in fees to ADEQ to begin at grade 1 and advance to grade 4 in all four classifications. Separate from these proposed fees, an operator would pay \$87 for each examination in all four grades and all four classifications, totaling \$1,392.

Prior to this rulemaking, ADEQ met with stakeholders to discuss fee amounts; ADEQ originally presented an initial certification fee of \$75 and a certificate based on reciprocity review fee of \$300. ADEQ reconsidered its costs and stakeholders' concerns about burdening new applicants, who usually enter at the lower end of the pay scale. The proposed rules reduced the initial certification fee to \$65 and the reciprocity review fee to \$250. ADEQ has set the fee amounts based on past numbers and with an anticipated drop off of 20 percent of all renewals and certifications,



in order to generate revenues sufficient to cover the Operator Certification Program costs. Fee amounts any lower than proposed will not cover the costs of the Program.

Under the rules repealed in 2001, ADEQ assessed fees, which ranged from \$10 to \$25. Fee amounts included ADEQ administering the certification examination, which was set at \$25 for the Grades 3 and 4 applications for examination, a function ADEQ no longer performs. ADEQ anticipated that revenue loss in repealing the fees would be \$65,000 annually. As detailed in the EIS, ADEQ's personnel and training costs for administering the Operator Certification Program are \$429,000. The low Operator Certification fees from before 2001, and as suggested by comments, will not support the Program in 2015.

Other comments:

Mohd Hasan: This program must be subsidized by the state to encourage more certified operators in Arizona who will keep the water and waste water programs running smoothly.

Jon Cunliffe, City of Goodyear: It should not be up to the operators to fund the SWDA. I disagree with this proposal

*RESPONSE:* Historically, the state General Fund has been used to fund the entire cost of the Operator Certification Program, at no direct cost to the regulated community. ADEQ no longer receives General Fund monies and the state legislature has determined that the entities that must be regulated must bear the costs of the regulation. ADEQ's goal in this rulemaking is to establish fees that will sustain the Operator Certification Program while avoiding disproportionate impact on any one group of operators.

Frederick Tack: My opinion is that ADEQ has the right and need to acquire the funding to continue the certification process. One thing that we would like to ask for consideration is that some direction is provided on where we can go and where we can post comments on how to try to recover that funding. We understand that funding has been reduced. Water & wastewater workers are key safety workers in the community, as important as policeman and fireman, who do not need certification fees to renew their badges every year. We would like to ask for the consideration to provide the direction for where we can go to try to help recover those funds rather than have to make a rule to provide adequate funding to continue the certification program.

*RESPONSE:* The Arizona State Legislature authorizes ADEQ's appropriations from its various funds in order to meet its budget obligations. The U.S. House of Representatives decides the amounts budgeted to federal agencies, including EPA, and also allocates amounts to specific funds such as the DWSRF. Individuals are free to contact their state legislator or U.S. representative to discuss funding priorities.

Roy Van Leeuwen: We have a hard enough time finding qualified operators and these ridiculous fees will only make it that much more difficult, because of the added expense. If State officials thought this agency was important they would find funding somewhere. The feder...(NOTE: comment reproduced as received through e-mail)

Jim Muylle: I believe ADEQ/EPA should be paying operators for getting certified to enforce some of these ridiculous policies they come up with, instead of us paying for you to write new and more stringent rules. We have enough, let us catch our breath and enforce the ones we have!

I am totally against raising anymore fees for an already over regulated industry and country! Furthermore a common everyday small facility operator cannot afford what you call "reasonable fees" under the Oblama Obamaconomy! Thank you!

James Rhodes: I disapprove of ADEQ raising their fees. I suggest they fire the worthless people they have running the operator certification program and hire people who will be competent, approachable, and answer their e-mails. Waiting months to receive a certificat...(NOTE: comment reproduced as received through e-mail)

*RESPONSE:* Comments noted

Dale Oviedo: I have four certifications. If I understand the proposal correctly, when I renew in 2017, I'll pay \$300.00. Is that correct?

Manual E. Salazar, Arizona Envirocomp, LLC, Glendale: I have 4 certificates, Water Treatment Plant Operator, Water Distribution Systems Operator, Wastewater Treatment Plant Operator, and Wastewater Collection System Operator. They all expire on the same date. Does this change mean that to renew my licenses, it will cost me \$600 plus another \$200 because they expire at the same time? That's \$800 every three years. That seems to me to be an exorbitant price for one person.

*RESPONSE:* If the expiration date for each certificate is the same, then the renewal fee would be \$300 every three years. Under A.A.C. R18-5-107(A) a certificate is renewed for three years unless the operator requests a shorter



renewal period. An operator can request that multiple certificates have the same expiration date as long as none of the certificate terms exceeds three years.

Starla Newsom: Will our PDHS still cover the renewal fee?

Steven Petit: I recently received a notice that I would have to pay \$150.00 to renew my ADEQ License for water treatment. As of now I am paying \$100 dollars for 8 credit hours toward the 30 I need to collect for renewal. I think the fee is excessive.

*RESPONSE*: The rule requirement to pay a renewal fee is separate than the requirement under A.A.C. R18-5-107 to complete at least 30 professional development hours. An operator will need to comply with both rule requirements in order to renew a certificate.

Miki Zmolek, City of Mesa, Water Resources Department: I am just wondering if ADEQ is planning to be able to take credit cards/procurement cards as payment for certification fees? I send in most of our employees re-certifications and I was just thinking of ways to pay them.

*RESPONSE*: ADEQ has not determined the details on how operator certification fees can be paid. ADEQ will continue to provide updates related to implementing these fees by notifying subscribers to the drinking water/wastewater operator certification list serve located at: <https://public.govdelivery.com/accounts/AZDEQ/subscriber/new>

Distcs@aol.com: Please provide a link for all so that we may view the comments sent in by fellow operators regarding the proposed fee rate hike. I can't imagine how this could be embraced by any operator so why not let us all see how "well received" it is?

*RESPONSE*: The comments are reproduced in this Notice of Final Rulemaking as submitted, with some minor editing and grouping of similar topics. To view or obtain copies of the comments, a public records request can be submitted to ADEQ's Records Center. Information for submitting a public records request, including the Request Form, is available at: <http://www.azdeq.gov/function/assistance/records.html>

Brad Shattuck, Saguaro National Park: My only comment / question relates to the cost for a re-cert versus a new cert ... I would think the costs for a new cert would be more expensive than a renew ... yet the costs are cheaper for new versus a re-certification ... why is that?

*RESPONSE*: Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The renewal process takes ADEQ staff more time than a new certification so the renewal fee is higher. The level of effort is in line with how ADEQ has evaluated fees necessary to cover Program costs in other areas of the agency. With the \$50 renewal fee for an additional certificate with the same expiration date, ADEQ is seeking to offer flexibility and incentive for operators with multiple certificates.

Dave Tingué, APS: I have been an operator in Arizona for a long time-I have seen the program go from a half decent program where the testing was supported by AZ DEQ employees whom could be reached for questions and issues- they also were on hand during testing for issues- The testing was free and the renewals were free- study guides were given out for free- the exam reviews were available for an operator to view his/her missed questions- This was all under John Bolinoswki (sp) Today, the tests are given by the college- they are expensive- no study material is available UNLESS WE PAY for it.

The staff at the college are not readily available for questions and when we do talk to them, they are not helpful... as they have no real knowledge of the operator issues.

Now. You are proposing a fee for renewal? This is an outrage that is shared by most operators in Arizona- You may not hear from all of those people, but I assure you that this is another step in the wrong direction. Especially if the fees go to the state's General Fund. I would seriously reconsider your proposed rule change as I will be contacting my representatives and other operators on this matter as we feel that for the proposed fees, we are not getting any better service or materials-

Donald Lane: This is the worst idea of a way to fund the ADEQ anyone could come up with! Small water co. operators seldom walk into a new job with paid holidays, health care, paid vacations and many other perks that state and federal employees receive? Are ADEQ employees paying these fees also, of course not. Many small water co operators do a good amount of their work voluntarily, do EPA /ADEQ or whoever the proposers of these fees do this? Hats off to you, if you do. All are aware of the increased regulations, responsibilities, duties put upon the water co./operators through the years with no regard as how these are paid for. So, please find another way to fund



your budget concerns other than ‘Shooting fish in the barrel’, “eating your own” approach that is being proposed directly the people that protect the safe drinking water act.

Based upon your second sentence, I would like to also address this issue. When I got into this business my educational costs were covered by grants and pre-testing could be done at these educational events. This has all changed and all of my PDH now cost me directly out of my own pocket. This is already a cost out of my pocket and ADEQ is saving this money directly because I'm now paying for my required PDH's.

I strongly disagree with these proposed costs. As an operator I have already absorbed the additional costs of my PDH's, I have already absorbed the additional fuel costs to service my customers, and I have already absorbed the additional costs that all of these regulations are requiring of me. I have to live within my budget and I expect ADEQ to also live within your budget. Your sentence states these fees are directly related to the level of effort expended by the department to administer the operator certification program, I find this statement laughable. You want more money to do your job, well follow the example of the operators who are out their in the field daily, and do more with less money. That's what your operators are having to do and it's time for government to be reined in. My pockets are already empty and I do not agree that this is necessary in order for ADEQ to do their jobs.

I feel that once operators have to pay to do their jobs they will retire and this vicious circle will continue. My answer is no.

Distcs@aol.com: The proposed fees are just another TAX on the very people who work daily to keep Arizona's water clean and fit to drink. Isn't it enough that operators do this AND pay in both time and gas to attend training (PDH's) to stay up on rules and safety procedures?

The threat of ADEQ losing its' ability for oversight of the SDWA in Arizona is a poor excuse for these proposed outrageous fees. Since I hold 4 licenses, this would require me to pay \$300 for renewal (\$150 plus \$50 for each additional). I can't see how printing out a new license with 4 licenses on it could cost any more than one! Where do your people come up with these figures?

Everyone is having to cut back these days in order to make ends meet. Suggest the ADEQ do the same in order to survive the current economic conditions. This is not a recovering economy and squeezing the poor operators, most of whom have not seen any real wage increase that keeps up with inflation in 20 years, is not the way to pad the State General Fund!

*RESPONSE*: Historically, the state General Fund has been used to fund the entire cost of the Operator Certification Program, at no direct cost to the regulated community. ADEQ no longer receives General Fund monies and the state legislature has determined that the entities that must be regulated must bear the costs of the regulation. ADEQ's goal in this rulemaking is to establish fees that will sustain the Operator Certification Program while avoiding disproportionate impact on any one group of operators.

Thomas Bolyen: The increase from \$0.00 to \$150.00 for any ADEQ license is a great deal of money for a single individual to ensure the safety of all water for Arizonans. This seems as if this proposal is a surcharge for the privilege of complying with our own state law. If the program isn't in the best interest of the state then let us disband Operator Certification completely. If there are at least 6000 certified operators in the Arizona State System, these new fees could generate revenue in excess of \$1.8 million over the 3 year life of all operator renewals regularly. Are you suggesting the certification program is truly costing \$600,000 annually for administration of the program? If so, we need to revisit the need for our current Operator Certification Program.

How have you demonstrated you have done everything in your power to reduce your own internal cost, as we have all done during this economic down turn to justify this new fee? What if anything, will the money contribute to? Do we as operators realize a real positive benefit for this program for that additional price? Shouldn't the cost of testing be offset by these mandatory fees? If an operator pays for the understanding, pays for the examination, and pays renewal fees will the licenses be more professional? Can you guarantee any additional value for instance, automatic reciprocity nationwide, for this additional charge?

Certified Operators have already demonstrated a commitment to the public good and our states valuable water resources. Through licensure and examination testing combined with continued training they remain a viable contributor to the State of Arizona's safe water supply. Rational choice theory suggests we all behave in our own self-interest, and ADEQ's current proposal to exact such a radical change in fees is evidence of that. Let's hope operators do not also act in their own self-interest and leave the industry because of it.

I would like to propose you revisit your costs and any future requirements of Certified Operators, before moving forward with this proposal. This is not a sustainable approach to your problem and will do more harm than good. I thank you for the opportunity to express my thoughts.

Donald Lane: ADEQ has already taken away our “free” PDH and this has caused us to now pay for our own education hours which are required in order to keep our certification updated and current. Arizona is in need of certified water operators and it is my opinion that this change will cause retirement of qualified water operators.

As you are aware money is very tight. Arizona is experiencing shortages in their budget as well as the individ-



ual water operators. Just by having to pay for our PDH education this has caused us to each set aside hundreds of dollars per year. By the time we renew our certifications we have spent up to a thousand dollars just in order to continue to work.

Most small operators travel to small water systems in order to keep them in the safe water drinking act qualifications. Some are only part time operators because the water systems can not pay for full time help. The ADEQ makes no reference to full or part time operators, just listing all as being equally able to bear this financial burden.

Please bear in mind that every water operator now has additional paperwork and duties that are required in order “just” to meet ADEQ, AWWR, ACC, EPA, etc. the list goes on and on.

As you are aware under this current administration (Obama) regulations are rampant and this is hurting all individuals that just want to provide for our families.

I am asking that this request be denied because our individual budgets can not take any additional hits, we are hurting financially and this (I believe) will cause me as well as many other operators who are at or over retirement age to simply say “I’ve had enough” and simply walk away. Losing qualified water operators would hurt Arizona and possibly cause a shortage of qualified personnel who actually are out in the field daily trying our best to satisfy our customer’s needs and to provide safe drinking water to all. I respectfully ask that this be reconsidered due to the financial hardship it will cause.

Jennifer Hetherington, City of Mesa: The majority of the funding for the fee proposal is coming from renewals; therefore it is important that ADEQ is doing everything possible to be sure there is an efficient process. It is unclear as to the cost of the certificate renewals because there is not enough information available in the estimated revenue amount. The justification states there are 6500 certified operators with approximately 13,500 certificates for an average of 2 certifications per operator. Each year approximately 2160 operators would renew their certifications. If each operator had one certification it would cost \$324,000/year for total revenue of \$66,500/year for the program. The justification however shows that each operator on average has two certifications raising the annual cost for renewal to \$432,000 and total revenues of \$574,500/year for the program; almost \$100,000 more than what is listed in the justification. The City is concerned that this is a large discrepancy in revenue and either figure is in excess for the service provided.

*RESPONSE:* The Water Quality Division, like many programs within ADEQ, has been working on continuous process improvements using Lean philosophy to improve the effectiveness, efficiency, and transparency of programs and services by identifying waste. The Water Quality Division has already implemented improvements in its processing of individual permits, such as in the Aquifer Protection Program. The Operator Certification Program has been working on improvements such as:

- Electronic submittal of renewal, submittal, reciprocity and early exam requests to the general azopcert email box for quicker processing.
- Training videos to be developed and added to ADEQ’s website that would contain testing and a certificate of completion to document professional development hours.

ADEQ is committed to evaluating all its programs to minimize waste and to provide the best customer service as efficiently as possible.

ADEQ is required to implement the Operator Certification Program, as authorized under two separate state statutes. A.R.S. §§ 49-352(A), 49-361. Operator certification is also a requirement under the SDWA, for which ADEQ is the designated state agency responsible in Arizona. A.R.S. § 49-202. EPA can withhold 20 percent of a state’s DWSRF capitalization grant unless is implementing an operator certification program that meets the requirements of the final guidelines. 42 USC §300g-8(b).

As detailed in the EIS, ADEQ’s personnel and training costs for the Operator Certification Program are \$429,000, which includes an anticipated drop off of 20 percent of all renewals and certifications. Based on the underlying operator certification rules in 18 A.A.C. Chapter 5, Article 1, ADEQ established fees for four certification tasks: new certification, early examination certification, request for reciprocity, and renewal. The fee amounts are based on the proportionate level of work required for FTEs to accomplish the specified certification responsibilities. The level of effort is in line with how ADEQ has evaluated fees necessary to cover Program costs in other areas of the agency. The fees must cover all costs for the Operator Certification Program, not just the costs of the four certification activities for which fees are assessed. Fee amounts any lower than proposed will not cover the costs of the Program.

**12. All agencies shall list 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:**

There are no matters prescribed by statute applicable to the agency or to any specific rule or class or rules.

- 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 proposed rules require a new fee for a certification. A.R.S. §§ 49-352 and 49-361 require ADEQ to certify operating personnel according to their skill, knowledge and experience. However, the operator certification rules are similar to the definition of a general permit; the applicant is issued the certification if the applicant meets the applicable requirements of the certification, there is no individual or traditional certification, and no public hearing 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:**

There is no federal law applicable to fees for certified operators.

**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 person has submitted an analysis to the agency that compares the rule’s impact on the competitiveness of business in this state to the impact on business in other states.

**13. 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:**

Not applicable

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

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMIT AND COMPLIANCE FEES**

**ARTICLE 3. CERTIFIED OPERATOR FEES**

Section

- R18-14-301. Certified Operator Fees
- R18-14-302. Fee Assessment and Collection
- R18-14-303. Implementation

**ARTICLE 3. CERTIFIED OPERATOR FEES**

**R18-14-301. Certified Operator Fees**

- A.** Definition terms from A.A.C. R18-5-101 apply to this Article.
- B.** The Department shall assess and collect a flat rate fee for a certification or renewal under the operator certification program.
- C.** A person shall submit the applicable fee when requesting a certification or renewal under 18 A.A.C. 5, Article 1, as described below:
  - 1.** An applicant that seeks new certification shall submit a \$65 fee per certification.
  - 2.** An operator that has not held a lower grade level for the required amount of time requests the Department's determination on experience and education in order to be admitted to a higher grade certification examination shall submit a fee of \$150 per application.
  - 3.** An applicant that requests a certificate based on reciprocity with another jurisdiction shall submit a fee of \$250 per application.
  - 4.** An operator submitting a certificate renewal shall submit a \$150 fee for each certificate. If the operator has multiple certificates, the first certificate is \$150, and each additional certificate with the same expiration date is \$50.

**R18-14-302. Fee Assessment and Collection**

- A.** Fees for certification or renewal shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.
- B.** The Department shall not accept a request for a certification or renewal without the appropriate fee.
- C.** If the Department does not accept an operator certificate renewal form, required according to A.A.C. R18-5-107(B), the certificate expires for failure to renew according to A.A.C. R18-5-108.

**R18-14-303. Implementation**

The fees in this Article apply to any application for a certification or renewal that is submitted on or after July 1, 2016.



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

[R15-153]

PREAMBLE

<u>I. Articles, Parts, or Sections Affected (as applicable)</u>	<u>Rulemaking Action</u>
R4-6-101	Amend
R4-6-201	Amend
R4-6-202	Repeal
R4-6-203	Amend
R4-6-204	Repeal
R4-6-205	Amend
R4-6-206	Amend
R4-6-207	Amend
R4-6-208	Amend
R4-6-209	Amend
R4-6-210	Repeal
R4-6-210	New Section
R4-6-211	Amend
R4-6-212	Amend
R4-6-212.01	New Section
R4-6-213	Repeal
R4-6-213	New Section
R4-6-214	Repeal
R4-6-214	New Section
R4-6-215	Repeal
R4-6-215	Amend
R4-6-216	Repeal
R4-6-216	Amend
R4-6-301	Amend
R4-6-302	Amend
Table 1	Amend
R4-6-303	Repeal
R4-6-304	Amend
R4-6-305	Amend
R4-6-306	Amend
R4-6-307	Repeal
R4-6-307	New Section
R4-6-401	Amend
R4-6-402	Amend
R4-6-403	Amend
R4-6-404	Amend
R4-6-405	Repeal
R4-6-501	Amend
R4-6-502	Amend



R4-6-503	Amend
R4-6-504	Amend
R4-6-505	Repeal
R4-6-505	New Section
R4-6-601	Amend
R4-6-602	Amend
R4-6-603	Amend
R4-6-604	Amend
R4-6-605	Amend
R4-6-606	Repeal
R4-6-701	Amend
R4-6-702	Amend
R4-6-703	Amend
R4-6-704	Amend
R4-6-705	Amend
R4-6-706	Amend
R4-6-707	Repeal
R4-6-707	New Section
R4-6-801	Amend
R4-6-802	Amend
R4-6-803	Amend
R4-6-804	Repeal
R4-6-901	Amend
R4-6-902	Amend
Article 10	Amend
R4-6-1001	Amend
R4-6-1002	Amend
R4-6-1101	Amend
R4-6-1102	Amend
R4-6-1103	Amend
R4-6-1104	Amend
R4-6-1105	Amend
R4-6-1106	New Section

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 32-3253(A)(1)

Implementing statute: A.R.S. §§ 32-3253(A), 32-3261, 32-3271, 32-3272, 32-3273, 32-3274, 32-3277, 32-3278, 32-3279, 32-3281, 32-3291, 32-3292, 32-3293, 32-3301, 32-3303, 32-3311, and 32-3321

Statute or session law authorizing the exemption: Laws 2013, Chapter 242, Sec 27 and Laws 2015, Chapter 154, Sec 10

**3. The effective date for the rules and the reason the agency selected the effective date:**

November 1, 2015, which is the date specified by the legislature under Laws 2013, Chapter 242, for licensing provisions addressed in the rulemaking to go into effect.

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

None

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

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 Phoenix, AZ 85012  
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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:**

In 2013, the legislature substantially revised the Board's statutes in Laws 2013, Chapter 242. This rulemaking implements the changes made by the legislature and makes required rules. Key provisions of the revised statutes that took effect on September 13, 2013, include:

- The four credentialing committees are no longer involved in disciplinary proceedings. All investigational proceedings are conducted by the Board.
- The Board's authority to issue and renew reciprocal licenses is terminated and the Board is authorized to issue licenses by endorsement to qualified applicants.
- An applicant for licensure may withdraw the application before final action is taken by the Board unless the Board has notified the applicant that the Board has initiated an investigation concerning possible unprofessional misconduct.
- The Board is not authorized to act on a complaint involving an allegation of unprofessional conduct or other violation of statute if the alleged violation occurred more than seven years before the complaint is received by the Board. This time limitation does not apply to an allegation of malpractice.
- The Board is not authorized to act on an anonymous complaint.
- The Board is required to make an investigative file available to the licensee who is subject of the investigation at least five business days before the Board meeting at which the complaint leading to the investigation will be considered.
- The Board is expanded from eight to twelve members, all of whom are appointed by the Governor.

Key provisions of the revised statutes that will take effect from and after October 31, 2015, include:

- The Board is required to maintain a registry of licensees who have met educational requirements to provide supervision for applicants in the same professional as the licensee.
- The Board is authorized to make rules allowing a licensee in one profession to supervise an applicant for licensure in another profession.
- The Board is required to make rules for approval of educational programs of regionally accredited colleges or universities that are not otherwise accredited by a Board-recognized organization or entity.
- The Board is authorized to establish an academic review committee for each profession to review license applications on referral from the Board and to make recommendations regarding approval of educational programs of regionally accredited colleges or universities that are not otherwise accredited by a Board-recognized organization or entity.
- A licensee with two or more licenses may obtain a common renewal date for all licenses.
- Applicants for licensure at the independent level in all four professions are required to obtain at least 3,200 hours of supervised work experience in no less than two years.
- The Board is authorized to establish a confidential program for monitoring licensees who are chemically dependent or have medical, psychiatric, psychological, or behavioral health disorders that impact the ability to practice safely.

The legislature made additional statutory changes in Laws 2015, Chapter 154. Key provisions that go into effect from and after October 31, 2015, include:

- The Board is required to make rules regarding telepractice.
- If delegated by the Board, the executive director is authorized to dismiss a complaint that investigative staff determine is without merit.
- The Board is required to establish an academic review committee for each profession that is authorized to perform additional functions on referral from the Board or executive director.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Ted Vogt, Chief of Operations in the Governor's office, in an e-mail dated June 26, 2015.

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

The Board did not review or rely on a study in its evaluation of or justification for 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, if applicable:**

The Board believes the rules will have minimal economic impact on applicants and licensees and consumers of behavioral health services. It is the statutory changes made by the legislature in 2013 and 2015 (see item 6) that will have economic impact. It is assumed the legislature assessed this economic impact and determined the benefit from the changes outweigh the costs.

As of August 2015, there are 9,678 individuals licensed by the Board: Social Workers – 3,916; Counselors -3,744; Marriage and Family Therapists – 492; and Substance Abuse Counselors – 1,526. During each of the last three fiscal years, the number of individuals licensed by the Board has increased.

With the changes implemented in this rulemaking, the Board expects the number of licensees to continue to increase. This is because curriculum, supervised work experience, and endorsement changes required by statute will enable more candidates to qualify for licensure. The licensing process is also being streamlined by implementing a curriculum review process at the university level rather than at each individual applicant level.

The majority of the associate level professionals work under supervision in behavioral health agencies licensed by the Department of Health Services. The independent level professionals may be in private practice or working in an agency setting.

Although licensing fees are being newly placed in rule with this rulemaking, the Board is not raising fees so there should be no economic impact on applicants, licensees, or consumers. The Board also is not increasing any of its licensing time frames. The streamlined licensing process and lower standards should be economically beneficial to businesses that employ behavioral health professionals.

There will be some economic impact on the Board. The Board incurred costs to make these rules and will incur costs to implement them. Increasing the size of the Board from 8 to 12 will impose an economic cost on the Board. However, this may be offset because the Academic Review Committees are smaller than the previous Credentialing Committees.

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

Not applicable because the rulemaking was not published in proposed form.

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

After posting the proposed rules on the Board’s web site and providing notice to individuals who requested to be informed of hearings on the proposed rules, the Board held three public hearings. These were: August 19, 2015, in Tucson; August 20, 2015, in Flagstaff; and August 26, 2015, in Phoenix.

COMMENT	BOARD’S ANALYSIS	BOARD’S RESPONSE
R4-6-101. Definition of direct supervision: Remove “immediate” from definition because it implies the supervisee has access to the direct supervisor in a matter of time rather than responsibility.	The Board agrees with the comment.	The word “immediate” was deleted from the definition of direct supervision.
R4-6-101. Definition of clinical supervision: Add “and educate” to the phrase “...qualified to evaluate, guide, and direct all behavioral health services...”	The definition is about “clinical supervision.” It is not about the supervisor providing the supervision. The Board believes the definition is adequate.	No change
R4-6-101. Definition of clinical supervisor: Change the definition to read: “Means an individual who is licensed and educationally qualified as per R4-6-214 and provides oversight, education, and assessment to a supervisee.”	The definition of “clinical supervisor” references the definition of “clinical supervision.” The definition of “clinical supervision” contains the information requested.	No change
R4-6-101. Definition of supervised work experience: It is good that the rules require a link between clinical supervision and supervised work experience. Unfortunately, many agencies in position to provide clinical supervision do not require those providing the clinical supervision to have the training required to be qualified to provide the clinical supervision.	The concern is outside the Board’s ability to influence.	No change
R4-6-207(B). Confidential Records: Delete this subsection, which allows a licensee to view an investigative file so close to the time the Board will consider a complaint against the licensee. Also cite statute regarding Board’s authorization to redact confidential information.	The Board believes subsection (B) more appropriately belongs in R4-6-1001.	Subsection (B) was moved and is now subsection (C) of R4-6-1001. The statute cited in the lead to the subsection references the Board’s authority to redact information.



R4-6-212(A)(2). Clinical Supervision Requirements: If psychiatric nurses are not allowed to provide clinical supervision, psychiatrists should also not be allowed to provide clinical supervision because they lack treatment experience.	The Board agrees with the comment.	Psychiatrists were removed from the listed of qualified individuals under this subsection. Both psychiatrists and psychiatric nurses were added to R4-6-212.01 as individuals for whom an exemption from the clinical supervision requirements could be granted.
R4-6-212(D). Clinical Supervision Requirements: Two hours of face-to-face clinical supervision in a six-month period is too little. The requirement should align with that of DHS, which requires one hour of face-to-face supervision for every 40 hours worked.	This is a minimum standard. More face-to-face clinical supervision is allowed.	No change
R4-6-212(D). Clinical Supervision Requirements: Increase the number of hours of clinical supervision allowed by videoconference and telephone. This is important in rural areas where supervision is hard to locate.	The Board understands the concern and agrees that increasing the hours of clinical supervision allowed by videoconference and telephone is appropriate.	The hours of clinical supervision allowed by videoconference and telephone was increased to 90 from 70.
R4-6-212(D). Clinical Supervision Requirements: Require one face-to-face session between the clinical supervisor and supervisee before any hours are conducted by electronic means.	This is an option for any clinical supervisor but the Board believes it is not a necessary requirement.	No change
R4-6-212(D)(4). Clinical Supervision Requirements: A clinical supervision session should be 15 minutes rather than 30 minutes, especially in a crisis situation.	The Board believes 30 minutes per clinical supervision session is the minimum necessary for the needed observation, guidance, and learning to occur.	No change
R4-6-212(F). Clinical Supervision Requirements: Add a provision that the Board may accept hours of clinical supervision from more than four supervisors if death or disability of a supervisor made it necessary to obtain hours from another supervisor. Limiting hours to four supervisors does not consider the high rate of turnover in staff at behavioral health agencies.	The Board agrees with the concern.	R4-6-212(F) was changed to allow clinical supervision by up to six supervisors.
R4-6-212(G). Clinical Supervision Requirements: The percentage of hours of clinical supervision obtained in individual sessions should be increased.  The percentage of hours obtained with one or two supervisees should be changed to "Not more than 75 percent...."	This is a minimum standard. Additional hours of individual clinical supervision are acceptable.  The Board agrees.	No change  The suggested change was made to R4-6-212(G)(2).
R4-6-212.01. Exemptions to the Clinical Supervision Requirements: Advance Practice Nurses should be considered for exemption.	The Board agrees.	The exemption was added.
R4-6-213. Registry of Clinical Supervisors: Requests the Board add a provision that gives licensees an idea of when their supervision will be reviewed.	The Board believes including a clinical supervisor on the registry does not require a time frame expectation.	No change
R4-6-214. Clinical Supervision Educational Requirements: Having to pass a jurisprudence examination every three years is burdensome; hours of CE should be substituted for the jurisprudence examination; changing from a two year to a three year renewal of clinical supervision qualification complicates the process.	It is important that licensees know the applicable statutes and rules. However, to reduce the regulatory burden, the Board decided to change jurisprudence examination to a Board-approved tutorial that must be completed every three years.	The requirement that licensees take a jurisprudence examination was changed to a Board-approved tutorial that must be completed every three years.
R4-6-214(A)(1). Clinical Supervision Educational Requirements: The 12 hours of required education should include the required training regarding statutes and rules.  Twelve hour courses are not offered often enough.	Because of the important role played by clinical supervisors, the Board believes the required education is minimal. The Board did, however, change the jurisprudence examination to a Board-approved tutorial.  The training does not have to be obtained in one course.	No change  No change
R4-6-307(H). Approval of an Educational Program: The requirement to notify the Board when course objectives change is burdensome. Universities use a percentage to track significant changes.	The Board understands the concern and clarified the requirement.	The subsection was amended to require notice to the Board only if more than 25 percent of course competencies or learning objectives change.
R4-6-403(A), R4-6-503(A), R4-6-603(A) and R4-6-705(A). Supervised Work Experience for ... Licensure: Delete the following sentence, "Supervised work experience in the practice of ... is limited to the use of psychotherapy for the purpose of assessing, diagnosing, and treating individuals, couples, families, and groups."	The Board agrees.	The sentence was deleted.



R4-6-404(B) and R4-6-504(B). Clinical Supervision for ... Licensure: Recommends leaving the hours of clinical supervision required to be supervised by a LCSW or LPC at 25 or fewer. Most supervisors are licensed counselors so the requirement is hard to meet.  Requiring so many hours of supervision by provided from the same discipline will have an economic impact on agencies because they will need to contract out more supervision.	The Board believes it is important that supervision is provided by someone licensed in the field for which application is going to be made. The requirement allows 50 percent of the supervision to be provided by someone licensed in another field and R4-6-212.01 provides a procedure for obtaining an exemption to the clinical supervision requirements.  The Board believes any economic impact will be minimal	No change  No change
R4-6-404(B), R4-6-504(B), and R4-6-604(B). Clinical Supervision for ... Licensure: An LCSW, LPC, and LMFT approved as a supervisor should be able to supervise any of three disciplines.	The Board believes it is important that supervision is provided by someone licensed in the field for which application is going to be made. The requirement allows 50 percent of the supervision to be provided by someone licensed in another field and R4-6-212.01 provides a procedure for obtaining an exemption to the clinical supervision requirements.	No change
R4-6-501. Curriculum: Requiring catalogs is outdated. Some universities no longer publish hard-copy catalogs.	The Board agrees.	The requirement was changed to require only a university-published description of a course.
R4-6-601(B) and R4-6-701(B). Curriculum: Indicate that the core content is to include but is not limited to the areas listed.	The Board agrees.	The phrase was added throughout the subsection.
R4-6-604(B). Clinical Supervision for Marriage and Family Therapy Licensure: Rather than requiring that 75 percent of supervision be provided by a LMFT, allow supervision to be provided by a LMFT or another licensed discipline with a national supervision certification.	The Board believes it is important that supervision is provided by someone licensed in the field for which application is going to be made. R4-6-212.01 provides a procedure for obtaining an exemption to the clinical supervision requirements.	No change
R4-6-702(D)(2). Licensed Associate Substance Abuse Counselor Curriculum: Amend the sentence to read, "Met the curriculum requirements with a bachelor's degree at the time the LSAT license was issued."	The Board agrees.	The word "curriculum" was added to the subsection.
R4-6-703(E)(2). Licensed Independent Substance Abuse Counselor Curriculum: Amend the sentence to read, "Met the curriculum requirements with a master's degree at the time the LASAC license was issued."	The Board agrees.	The word "curriculum" was added to the subsection.
R4-6-704(A)(2) and (B)(2). Examination: Even though the acronym does not work, the NAA-DAC is now called the Association of Addiction Professionals.	The comment is correct.	In both places, the rule was amended to read, "...NAADAC, the Association for Addiction Professionals."
R4-6-801. Renewal of License: Allow licensees to certify compliance with the CE requirement rather than have a staff person review all classes individually.	Ensuring compliance with the CE requirement is an important way the Board protects public health and safety.	No change
R4-6-1106. Telepractice: Recommends adding "except as otherwise provided by statute" to allow for future interstate compacts.	The Board agrees.	The phrase was added to both subsections (A) and (B).
R4-6-1106(B). Telepractice: Practice occurs where the professional is. This provision is not legally defensible.	The Board believes the provision is necessary to protect clients/patients.	No change
A.R.S. § 32-3253(C) and (D): The Board should establish in rule a program for impaired professionals; the Board does not need a rule regarding a program for impaired professionals. The Nursing Board has had a program for more than a decade and it is not in rule.	Statute provides that the Board may enter into stipulated agreement with an impaired licensee. No rule is necessary.	No change
The Board should count medical social work in a nephrology setting towards supervised work experience in clinical social work.	The Board believes clinical experience is missing from this work.	No change

**12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

Laws 2013, Chapter 242, Sec 25 requires the Board and the Department of Health Services to adopt the recommendations of the task force on patient consent and documentation best practices in rule by March 31, 2015. The necessary information is contained in R4-6-1101.

Laws 2013, Chapter 242, Sec 27 requires the Board to:

- Allow interested parties to provide written comments or testimony on the proposed exempt rules.



- Adequately address all comments including those regarding information contained in the economic, small business, and consumer impact statement.
- Prepare a mailing list of persons who wish to be notified on hearings relating to the proposed exempt rules.
- Hold at least two public hearings on the proposed exempt rules.
- Testify before the JLBC regarding the proposed exempt rules.

The Board complied fully with these requirements.

**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:**

For all four disciplines, the licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

**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:**

None of the rules is more stringent than federal law. No federal law is directly applicable to the subject of any of the rules in this rulemaking.

**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:**

None of the rules in this rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS**

**ARTICLE 1. DEFINITIONS**

Section  
R4-6-101. Definitions

**ARTICLE 2. GENERAL PROVISIONS**

Section  
R4-6-201. Board Meetings; Elections  
R4-6-202. ~~Board Elections Repealed~~  
R4-6-203. ~~Credentialing Academic Review Committee Meetings; Elections~~  
R4-6-204. ~~Credentialing Committee Elections Repealed~~  
R4-6-205. Change of Address; Contact Information  
R4-6-206. Change of Name  
R4-6-207. Confidential Records  
R4-6-208. Conviction of a Felony or Prior Disciplinary Action  
R4-6-209. Deadline Extensions  
R4-6-210. ~~Supervision Requirements General Practice Limitations~~  
R4-6-211. Direct Supervision; Requirements Supervised Work Experience: General  
R4-6-212. Clinical Supervision Requirements  
R4-6-212.01. Exemptions to Clinical Supervision Requirements  
R4-6-213. Registry of Clinical Supervisors  
R4-6-214. Clinical Supervisor Educational Requirements  
~~R4-6-213~~-R4-6-215. Fees and Charges  
~~R4-6-214~~-R4-6-216. Foreign Equivalency Determination

**ARTICLE 3. LICENSURE**

Section  
R4-6-301. Application for a ~~Regular~~ License by Examination  
R4-6-302. Licensing Time-frames  
Table 1. ~~Time-frames~~ Time Frames (in Days)  
R4-6-303. ~~Reassessment~~ Repealed



- R4-6-304. Application for a ~~Reciprocal~~ License by Endorsement
- R4-6-305. Inactive Status
- R4-6-306. Application for a Temporary License
- R4-6-307. Application for a Regular License by the Holder of a Reciprocal License Approval of an Educational Program

**ARTICLE 4. SOCIAL WORK**

- Section
- R4-6-401. Curriculum
- R4-6-402. Examination
- R4-6-403. Supervised Work Experience for Clinical Social Worker Licensure
- R4-6-404. Clinical Supervision for Clinical Social Worker Licensure
- R4-6-405. ~~Licensed Master Social Worker and Licensed Baccalaureate Social Worker Independent Practice Prohibition~~ Repealed

**ARTICLE 5. COUNSELING**

- Section
- R4-6-501. Curriculum
- R4-6-502. Examination
- R4-6-503. Supervised Work Experience for Professional Counselor Licensure
- R4-6-504. Clinical Supervision for Professional Counselor Licensure
- R4-6-505. ~~Licensed Associate Counselor Independent Practice Prohibition~~ Post-degree Programs

**ARTICLE 6. MARRIAGE AND FAMILY THERAPY**

- Section
- R4-6-601. Curriculum
- R4-6-602. Examination
- R4-6-603. Supervised Work Experience for Marriage and Family Therapy Licensure
- R4-6-604. Clinical Supervision for Marriage and Family Therapy Licensure
- R4-6-605. Post-degree Programs
- R4-6-606. ~~Licensed Associate Marriage and Family Therapist Independent Practice Prohibition~~ Repealed

**ARTICLE 7. SUBSTANCE ABUSE COUNSELING**

- Section
- R4-6-701. Licensed Substance Abuse Technician Curriculum
- R4-6-702. Licensed Associate Substance Abuse Counselor Curriculum
- R4-6-703. Licensed Independent Substance Abuse Counselor Curriculum
- R4-6-704. Examination
- R4-6-705. Supervised Work Experience for ~~Associate Substance Abuse Counselor and Independent~~ Substance Abuse Counselor Licensure
- R4-6-706. Clinical Supervision for ~~Associate Substance Abuse Counselor and Independent~~ Substance Abuse Counselor Licensure
- R4-6-707. ~~Licensed Substance Abuse Technician and Licensed Associate Substance Abuse Counselor Independent Practice Prohibition~~ Post-degree Programs

**ARTICLE 8. LICENSE RENEWAL AND CONTINUING EDUCATION**

- Section
- R4-6-801. Renewal of Licensure
- R4-6-802. Continuing Education
- R4-6-803. Continuing Education Documentation
- R4-6-804. ~~Licensure and Activity Specific Continuing Education Requirements~~ Repealed

**ARTICLE 9. APPEAL OF LICENSURE OR LICENSE RENEWAL INELIGIBILITY**

- Section
- R4-6-901. Appeal Process for Licensure Ineligibility
- R4-6-902. Appeal Process for Licensure Renewal Ineligibility

**ARTICLE 10. DISCIPLINARY PROCESS FOR UNPROFESSIONAL CONDUCT**

- Section
- R4-6-1001. ~~Disciplinary Process for Unprofessional Conduct~~
- R4-6-1002. Review or Rehearing of a Board Decision

**ARTICLE 11. STANDARDS OF PRACTICE**

- Section
- R4-6-1101. Consent for Treatment
- R4-6-1102. Treatment Plan



- R4-6-1103. Client Record
- R4-6-1104. Financial and Billing Records
- R4-6-1105. Confidentiality
- R4-6-1106. Telepractice

ARTICLE 1. DEFINITIONS

R4-6-101. Definitions

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

- ~~“Administrative completeness” review means the agency’s determination of whether all documents and information required by statute or rule to be submitted in an application packet have been provided and are complete.~~
- ~~“Agency” means the Arizona Board of Behavioral Health Examiner’s administrative office.~~
- ~~“Aggrieved party” means the state of Arizona or a licensee who is the subject of a complaint pending before the Board who disagrees with a Board decision resulting from a formal administrative hearing.~~
- 1. ~~“Applicant” means: a~~
  - a. An individual requesting a regular license by examination, or temporary license, or a license by reciprocity endorsement by submitting a completed application packet to the agency Board; or
  - b. A regionally accredited college or university seeking Board approval of an educational program under R4-6-307.
- 2. “Application packet” means the required documents, forms, fees, and additional information required by the Board of an applicant.
- 3. “ARC” means an academic review committee established by the Board under A.R.S. § 32-3261(A).
- 4. “Assessment” means the collection and analysis of information to determine an individual’s behavioral health treatment needs.
- 5. “A.S.W.B.” “ASWB” means the Association of Social Work Boards.
- 6. “Behavioral health entity” means any organization, agency, business, or professional practice, including a for-profit private practice, that which provides assessment, diagnosis, and treatment to individuals, groups, or families for behavioral health related issues.
- 7. “Behavioral health service” means the assessment, diagnosis, or treatment of an individual’s behavioral health issue.
- ~~“Board” means the Arizona Board of Behavioral Health Examiners.~~
- 8. “C.A.C.R.E.P.” “CACREP” means the Council on Accreditation for Counseling and Related Educational Programs.
- ~~“Client” means a patient who receives behavioral health services from a person licensed pursuant to A.R.S. § 32-3251 et seq.~~
- 9. “Client record” means the collected documentation of the behavioral health services provided to and the information gathered regarding a client.
- 10. “Clinical social work” means social work involving clinical assessment, diagnosis, and treatment of individuals, couples, families, and groups.
- 11. “Clinical supervision” means face-to-face, videoconferencing or telephonic direction or oversight provided either face to face or by videoconference or telephone by a qualified an individual qualified to evaluate, guide, and direct all behavioral health services provided by a licensee to assist the licensee to develop and improve the necessary knowledge, skills, techniques, and abilities to allow the licensee to engage in the practice of behavioral health ethically, safely, and competently.
- 12. “Clinical supervisor” means an individual who provides clinical supervision.
- 13. “COAMFTE” means the Commission on Accreditation for Marriage and Family Therapy Education.
- 14. “Clock hour” means 60 minutes of instruction, not including breaks or meals.
- 15. “Contemporaneous” means documentation is made within 10 business days.
- 16. “Continuing education” means training that provides an understanding of current developments, skills, procedures, or treatments related to the practice of behavioral health, as determined by the credentialing committee Board.
- 17. “Co-occurring disorder” means a combination of substance use disorder or addiction and a mental disorder or a personality disorder and substance abuse.
- 18. “C.O.R.E.” “CORE” means the Council on Rehabilitation Education.
- ~~“Council on Social Work Education” means the nationally recognized accrediting body for schools of social work.~~
- 19. “Counseling related coursework” means education that prepares an individual to provide behavioral health services, as determined by the credentialing committee ARC.
- ~~“Credentialing committee” means a committee established pursuant to A.R.S. § 32-3251 et seq.~~
- 20. “CSWE” means Council on Social Work Education.
- 21. “Date of service” means the postmark date mailed by regular United States mail applied by the U.S. Postal Service to materials addressed to the last address an applicant or licensee at the address the applicant or licensee last placed on file at the agency in writing by the applicant or licensee with the Board.



22. "Day" means calendar day.
23. "Direct client contact" means, beginning November 1, 2015, the performance of therapeutic or clinical functions related to the applicant's professional practice level of psychotherapy that includes diagnosis, assessment and treatment and that may include psychoeducation for mental, emotional and behavioral disorders based primarily on verbal or nonverbal communications and intervention with, and in the presence of, one or more clients. A.R.S. § 32-3251.
24. "Direct supervision" means ~~immediate~~ responsibility and oversight for all services provided by a supervisee as prescribed in R4-6-211.
25. "Disciplinary action" means any action taken by the Board against a licensee, ~~or applicant~~ based on a finding that the licensee ~~has~~ engaged in unprofessional conduct, ~~and includes all sanctions of any kind,~~ including refusing to ~~grant or~~ renew a license and suspending or revoking a license.
26. "Documentation" means written or electronic supportive evidence.
27. "Educational program" means a degree program in counseling, marriage and family therapy, social work, or substance use or addiction counseling that is:
- Offered by a regionally accredited college or university, and
  - Not accredited by an organization or entity recognized by the Board.
28. "Electronic signature" means an electronic sound, symbol, or process that is attached to or logically associated with a record and that is executed or adopted by an individual with the intent to sign the record.
29. "Family member" means a parent, sibling, half-sibling, child, cousin, aunt, uncle, niece, nephew, grandparent, grandchild, and present and former spouse, in-law, stepchild, stepparent, foster parent, or significant other.
30. "Gross negligence" means ~~the~~ careless or reckless disregard of established standards of practice or ~~the~~ repeated failure to exercise the care that a reasonable practitioner would exercise within the scope of professional practice.  
~~"Group clinical supervision" means clinical supervision provided by a clinical supervisor to two but no more than six supervisees.~~  
~~"Immediate family member" means a parent, sibling, half-sibling, child, cousin, aunt, uncle, niece, nephew, grandparent, grandchild, and present and former spouse, in-law, stepchild, stepparent, or foster parent.~~
31. "Inactive status" means the Board has granted a licensee the right to suspend behavioral health practice temporarily by postponing license renewal for a maximum of 48 months.
32. "Independent contractor" means a licensed behavioral health professional whose contract to provide services on behalf of a behavioral health entity qualifies for independent contractor status under the codes, rules, and regulations of the Internal Revenue Service of the United States.
33. "Independent practice" means engaging in the practice of marriage and family therapy, professional counseling, social work, or substance abuse counseling without direct supervision.  
~~"Inactive status" means a licensee has temporarily suspended practice under Arizona licensure by postponing renewal of licensure for a maximum of 48 months.~~
34. "Indirect client service" means, beginning November 1, 2015, training for, and the performance of, functions of an applicant's professional practice level in preparation for or on behalf of a client for whom direct client contact functions are also performed, including case consultation and receipt of clinical supervision. Indirect client service does not include the provision of psychoeducation. A.R.S. § 32-3251.
35. "Individual clinical supervision" means clinical supervision provided by a clinical supervisor to one supervisee.  
~~"Ineligible" means failure to meet licensure requirements based upon unprofessional conduct by the applicant or failure to meet minimum licensure or renewal requirements.~~
36. "Informed consent for treatment" means a written document authorizing treatment of a client that:
- Contains the requirements of R4-6-1101;
  - Is dated and signed by the client or the client's legal representative, and
  - Beginning on July 1, 2006, is dated and signed by an authorized representative of the behavioral health entity.
- ~~"Last client contact" means the last time a licensee communicated orally or in writing with a client for the purpose of providing or coordinating treatment.~~
37. "Legal representative" means an individual authorized by law to act on a client's behalf.
38. "License" means written authorization issued by the Board that allows an individual to engage in the practice of behavioral health in Arizona.  
~~"Licensee" means an individual holding a current license issued by the Board to practice behavioral health in Arizona.~~
39. "License period" means the two years between the dates on which the Board issues a license and the license expires.
40. "NASAC" means the National Addiction Studies Accreditation Commission.  
~~"Passing score" means the minimum acceptable score that an applicant is required to obtain on an examination as determined by the Board.~~
41. "Practice of behavioral health" means the practice of marriage and family therapy, professional counseling, social work and substance abuse counseling pursuant to A.R.S. § 32-3251 et seq. this Chapter. A.R.S. § 32-3251.



- 42. "Practice of marriage and family therapy" means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral. The practice of marriage and family therapy includes:
  - a. Assessment, appraisal and diagnosis.
  - b. The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups. A.R.S. § 32-3251.
- 43. "Practice of professional counseling" means the professional application of mental health, psychological and human development theories, principles and techniques to:
  - a. Facilitate human development and adjustment throughout the human life span.
  - b. Assess and facilitate career development.
  - c. Treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral.
  - d. Manage symptoms of mental illness.
  - e. Assess, appraise, evaluate, diagnose and treat individuals, couples, families and groups through the use of psychotherapy. A.R.S. § 32-3251.
- 44. "Practice of social work" means the professional application of social work ~~theory~~ theories, principles, methods and techniques to:
  - a. Treat mental, behavioral and emotional disorders.
  - b. Assist individuals, families groups and communities to enhance or restore the ability to function physically, socially, emotionally, mentally and economically.
  - c. Assess, appraise, diagnose, evaluate and treat individuals, couples, families and groups through the use of psychotherapy. A.R.S. § 32-3251.
- 45. "Practice of substance abuse counseling" means the professional application of general counseling theories, principles and techniques as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing substance abuse, chemical dependency and related problems and to the families of those persons. The practice of substance abuse counseling includes the following as they relate to substance abuse and chemical dependency issues:
  - a. Assessment, appraisal, and diagnosis.
  - b. The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups. A.R.S. § 32-3251.
- 46. "Progress note" means contemporaneous documentation of a behavioral health service provided to an individual that is dated and signed or electronically acknowledged by the licensee.
- 47. "Psychoeducation" means the education of a client as part of a treatment process that provides the client with information regarding mental health, emotional disorders or behavioral health." A.R.S. § 32-3251.
- 48. "Quorum" means a majority of the ~~appointed~~ members of the Board or a credentialing committee an ARC. Vacant positions do not reduce the quorum requirement.
- 49. "Regionally accredited college or university" means approved by the:
  - a. New England Association of Schools and Colleges;<sub>;</sub>
  - b. Middle States Association of Colleges and Schools Commission on Higher Education;
  - c. North Central Association of Colleges and Schools;<sub>;</sub>
  - d. Northwest Association of Schools and Commission on Colleges and Universities;
  - e. Southern Association of Schools and Colleges and Schools; or
  - f. Western Association of Schools and Colleges.

~~"Release of information" means a written authorization, dated and signed by a client or a client's legal representative, that allows a licensee to provide specified treatment information to the individual or individuals designated in the written release of information.~~
- 50. "Significant other" means an individual whose participation ~~the~~ a client considers to be essential to the effective provision of behavioral health services to the client.  
~~"Substantive review" means a credentialing committee's determination whether an applicant is eligible for licensure.~~
- 51. "Supervised work experience" means practicing clinical social work, marriage and family therapy, professional counseling, or substance abuse counseling for remuneration or on a voluntary basis under direct supervision and while receiving clinical supervision as prescribed in R4-6-212 and Articles 4 through 7.  
~~"Three semester credit hour course" means a three semester credit hour course, a four quarter credit hour course or a four trimester credit hour course.~~
- 52. "Telepractice" means providing behavioral health services through interactive audio, video or electronic communication that occurs between a behavioral health professional and the client, including any electronic communication for evaluation, diagnosis and treatment, including distance counseling, in a secure platform, and that meets the requirements of telemedicine pursuant to A.R.S. § 36-3602. A.R.S. § 32-3251.



53. "Treatment" means the application by a licensee of one or more therapeutic practice methods to improve, eliminate, or manage a client's behavioral health issue.
54. "Treatment goal" means the desired result or outcome of treatment.
55. "Treatment method" means the specific approach a licensee used to achieve a treatment goal.
56. "Treatment plan" means a description of the specific behavioral health services that a licensee will provide to a client that is documented in the client record, and meets the requirements found in R4-6-1102.

## ARTICLE 2. GENERAL PROVISIONS

### R4-6-201. Board Meetings; Elections

- A. The Board:
1. Shall meet at least annually in June and elect the officers specified in A.R.S. § 32-3252(E);
  2. Shall fill a vacancy that occurs in an officer position at the next Board meeting; and
  - 2-3. May hold additional meetings:
    - a. As necessary to conduct the Board's business; and
    - b. If requested by the Chair, a majority vote of the Board members, or upon written request from two Board members.
- B. The Board may shall conduct official business only when a quorum is present.
- C. The vote of a majority of the Board members present is required for Board action.

### R4-6-202. Board Elections Repealed

- ~~A. At the annual meeting in June, the Board shall elect, by a majority vote of the Board members present, a Chair and a Secretary/Treasurer.~~
- ~~B. A vacancy that occurs in either office shall be filled, by a majority vote of the Board members present, at the first Board meeting following the vacancy.~~

### R4-6-203. Credentialing Academic Review Committee Meetings; Elections

- A. Each credentialing committee ARC:
1. Shall meet at least annually in June and elect a Chair and Secretary;
  2. Shall fill a vacancy that occurs in an officer position at the next ARC meeting; and
  - 2-3. May hold additional meetings:
    - a. As necessary to conduct the credentialing committee's ARC's business; and
    - b. If requested by the Chair of the credentialing committee ARC, a majority vote of the credentialing committee ARC, or upon written request from two credentialing committee members of the ARC.
- B. A credentialing committee An ARC shall conduct official business only when a quorum is present.
- C. The vote of a majority of the ARC members present is required for ARC action.

### R4-6-204. Credentialing Committee Elections Repealed

- ~~A. At the credentialing committee meeting in June of each year, the credentialing committee shall elect, by a majority vote of the credentialing committee members present, a Chair and Secretary.~~
- ~~B. A vacancy that occurs in either office shall be filled, by a majority vote of the credentialing committee members present, at the first credentialing committee meeting following the vacancy.~~

### R4-6-205. Change of Address Contact Information

- A. The Board shall communicate with a licensee or applicant using the contact information provided to the Board including:
1. Home address and telephone number.
  2. Office address and telephone number.
  3. Mobile telephone number, and
  4. E-mail address.
- B. To ensure timely communication with the Board, A a licensee or applicant shall notify the agency Board in writing no later than within 30 days after any change of the licensee's or applicant's residence or office mailing address or residence or office telephone number contact information listed in subsection (A). The licensee or applicant shall ensure that the written notice provided to the Board includes the new contact information.

### R4-6-206. Change of Name

- A licensee or an applicant shall notify the agency Board in writing no later than within 30 days after a name change, the applicant's or licensee's name is changed. The applicant or licensee shall attach to the written notice:
1. provide a A copy of a legal documentation establishing document that establishes the name change, such as a marriage certificate, divorce decree, or court order and surrender any previous license issued by the Board to the licensee; or
  2. A copy of two forms of identification, one of which includes a picture of the applicant or licensee, reflecting the changed name.

### R4-6-207. Confidential Records

- A. The Except as provided in A.R.S. § 32-3282, the following records are confidential and not open to public inspection:
1. Minutes of executive session;



- 2. Records classified as confidential by other laws, rules, or regulations;
  - 3. College or university transcripts, licensure examination scores, medical or mental health information, and professional references of applicants except that the individual who is the subject of the information may view or copy the records or authorize a release of these records to a third party.
  - 4. Records for which the Board ~~or credentialing committee~~ determines that public disclosure would have a significant adverse effect on the Board's ~~or credentialing committee's~~ ability to perform its duties or ~~which~~ would otherwise be detrimental to the best interests of the state. When the Board ~~or credentialing committee~~ determines that the reason justifying the confidentiality of the records no longer exists, the record shall be made available for public inspection and copying; and
  - 5. All investigative materials regarding any pending or resolved complaint.
- B.** ~~Persons~~ As provided under A.R.S. § 39-121, a person wanting to inspect Board ~~or credentialing committee~~ records that are available for public inspection may do so at the agency Board office by appointment Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays, after giving the agency reasonable notice in writing to prepare for the inspection.

**R4-6-208. Conviction of a Felony or Prior Disciplinary Action**

- A.** ~~The Board shall consider the following factors to determine whether a felony conviction or prior disciplinary action will result in imposing disciplinary sanctions on~~ including refusing to renew the license of a licensee or an applicant, including refusing to renew the license of a licensee or refusing to issue a license to an applicant:
- 1. The age of the licensee or applicant at the time of the felony conviction or when the prior disciplinary action occurred;
  - 2. The seriousness of the felony conviction or prior disciplinary action;
  - 3. The factors underlying the conduct that led to the felony conviction ~~of the felony~~ or imposition of disciplinary action;
  - 4. The length of time since the felony conviction or prior disciplinary action;
  - 5. The relationship between the practice of the profession and the conduct giving rise to the felony conviction or prior disciplinary action;
  - 6. The licensee's or applicant's efforts toward rehabilitation;
  - 7. The assessments and recommendations of qualified professionals regarding the licensee's or applicant's rehabilitative efforts;
  - 8. The licensee's or applicant's cooperation or non-cooperation with the Board's background investigation regarding the felony conviction or prior disciplinary action; and
  - 9. Other factors the Board ~~or credentialing committee~~ deems relevant.

**R4-6-209. Deadline Extensions**

- A.** Deadlines established by date of service may be extended a maximum of two times by the chair of the Board or the chair of the ~~credentialing committee~~ ARC if ~~good cause is documented in a written request is~~ postmarked or received by delivered to the agency Board no later than the required deadline.
- B.** ~~The Board shall consider the following to determine whether good cause has been established:~~
- 1. ~~Illness or disability;~~
  - 2. ~~Military service; or~~
  - 3. ~~Any other circumstance beyond the control of the individual requesting a deadline extension.~~
- C.** ~~The Board shall not grant an extension for~~ deadlines regarding renewal submission deadlines, or late renewal submission deadlines or reassessment deadlines.
- C.** If a deadline falls on a Saturday, Sunday, or official state holiday, the Board considers the next business day the deadline.

**R4-6-210. Supervision Requirements — General Practice Limitations**

- ~~In addition to the specific supervision requirements contained in Articles 4, 5, 6, and 7:~~
- 1. ~~An immediate family member or other individual whose objective assessment of the supervisee's performance may be limited by a relationship with the supervisee shall not provide direct or clinical supervision.~~
  - 2. ~~A supervisee may not acquire supervised work experience in a professional setting which the supervisee operates or manages or in which the supervisee has an ownership interest.~~
  - 3. ~~Supervised work experience acquired as an independent contractor must include the following:~~
    - a. ~~The supervisee has entered into a written contract to provide services for a behavioral health entity;~~
    - b. ~~The supervisee receives an appropriate level of direct supervision from the contracting behavioral health entity, as determined by the Board;~~
    - e. ~~The supervisee is paid by the contracting behavioral health entity and receives no payment directly from clients;~~
    - d. ~~The supervisee provides services to clients who are advised in writing that they are clients of the contracting behavioral health entity.~~
    - e. ~~The written contract between the contracting behavioral health entity and the supervisee provides that the supervisee is required to comply with the contracting behavioral health entity's clinical policies and procedures, including its code of ethics and record-keeping procedures; and~~



- f. ~~The written contract between the contracting behavioral health entity and the supervisee provides that all client records belong to the contracting behavioral health entity and remain the contracting behavioral health entity's property at the termination of the contract between the contracting behavioral health entity and the supervisee.~~
- 4. ~~Beginning on January 1, 2006, the Board shall not accept work experience acquired after December 31, 2005, by an unlicensed professional practicing under an exemption provided in A.R.S. § 32-3271.~~

The following licensees shall not engage in the independent practice of behavioral health but rather, shall practice behavioral health only under direct supervision as prescribed in R4-6-211:

1. Licensed baccalaureate social worker.
2. Licensed master social worker.
3. Licensed associate counselor.
4. Licensed associate marriage and family therapist.
5. Licensed substance abuse technician.
6. Licensed associate substance abuse counselor, or
7. Temporary licensee.

#### **R4-6-211. Direct Supervision; Requirements Supervised Work Experience: General**

- A.** ~~In addition to the specific supervision requirements contained in Articles 4, 5, 6, and 7:~~
  1. ~~A direct supervisor must be employed by the same entity as the supervisee.~~
  2. ~~An individual shall provide direct supervision to a maximum of 15 supervisees at the same time.~~
- B.** ~~An applicant may submit a written request to the credentialing committee for an exemption from the requirement of subsection (A)(2). The credentialing committee shall review the exemption request and the direct supervisor's other job responsibilities to determine whether the direct supervisor can provide an appropriate level of direct supervision to more than 15 supervisees at the same time. The credentialing committee shall not grant an exemption request for more than 30 supervisees.~~
  - A.** A licensee working under direct supervision shall not:
    1. Have an ownership interest in, operate, or manage the entity with immediate responsibility for the behavioral health services provided by the licensee;
    2. Receive supervision from a family member or an individual whose objective assessment may be limited by a relationship with the licensee;
    3. Engage in the independent practice of behavioral health; or
    4. Be directly compensated by behavioral health clients.
  - B.** To meet the supervised work experience requirements for licensure, supervision shall:
    1. Meet the specific supervised work experience requirements contained in Articles 4, 5, 6, and 7;
    2. Be acquired after completing the degree required for licensure and receiving certification or licensure from a state regulatory entity;
    3. Be acquired before January 1, 2006, if acquired as an unlicensed professional practicing under an exemption provided in A.R.S. § 32-3271;
    4. Meet the direct supervision requirements specified in subsection (A);
    5. Involve the practice of behavioral health; and
    6. Be for a term of no fewer than 24 months.
  - C.** If the Board determines that an applicant engaged in unprofessional conduct related to services rendered while acquiring hours under supervised work experience, including clinical supervision, the Board shall not accept the hours to satisfy the requirements of R4-6-403, R4-6-503, R4-6-603, or R4-6-706. Hours accrued before and after the time during which the conduct that was the subject of the finding of unprofessional conduct occurred, as determined by the Board, may be used to satisfy the requirements of R4-6-403, R4-6-503, R4-6-603, or R4-6-706 so long as the hours are not the subject of an additional finding of unprofessional conduct.

#### **R4-6-212. Clinical Supervision Requirements**

- A.** The Board shall accept hours of clinical supervision submitted by an applicant if the clinical supervision meets the requirements specified in R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made, and was provided by one of the following:
  1. A clinical social worker, professional counselor, independent marriage and family therapist, or independent substance abuse counselor who:
    - a. Holds an active and unrestricted license issued by the Board, and
    - b. Has complied with the educational requirements specified in R4-6-214;
  2. A mental health professional who holds an active and unrestricted license issued under A.R.S. Title 32, Chapter 19.1 as a psychologist and has complied with the educational requirements specified in R4-6-214; or
  3. An individual who:
    - a. Holds an active and unrestricted license to practice behavioral health,
    - b. Is providing behavioral health services in Arizona:
      - i. Under a contract or grant with the federal government under the authority of 25 U.S.C. § 450-450(n) or § 1601-1683, or



- ii. By appointment under 38 U.S.C. § 7402 (8-11), and
- c. Has complied with the educational requirements specified in R4-6-214.

~~A.B.~~ An individual shall provide clinical supervision to a maximum of 15 supervisees at the same time. Unless an exemption was obtained under R4-6-212.01, the Board shall accept hours of clinical supervision submitted by an applicant if the clinical supervision was provided by an individual who:

- 1. Was qualified under subsection (A), and
- 2. Was employed by the behavioral health entity at which the applicant obtained hours of clinical supervision.
- ~~B.~~ An applicant may submit a written request to the credentialing committee for an exemption from the requirement of subsection (A). The credentialing committee shall review the exemption request and the clinical supervisor's other job responsibilities to determine whether the clinical supervisor can provide an appropriate level of clinical supervision to more than 15 supervisees at the same time. The credentialing committee shall not grant an exemption request for more than 30 supervisees.
- ~~C.~~ A clinical supervisor shall have experience, training, and competence adequate to perform and direct all services provided by the supervisee.
- ~~D.~~ No more than 25 percent of the clinical supervision hours required for licensure as a professional counselor, marriage and family therapist, social worker, or substance abuse counselor may be acquired telephonically.
- ~~E.~~ Clinical supervision acquired telephonically shall not be accepted for a communication lasting less than 30 minutes.
- ~~F.C.~~ To be approved by the Board, shall include The Board shall accept hours of clinical supervision submitted by an applicant if the clinical supervision includes all of the following:
  - 1. A review of ~~Reviewing~~ ethical and legal requirements applicable to the supervisee's practice, including unprofessional conduct as defined in A.R.S. § 32-3251(+2);
  - 2. Monitoring of the supervisee's activities to verify the supervisee is providing services safely and competently;
  - 3. ~~Verification~~ Verifying in writing that the supervisee provides clients with appropriate written notice of clinical supervision, including the means to obtain the name and telephone number of the supervisee's clinical supervisor;
  - 4. ~~Documentation written and maintained~~ Contemporaneously written documentation by the clinical supervisor for a minimum of seven years of all clinical supervision sessions that, for each clinical supervision session, at a minimum, includes at least the following for each clinical supervision session:
    - a. The date Date and duration of each the clinical supervision session;
    - b. A comprehensive clinical description Description of topics discussed during each clinical supervision session. Identifying information regarding clients is not required;
    - c. Beginning on July 1, 2006, the name and signature of the individual receiving clinical supervision;
    - d. The name, Name and signature, and telephone number of the clinical supervisor and the date signed; and
    - e. Whether the clinical supervision occurred on a group or individual basis;
  - 5. Maintaining the documentation of clinical supervision required under subsection (C)(4) for at least seven years;
  - ~~5-6.~~ ~~Verification~~ Verifying that no conflict of interest exists between the clinical supervisor and the supervisee supervisee's clients;
  - ~~6-7.~~ ~~Verification~~ Verifying that no conflict of interest exists between the supervisee and the supervisee's clients; and clinical supervision was not acquired:
    - a. From a family member or other individual whose objective assessment of the supervisee's performance may be limited by a relationship with the supervisee; or
    - b. In a professional setting in which the supervisee has an ownership interest or operates or manages.
  - ~~7-8.~~ Monitoring of the supervisee's clinical documentation through Conducting on-going compliance review of the supervisee's clinical documentation to ensure that the supervisee maintains adequate written documentation;
  - 9. Providing instruction regarding:
    - a. Assessment,
    - b. Diagnosis,
    - c. Treatment plan development, and
    - d. Treatment;
  - 10. Rating the supervisee's overall performance as at least satisfactory, using a form approved by the Board; and
  - 11. Complying with the discipline-specific requirements in Articles 4 through 7 regarding clinical supervision.
- ~~D.~~ The Board shall accept hours of clinical supervision submitted by an applicant for licensure if:
  - 1. At least two hours of the clinical supervision were provided in a face-to-face setting during each six-month period;
  - 2. No more than 90 hours of the clinical supervision were provided by videoconference and telephone.
  - 3. No more than 15 of the 90 hours of clinical supervision provided by videoconference and telephone were provided by telephone; and
  - 4. Each clinical supervision session was at least 30 minutes long.

~~G.E.~~ Effective July 1, 2006, the Board shall accept hours of clinical supervision submitted by an applicant if at least 10 of the hours involve the clinical supervisor observing the supervisee providing treatment and evaluation services to a client, must receive a minimum of 10 hours of clinical supervision obtained during direct observation or a review of audiotapes or videotapes by the clinical supervisor of the applicant while the applicant is providing treatment and evaluation services to a client The clinical supervisor may conduct the observation:

- 1. In a face-to-face setting.



2. By videoconference.
  3. By teleconference, or
  4. By review of audio or video recordings.
- ~~H.F.~~ The Board shall accept hours of clinical supervision submitted by an applicant may submit clinical supervision hours from a maximum of four six clinical supervisors.
- ~~I.G.~~ Clinical The Board shall accept hours of clinical supervision obtained by an applicant may include in both individual and group supervision sessions, subject to the following restrictions:
1. At least 25 percent of the clinical supervision hours involve individual supervision.
  2. No more than 75 percent of the clinical supervision hours may involve a group of two supervisees; and
  3. No more than 50 percent of the clinical supervision hours involve a group of three to six supervisees. Group clinical supervision hours shall not exceed individual supervision hours.
- ~~J.~~ Clinical supervision of a supervisee for licensure as a marriage and family therapist, professional counselor, clinical social worker, or independent substance abuse counselor. Beginning on July 1, 2006, a licensee acting as a clinical supervisor shall complete continuing education as follows:
1. Between July 1, 2004, and the individual's first license expiration date following July 1, 2006, at least 12 clock hours shall be taken in the following categories:
    - a. The role and responsibility of a clinical supervisor;
    - b. The skill sets necessary to provide oversight and guidance to a supervisee who diagnoses, creates treatment plans, and treats clients;
    - e. The concepts of supervision methods and techniques; and
    - d. Evaluation of a supervisee's ability to plan and implement clinical assessment and treatment processes; and
  2. A licensee who seeks to continue providing clinical supervision after completion of the requirements under subsection (J)(1) shall complete at least six clock hours of continuing education as provided in subsections (J)(1)(a) through (d) between the date the Board receives the licensee's last renewal application and the next license expiration date.
- ~~K.~~ Clinical supervision by a licensee of the Arizona Board of Psychologist Examiners, the Arizona Medical Board, the Arizona Board of Osteopathic Examiners in Medicine and Surgery, or the Arizona Board of Nursing. Beginning on July 1, 2006, a clinical supervisor of a supervisee listed in subsection (J) shall comply with the continuing education requirements under subsections (J)(1) and (2).
- ~~L.~~ Clinical supervision training required pursuant to subsections (J) and (K) shall be waived if the clinical supervisor holds any of the following certifications or designations if the certification or designation is current as of the clinical supervisor's license renewal date:
1. National Board for Certified Counselors/Center for Credentialing and Education ("NBCC/CCE") Approved Clinical Supervisor certification;
  2. International Certification and Reciprocity Consortium ("ICRC") Clinical Supervisor certification, or
  3. American Association of Marriage and Family Therapists Clinical Member with Approved Supervisor designation.
- ~~H.~~ If an applicant provides evidence that a catastrophic event prohibits the applicant from obtaining documentation of clinical supervision that meets the standard specified in subsection (C)(4), the Board shall consider alternate documentation.

#### **R4-6-212.01. Exemptions to the Clinical Supervision Requirements**

The Board shall accept hours of clinical supervision submitted by an applicant if the clinical supervision meets the requirements specified in R4-6-212 and R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made, unless an exemption is granted as follows:

1. An individual using supervised work experience acquired in Arizona may apply to the Board for an exemption from the following requirements:
  - a. Qualifications of the clinical supervisor. The Board may grant an exemption to the supervisor qualification requirements in R4-6-212(A) and R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made, if the Board determines that:
    - i. A qualified supervisor is not available because of the size and geographic location of the professional setting in which the clinical supervision will occur; or
    - ii. The behavioral health professional who provided or will provide the clinical supervision holds an active and unrestricted license issued under A.R.S. Title 32 as a physician under Chapter 13 or 17 with certification in psychiatry or addiction medicine or as a nurse practitioner under Chapter 15 with certification in mental health; and
    - iii. The behavioral health professional who provided or will provide the clinical supervision has education, training, and experience necessary to provide clinical supervision and has complied with the educational requirements specified in R4-6-214;
  - b. Employment of clinical supervisor. The Board may grant an exemption to the requirement in R4-6-212(B) regarding employment of the supervisor by the behavioral health entity at which the supervisee obtains hours of clinical supervision if the Board determines that the supervisor and behavioral health entity have a written contract that:
    - i. Requires the supervisor to comply with all provisions of R4-6-212.
    - ii. Guarantees the supervisor unrestricted access to all clinical records maintained by the supervisee, and



- iii. Requires the supervisee to obtain written authorization from all clients for release of the clients' records to the supervisor; and
- c. Discipline-specific changes. The Board may grant an exemption to a requirement in R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made, that changed on November 1, 2015, and had the effect of making the clinical supervision previously completed or completed no later than October 31, 2017, non-compliant with the clinical supervision requirements. If the Board grants an exemption under this subsection, the Board shall evaluate the applicant's clinical supervision using the requirements in existence before November 1, 2015.
- 2. An individual using supervised work experience acquired outside of Arizona may apply to the Board for an exemption from the supervision requirements in R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made. The Board may grant an exemption for supervised work experience acquired outside of Arizona if the Board determines that:
  - a. Clinical supervision was provided by a behavioral health professional qualified by education, training, and experience to provide supervision; and
  - b. The behavioral health professional providing the supervision met one of the following:
    - i. Complied with the educational requirements specified in R4-6-214.
    - ii. Complied with the clinical supervisor requirements of the state in which the supervision occurred, or
    - iii. Was approved to provide supervision to the applicant by the state in which the supervision occurred.

**R4-6-213. Registry of Clinical Supervisors**

- A.** The Board shall maintain a registry of individuals who have met the educational requirements to provide supervision that are specified in R4-6-214.
- B.** To be included on the registry of clinical supervisors, an individual shall submit the following to the Board:
  - 1. A registration form approved by the Board;
  - 2. Evidence of being qualified under R4-6-212(A); and
  - 3. Documentation of having completed the education required under R4-6-214.
- C.** The Board shall include an individual who complies with subsection (B) on the registry of clinical supervisors. To remain on the registry of clinical supervisors, an individual shall submit the following to the Board:
  - 1. A registration form approved by the Board;
  - 2. Evidence of being qualified under R4-6-212(A); and
  - 3. Documentation of having completed the continuing education required under R4-6-214.
- D.** If the Board notified an individual before November 1, 2015, that the Board determined the individual was qualified to provide clinical supervision, the Board shall include the individual on the registry maintained under subsection (A). To remain on the registry of clinical supervisors, the individual shall comply with subsection (C).

**R4-6-214. Clinical Supervisor Educational Requirements**

- A.** The Board shall consider hours of clinical supervision submitted by an applicant only if the individual who provides the clinical supervision is qualified under R4-6-212(A) and complies with the following:
  - 1. Completes one of the following:
    - a. At least 12 hours of training that meets the standard specified in R4-6-802(D), addresses clinical supervision, and includes the following:
      - i. Role and responsibilities of a clinical supervisor;
      - ii. Skills in providing effective oversight of and guidance to supervisees who diagnose, create treatment plans, and treat clients;
      - iii. Supervisory methods and techniques; and
      - iv. Fair and accurate evaluation of a supervisee's ability to plan and implement clinical assessment and treatment;
    - b. An approved clinical supervisor certification from the National Board for Certified Counselors/Center for Credentialing and Education;
    - c. A clinical supervisor certification from the International Certification and Reciprocity Consortium; or
    - d. A clinical member with an approved supervisor designation from the American Association of Marriage and Family Therapy; and
  - 2. Beginning January 1, 2018, completes a Board-approved tutorial on Board statutes and rules.
- B.** Through December 31, 2017, the Board shall consider hours of clinical supervision submitted by an applicant if the individual who provided the clinical supervision was licensed at an independent level, qualified under R4-6-212(A), and the supervision was provided during the first two years the individual was licensed at the independent level.
  - 1. For the Board to continue to accept hours of clinical supervision provided by the individual described under subsection (B), the individual shall have obtained at least 12 hours of training described in subsection (A)(1)(a):
    - a. Before the individual's license expired for the first time; or
    - b. Before providing supervision if the 12 hours of training described in subsection (A)(1)(a) were obtained after the individual's license expired;



2. For the Board to continue to accept hours of clinical supervision provided by the individual described under subsection (B)(1), the individual shall have obtained at least six hours of training described in subsection (A)(1)(a) before the individual's license expires again and during each subsequent license period expiring before January 1, 2018;
  3. For the Board to continue to accept hours of clinical supervision provided by the individual described under subsection (B)(2), the individual shall comply fully with subsection (C) before the individual's license expires for the first time on or after January 1, 2018.
- C.** To continue providing clinical supervision, an individual qualified under subsection (A)(1)(a) shall, at least every three years:
1. Complete a minimum of nine hours of continuing training that meets the standard specified in R4-6-802(D), concerns clinical supervision, and addresses the topics listed in subsection (A)(1)(a); and
  2. Beginning January 1, 2018, complete a Board-approved tutorial on Board statutes and rules.
- D.** To continue providing clinical supervision, an individual qualified under subsections (A)(1)(b) through (d) shall:
1. Provide documentation that the national certification or designation was renewed before it expired, and
  2. Beginning January 1, 2018, complete a Board-approved tutorial on Board statutes and rules.

#### **R4-6-213, R4-6-215, Fees and Charges**

- A.** The Under the authority provided by A.R.S. § 32-3272, the Board shall establish at its June meeting nonrefundable establishes and shall collect the following fees for:
1. Application for a regular license by examination; \$250;
  2. Application for a reciprocal license by endorsement; \$250;
  3. Issuance of license for non-independent level of practice (LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT); \$100;
  4. Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT); \$250;
  - 3-5. Application for a temporary license; \$50;
  4. Fingerprint background check;
  6. Application for approval of educational program; \$500;
  7. Application for approval of an educational program change; \$250;
  - 5-8. Biennial renewal of first area of licensure; \$350;
  9. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time; \$175;
  6. Duplicate license;
  - 7-10. Late renewal penalty; \$100 in addition to the biennial renewal fee;
  - 8-11. Inactive status request; \$100; and
  - 9-12. Late inactive status request; \$100 in addition to the inactive status request fee.
  10. Reassessment of eligibility;
- B.** The Board shall charge the following amounts for the services it provides:
1. Issuing a duplicate license; \$25;
  2. Criminal history background check; \$40;
  - 11-3. General copying Paper copy of records; \$ .50 per page after the first four pages;
  - 12-4. Commercial copying Electronic copy of records; \$25;
  13. Public records requests;
  - 14-5. Copying audiotapes; Copy of a Board meeting audio recording; \$20;
  - 15-6. Verification of licensure; \$20 per discipline or free if downloaded from the Board's web site;
  - 16-7. Copies of the Board's rules and statutes book; \$10 or free if downloaded from the Board's web site;
  - 17-8. Directory Mailing list of licensees; \$150, and
  - 18-9. Returned checks check due to insufficient funds; \$50.
- C.** The application fees in subsections (A)(1) and (2) are non-refundable. Other fees established in subsection (A) are not refundable unless the provisions of A.R.S. § 41-1077 apply.
- B-D.** The Board shall accept payment of fees and charges as follows:
1. For an amount of \$40 or less, a personal or business check;
  2. For a fingerprint background check, a personal or business check; and
  - 3-2. For all other fees amounts greater than \$40, a certified check, cashier's check, or money order; and
  3. By proof of online payment by credit card for the following:
    - a. All fees in subsection (A);
    - b. The charge in subsection (B)(2) for a criminal history background check; and
    - c. The charge in subsection (B)(8) for a mailing list of licensees.
- C.** The agency shall make the current fee schedule available to the public.
- E.** An applicant shall make payment for a criminal history background check separate from payment for other fees and charges.
- D.** Fees for required examinations are set by contract between the Board and the organizations administering the approved examinations.

#### **R4-6-214, R4-6-216, Foreign Equivalency Determination**



The Board shall accept as qualification for licensure a degree from an institution of higher education in a foreign country ~~degrees that meet~~ if the degree is substantially equivalent to the educational standards required in this Chapter for professional counseling, marriage and family therapy, and substance abuse counseling licensure. To enable the Board to determine whether a foreign degree ~~meets~~ is substantially equivalent to the educational standards required in this Chapter, the applicant shall, at the applicant's expense, have the foreign degree evaluated by an entity approved by the Board.

ARTICLE 3. LICENSURE

**R4-6-301. Application for a ~~Regular~~ License by Examination**

An applicant for a ~~regular~~ license by examination shall submit a completed application packet that contains the following:

1. A notarized statement, signed by the applicant, ~~stating~~ certifying that all information submitted in support of the application is true and correct;
2. Identification of the license for which application is made;
- ~~2-3.~~ The license application fee required under ~~R4-6-213~~ R4-6-215;
- ~~3-4.~~ The applicant's name, date of birth, social security number, ~~residence and business address, and residence and business telephone number and contact information;~~
- ~~4-5.~~ Each name or alias previously or currently used by the applicant;
- ~~5-6.~~ The name of each college or university the applicant attended and an official transcript for all education used to meet requirements;
7. Verification of current or previous licensure or certification from the licensing or certifying entity as follows:
  - a. Any license or certification ever held in the practice of behavioral health; and
  - b. Any professional license or certification not identified in subsection (7)(a) held in the last 10 years;
8. Background information to enable the Board to determine whether, as required under A.R.S. § 32-3275(A)(3), the applicant is of good moral character;
9. A list of every entity for which the applicant has worked during the last 10 years;
10. If the relevant licensing examination was previously taken, an official copy of the score the applicant obtained on the examination;
11. A report of the results of a self-query of the National Practitioner Data Bank;
12. Documentation required under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
- ~~6-13.~~ A completed and legible fingerprint card for a state and federal criminal history ~~records~~ background check and a certified check, cashier's check, or money order in the amount payment as prescribed under R4-6-213(A)(4) as authorized at A.R.S. § 32-3280(A); R4-6-215 if the applicant has not previously submitted a full set of fingerprints to the Board, or verification that the applicant holds a current fingerprint card issued by the Arizona Department of Public Safety;
- ~~7.~~ An official transcript or education documentation acceptable to the credentialing committee; and
14. A completed application supplement for the license for which application is made; and
- ~~8-15.~~ Other documents or information requested by the ~~credentialing committee~~ ARC to determine the applicant's eligibility.

**R4-6-302. Licensing ~~Time-frames~~ Time Frames**

- A. The overall ~~time-frames~~ time frames described in A.R.S. § 41-1072(~~4~~) for each type of ~~approval~~ license granted by the Board is are listed in Table 1. The person applying for a license and the ~~credentialing committee~~ ARC may agree in writing to extend the substantive review ~~time-frame~~ and the overall ~~time-frame~~. The substantive review time-frame and the overall time frame may not be extended by more than time frames up to 25 percent of the overall time frame time frame.
- B. The administrative completeness review ~~time-frame~~ time frame described in A.R.S. § 41-1072(~~4~~) begins when the Board receives an application packet.
  1. If the application packet is not complete, the Board shall send ~~to~~ the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review ~~time-frame~~ and the overall ~~time-frame~~ time frames are suspended from the date of ~~service~~ of the notice is served until the date the Board receives a ~~complete application packet~~ the deficient information from the applicant.
  2. ~~If An applicant may assume an application packet is complete; when~~ the Board ~~shall send~~ sends the applicant a written notice of administrative completeness ~~to the applicant~~ or when the administrative completeness time frame specified in Table 1 expires.
- C. An applicant shall submit all of the deficient information specified in the notice provided under subsection (B)(1) within 60 days of after the date of service of the deficiency notice is served.
  1. If an applicant cannot submit all deficient information within 60 days ~~of the date of service of~~ after the deficiency notice is served, the applicant may obtain ~~an~~ a 60-day extension by submitting a written ~~request~~ notice to the ~~agency~~ Board postmarked or delivered ~~no later than~~ before expiration of the 60 days from the date of service of the deficiency notice.
  2. The written ~~request for an~~ notice of extension shall document the reasons the applicant is unable to meet the 60-day deadline.



- ~~3-2.~~ The agency shall review the request for an extension of the 60-day deadline and grant the request if the agency determines that an extension of the 60-day deadline will enable the applicant to assemble and submit the deficient information. An extension of the 60-day deadline shall be for no more than 60 days. An applicant who requires an additional extension shall submit ~~an additional to the Board~~ a written request in accordance with this subsection ~~that is delivered or postmarked before expiration of the initial extension and documents the reasons the applicant requires an additional extension.~~ The ~~agency Board~~ shall notify the applicant in writing of its decision to grant or deny the request for an extension.
- ~~4-3.~~ If an applicant fails to submit all of the deficient information within the required time, the ~~agency Board~~ shall ~~administratively~~ close the applicant's file with no recourse to appeal. To receive further consideration for licensure, ~~the an~~ applicant ~~whose file is administratively closed~~ shall submit a new application and fee.
- D.** The substantive review ~~time frame~~ ~~time frame~~ described in A.R.S. § 41-1072(4) begins on the date of service of the notice of administrative completeness ~~time frame is complete as described under subsection (B)(2).~~
- ~~1.~~ If the credentialing committee finds an applicant is ineligible for licensure, the credentialing committee shall recommend to the Board that the applicant be denied licensure.
  - ~~2.~~ If the credentialing committee finds an applicant is eligible for licensure, the credentialing committee shall recommend to the Board that the applicant be licensed.
  - ~~3.~~ Upon receipt of the credentialing committee's recommendation, the Board shall either:
    - ~~a.~~ Send a written notice of approval to an applicant who meets the qualifications and requirements in A.R.S. Title 32, Chapter 33 and this Chapter; or
    - ~~b.~~ Send a written notice of denial to an applicant who fails to meet the qualifications and requirements in A.R.S. Title 32, Chapter 33 and this Chapter.
  - ~~4-1.~~ If an application is referred to the credentialing committee ~~ARC~~ for substantive review and the ~~ARC~~ finds deficiencies ~~that additional information is needed during the substantive review of the application, the credentialing committee ARC shall provide a written list of the deficiencies comprehensive written request for additional information~~ to the applicant. The substantive review ~~time frame is and overall time frames are suspended from the date the deficiency notice comprehensive written request for additional information~~ is served until the applicant provides ~~the agency with all deficient information to the Board.~~
  - ~~2.~~ As provided under A.R.S. § 41-1075(A), the ~~ARC~~ and the applicant may agree in writing to allow the ~~ARC~~ to make additional supplemental requests for information. If the ~~ARC~~ issues an additional supplemental request for information, the substantive review and overall time frames are suspended from the date of the additional supplemental request for information until the applicant provides the information to the Board.
  - ~~5-3.~~ An applicant shall submit all of the ~~deficient~~ information ~~requested under subsection (D)(1)~~ within 60 days ~~of the date of service of~~ ~~after the deficiency notice comprehensive request for additional information is served.~~ If the ~~ARC~~ issues an additional comprehensive request for information under subsection (D)(2), the applicant shall submit the additional information within 60 days after the additional comprehensive request for information is served. If the applicant cannot submit all requested information within the time provided, the applicant may obtain an extension under the terms specified in subsection (C)(2).
  - ~~6.~~ If the credentialing committee determines the applicant has not taken and passed the required licensure examination, the deficiency notice shall include the approval for and requirement that the applicant take and pass an approved licensure examination.
  - ~~7-4.~~ If an applicant fails to submit all of the ~~deficient~~ ~~requested~~ information within the ~~required~~ time provided under subsection (D)(3), the ~~agency Board~~ shall ~~administratively~~ close the applicant's file with no recourse to appeal. To receive further consideration for licensure, ~~the an~~ applicant ~~whose file is administratively closed~~ shall submit a new application and fee.
- E.** An applicant may withdraw an application for licensure under the terms specified in A.R.S. § 32-3275(D).
- F.** After the substantive review of an application is complete:
- ~~1.~~ If the applicant is found ineligible for licensure, a recommendation shall be made to the Board that the applicant be ~~denied licensure.~~
  - ~~2.~~ If the applicant is found eligible for licensure, a recommendation shall be made to the Board that the applicant be ~~granted licensure.~~
- G.** After reviewing the recommendation made under subsection (F), the Board shall send a written notice to an applicant ~~that either:~~
- ~~1.~~ Grants a license to an applicant who meets the qualifications and requirements in A.R.S. Title 32, Chapter 33 and this Chapter; or
  - ~~2.~~ Denies a license to an applicant who fails to meet the qualifications and requirements in A.R.S. Title 32, Chapter 33 and this Chapter. The Board shall ensure that the written notice of denial includes the information required under ~~A.R.S. § 41-1092.03.~~
- E.H.** If a ~~time frame's~~ ~~time frame's~~ last day falls on a Saturday, Sunday, or an official state holiday, the Board considers the next business day the ~~time frame's~~ ~~time frame's~~ last day.

**Table 1. Time Frames Time Frames (in Days)**



Type of Approval License	Statutory Authority	Overall Time-frame Time Frame	Administrative Completeness Time-frame Time Frame	Substantive Review Time-frame Time Frame
Regular License by Examination	A.R.S. § 32-3253 A.R.S. § 32-3275	270	90	180
Temporary License	A.R.S. § 32-3253 A.R.S. § 32-3279	90	30	60
Reciprocal License by Endorsement	A.R.S. § 32-3253 A.R.S. § 32-3274	270	90	180
License Renewal	A.R.S. § 32-3253 A.R.S. § 32-3273	270	90	180

**R4-6-303. Reassessment Repealed**

- ~~A. An applicant who is found ineligible may submit to the agency a written request for reassessment of the application within 12 months of the date of service of the notice of ineligibility.~~
- ~~B. The credentialing committee shall review a request for reassessment to determine if the applicant has established the following:
 
  1. There has been a statutory or rule change that enables the previously ineligible applicant to meet the requirements for licensure; or
  2. The applicant was initially determined ineligible because of deficiencies in supervised work experience, supervision, or curriculum and has removed all deficiencies.~~
- ~~C. An applicant requesting a reassessment shall use a form provided by the agency and submit the proper fee with the reassessment form.~~

**R4-6-304. Application for a Reciprocal License by Endorsement**

- ~~A. An applicant who meets the requirements specified under A.R.S. § 32-3274 for a reciprocal license by endorsement shall submit a completed application packet, that includes the following as prescribed in R4-6-301, and the following:
 
  1. A notarized statement, signed by the applicant, stating that all information submitted in support of the application is true and correct. The name of one or more states where the applicant was certified or licensed as a behavioral health professional by a state regulatory entity for at least three years;
  2. The license fee required under R4-6-213;
  3. The applicant's name, date of birth, social security number, residence and business address, and residence and business telephone number;
  4. Each name or alias previously or currently used by the applicant;
  5. A completed and legible fingerprint card for a state and federal criminal history records check, and a certified check, cashier's check, or money order in the amount prescribed under R4-6-213(A)(4) as authorized at A.R.S. § 32-3280(A), if the applicant has not previously submitted a full set of fingerprints to the Board, or verification that the applicant holds a current fingerprint card issued by the Department of Public Safety;
  6. The name of the state where the applicant was certified or licensed by a state regulatory entity continuously for five years immediately before the date of the applicant's submission of the reciprocal license application;
  7. ~~2.~~ A verification of the each certificate or license identified in subsection ~~(A)(6)~~ (1) by the state regulatory entity issuing the ~~certification~~ certificate or license that at a minimum includes the following:
    - a. The certificate or license number issued to the applicant by the state regulatory entity;
    - b. The issue and expiration date of the certificate or license;
    - ~~b.c.~~ Whether the state regulatory entity applicant has ~~instituted~~ been the subject of disciplinary proceedings against the applicant or has by a state regulatory entity including whether there are any unresolved complaints pending against the applicant; and
    - ~~e.d.~~ Whether the certificate or license is active and in good standing; and
    - d. Whether the state required that the applicant meet minimum education, work experience, and clinical supervision requirements at the time the applicant was certified or licensed and that the applicant met each requirement necessary for the level of certification or licensure approved;
  8. ~~3.~~ Verification of An affidavit from an individual who can verify the work experience required under subsection ~~(B)(3)~~ A.R.S. § 32-3274(A)(3); and
  4. If applying at a practice level listed in A.R.S. § 32-3274(B), include:
    - a. An official transcript as prescribed in R4-6-301(6); and
    - b. If applicable, a foreign degree evaluation prescribed in R4-6-216 or R4-6-401.
  9. Other documents or information requested by the credentialing committee to determine the applicant's eligibility.~~
- ~~B. An applicant is eligible for a reciprocal license if the applicant meets the following requirements:~~



1. The applicant is currently licensed or certified in another state by a state regulatory entity in the discipline and at the level for which the applicant is requesting licensure in Arizona for at least the five years immediately preceding the date of the applicant's submission of a reciprocal license application and the license or certification is in effect and in good standing;
  2. The applicant passed the examination required pursuant to Articles 4, 5, 6, or 7 for the discipline and level license sought by the applicant;
  3. Prior to applying for a reciprocal license in Arizona, an applicant was engaged in the practice of behavioral health in the state issuing the license used by the applicant to qualify for a reciprocal license for a minimum of 6,000 hours during the five years immediately preceding the date of the applicant's submission of a reciprocal license application;
  4. The applicant is not the subject of a pending complaint before the Board or any other state behavioral health regulatory entity and has not had a license or certificate to practice a health care profession suspended or revoked by another state behavioral health regulatory entity; and
  5. The applicant meets the eligibility requirements prescribed under A.R.S. § 32-3275.
- C. A person issued a reciprocal license shall practice behavioral health only under the direct supervision of a licensee and shall not engage in independent practice.

#### R4-6-305. Inactive Status

- A. A licensee seeking inactive status shall submit:
1. A written request to the ~~credentialing committee~~ Board before expiration of the current license, and
  2. The fee specified in R4-6-215 for inactive status fee request.
- B. ~~To be placed on inactive status after a licensee seeking inactive status after the license expiration, date of a license but no longer than a licensee shall, within three months after the expiration date of a license expiration, shall submit: comply with subsection (A) and submit the fee specified in R4-6-215 for late request for inactive status.~~
1. ~~A written request for inactive status to the credentialing committee,~~
  2. ~~The inactive status fee, and~~
  3. ~~The late inactive status fee.~~
- C. ~~The credentialing committee~~ Board shall grant a request for inactive status ~~to a licensee~~ upon receiving a written request for inactive status ~~from a licensee~~. ~~The Board shall grant inactive status for a maximum of 24 months.~~
- D. ~~The credentialing committee~~ Board shall not grant a request ~~to be placed on~~ for inactive status ~~that is received more than three months after expiration of the current license expiration.~~
- E. ~~Placement on inactive Inactive status for any time period shall does not change; a licensee's licensure expiration~~
1. ~~The date on which the license of the inactive licensee expires, and~~
  2. ~~The Board's ability to start or continue an investigation against the inactive licensee.~~
- F. To return to active status, a licensee on inactive status shall: ~~meet~~
1. ~~Comply with all renewal requirements prescribed under R4-6-801(B); and~~
  2. ~~Establish to the Board's satisfaction that the licensee is competent to practice safely and competently. To assist with determining the licensee's competence, the Board may order a mental or physical evaluation of the licensee at the licensee's expense.~~
- G. Upon a showing of good cause, the ~~credentialing committee~~ Board shall grant a written request for modification or reduction of the continuing education requirement received from a licensee on inactive status. ~~The Board shall consider the following to show good cause:~~
1. ~~Illness or disability.~~
  2. ~~Active military service, or~~
  3. ~~Any other circumstance beyond the control of the licensee.~~
- H. The ~~credentialing committee~~ Board may, upon a written request filed before the expiration of the original 24 months of inactive status and for good cause, ~~as described in subsection (G),~~ permit an ~~already inactive license licensee~~ to remain on inactive status for one additional period not to exceed 24 months. To return to active status after being placed on a 24-month extension of inactive status, a licensee shall, ~~in addition to the continuing education hours required under subsection (F)(2) comply with the requirements in subsection (F) complete and complete an additional 30 clock hours of continuing education during the additional 24-month extension.~~
- I. A licensee on inactive status shall not engage in the practice of behavioral health.
- J. ~~To return to active practice, the licensee must establish the licensee's competence to practice safely and competently. When reviewing a licensee's request to return to active practice, the Board may order any type of mental or physical evaluation, at the licensee's expense, it deems necessary to determine the licensee's competence to practice safely and competently.~~
- K. ~~The Board may start or continue an investigation against a licensee regardless of whether the licensee seeks to obtain inactive status or is on inactive status.~~

#### R4-6-306. Application for a Temporary License

- A. Subject to subsection (G), the Board may issue a temporary license to an applicant for a regular license if the applicant is currently licensed or certified by another state behavioral health regulatory entity. To be eligible for a temporary license, an applicant shall:
1. Have applied under R4-6-301 for a license by examination or R4-6-304 for a license by endorsement.



- 2. Have submitted an application for a temporary license using a form approved by the Board and paid the fee required under R4-6-215, and
- 3. Be one of the following:
  - a. Applying for a license by endorsement;
  - b. Applying for a license by examination, not currently licensed or certified by a state behavioral health regulatory entity, and:
    - i. Within 12 months after obtaining a degree from the education program on which the applicant is relying to meet licensing requirements,
    - ii. Has completed all licensure requirements except passing the required examination, and
    - iii. Has not previously taken the required examination; or
  - c. Applying for a license by examination and currently licensed or certified by a state behavioral health entity.
- ~~B.~~ Subject to subsection (G), the Board may issue a temporary license to an applicant for a regular license where the following conditions have been met: An individual is not eligible for a temporary license if the individual:
  - 1. The applicant submits an application for licensure within 12 months of graduation from the educational program submitted to meet licensure educational requirements; Is the subject of a complaint pending before any state behavioral health regulatory entity.
  - 2. The applicant has completed all the requirements to become licensed, as determined by the credentialing committee, other than passage of the required examination; and Has had a license or certificate to practice a health care profession suspended or revoked by any state regulatory entity.
  - 3. The applicant has not previously taken the required examination
  - 3. Has a criminal history or history of disciplinary action by a state behavioral health regulatory entity unless the Board determines the history is not of sufficient seriousness to merit disciplinary action, or
  - 4. Has been previously denied a license by the Board.
- ~~C.~~ A The Board shall ensure that a temporary license issued pursuant to subsection (B) to an applicant for licensure by examination counseling, marriage and family therapy, or substance abuse licensure shall expire:
  - 1. Under subsection (A)(3)(b):
    - a. Expires 90 180 days after the next available examination date in Arizona issuance by the Board, and
    - b. Is revoked immediately if the applicant fails to take the required examination within 180 days after the temporary license is issued or fails the required examination; or
  - 2. Under subsection (A)(3)(c), expires in one year after issuance by the Board.
- ~~D.~~ A temporary license issued pursuant to subsection (B) to an applicant for social work licensure shall expire 120 days after issuance by the Board.
- ~~E.~~ A temporary license issued to an applicant for counseling, marriage and family therapy, or substance abuse licensure shall be immediately revoked where the applicant fails to take the next available examination as notified by the Board or fails the required examination. A temporary licensee shall provide written notice and return the temporary license to the Board if the temporary licensee:
  - 1. An applicant for counseling, marriage and family therapy, or substance abuse licensure who fails to take the next available examination as notified by the Board must provide written notice of the failure to the Board and return the temporary license to the Board within five days of the date of the examination. Fails to take the required examination; or
  - 2. An applicant for counseling, marriage and family therapy, or substance abuse licensure who takes and fails the examination must provide written notice of the failure to the Board and return the temporary license to the Board within five days of receiving notice of the failure. Takes but fails the required examination.
- ~~F.E.~~ A temporary license issued to an applicant for social work licensure shall be immediately revoked where the applicant fails to take the required examination within 120 days of receiving a temporary license or fails the required examination. An applicant for social work licensure who takes and fails the required examination must provide written notice of the failure to the Board and return the temporary license to the Board within five days of receiving notice of the failure. The Board shall ensure that a temporary license issued to an applicant for licensure by endorsement:
  - 1. Expires 180 days after issuance by the Board if the applicant has not previously taken the required examination and is revoked immediately if the applicant fails to take the required examination within 180 days after the temporary license is issued or fails the required examination; or
  - 2. Expires one year after the date of issuance if the applicant has previously passed the required examination and is revoked immediately when the applicant is issued or denied a license by endorsement.
- ~~G.~~ The applicant is not the subject of a pending complaint before the Board or any other state behavioral health regulatory entity and has not had a license or certificate to practice a health care profession suspended or revoked by another state behavioral health regulatory entity.
- ~~H.~~ An applicant who has a criminal history or history of disciplinary action by a state behavioral health regulatory entity is not eligible for a temporary license without prior Board approval.
- ~~I.F.~~ An applicant who is issued a temporary license shall practice as a behavioral health professional only under direct supervision. The temporary license may contain restrictions as to time, place, and supervision that the Board deems appropriate. The temporary license shall expire one year after the date of issuance or sooner if specified by the Board.
- ~~G.~~ The Board shall issue a temporary license only in the same discipline for which application is made under subsection



(A).

- ~~J.H.~~ No extensions are available for The Board shall not extend the time of a temporary licensee's license or grant an additional temporary license based on the application submitted under subsection (A).
- ~~K.I.~~ A temporary licensee is subject to disciplinary action by the Board pursuant to under A.R.S. § 32-3281. A temporary license may also be summarily revoked without a hearing pursuant to under A.R.S. § 32-3279(C)(4).
- ~~L.J.~~ The Board's denial of If the Board denies a license by examination or endorsement to application terminates a temporary license. An applicant must licensee, the temporary licensee shall return the temporary license to the Board within five days of receiving the Board's notice of the denial of the applicant's license application from the Board.
- ~~M.K.~~ An individual is not eligible for a temporary license if the Board has previously denied an application for a regular license, an application for a license by reciprocity, or an application for a temporary license for that individual. If a temporary licensee withdraws the license application submitted under R4-6-301 for a license by examination or R4-6-304 for a license by endorsement, the temporary license expires.

**R4-6-307. Application for a Regular License by the Holder of a Reciprocal License Approval of an Educational Program**

- ~~A.~~ A person holding a reciprocal license may apply for a regular license at the same level and in the same discipline if the person meets all of the following requirements:
- ~~1.~~ After issuance of the reciprocal license, the applicant for a regular license shall complete a minimum of 1600 hours of supervised work experience in Arizona in the practice of behavioral health in no less than 12 months.
    - ~~a.~~ Supervised work experience in the practice of behavioral health is limited to the use of psychotherapy for the purpose of assessment, diagnosis and treatment of individuals, couples, families and groups.
    - ~~b.~~ The 1600 hours of supervised work experience in behavioral health shall include a minimum of 800 hours of direct client contact.
  - ~~2.~~ During the supervised work experience required in subsection (A)(1), an applicant for a regular license shall receive a minimum of 50 hours of clinical supervision in no less than 12 months.
  - ~~3.~~ During the supervised work experience required in subsection (A)(1), an applicant for a regular license shall demonstrate satisfactory performance in the following areas:
    - ~~a.~~ Assessment;
    - ~~b.~~ Diagnostics;
    - ~~c.~~ Individual and group psychotherapy;
    - ~~d.~~ Referrals;
    - ~~e.~~ Personal integrity;
    - ~~f.~~ Appropriate use of supervision;
    - ~~g.~~ Insight into client's problems;
    - ~~h.~~ Objectivity;
    - ~~i.~~ Ethics;
    - ~~j.~~ Concern for welfare of clients;
    - ~~k.~~ Responsibility;
    - ~~l.~~ Boundaries;
    - ~~m.~~ Recognition of own limits, and
    - ~~n.~~ Confidentiality by having the applicant's clinical supervisor submit a performance evaluation on forms available from the Agency.
    - ~~o.~~ The time span covered by the performance evaluation shall be the same as that for the supervised work experience required in subsection (A)(1).
- ~~B.~~ An applicant for a regular license shall receive the clinical supervision required in subsection (A)(2) from any of the following behavioral health professionals licensed at the independent level in Arizona:
- ~~1.~~ A licensed professional counselor;
  - ~~2.~~ A licensed clinical social worker;
  - ~~3.~~ A licensed marriage and family therapist;
  - ~~4.~~ A licensed psychologist; or
  - ~~5.~~ An allopathic or osteopathic medical doctor with a specialty in psychiatry.
- ~~C.~~ An applicant for a regular license in substance abuse counseling shall receive the clinical supervision required in subsection (A)(2) from a professional listed in subsection (B) or from a licensed independent substance abuse counselor.
- ~~D.~~ An applicant for a regular license shall submit a completed application packet that includes the following:
- ~~1.~~ A notarized statement, signed by the applicant, stating that all information submitted in support of the application is true and correct;
  - ~~2.~~ The license fee required under R4-6-213;
  - ~~3.~~ The applicant's name, date of birth, Social Security number, residence and business address, and residence and business telephone number;
  - ~~4.~~ Each name or alias previously or currently used by the applicant;
  - ~~5.~~ Verification of the work experience required under subsection (A);
  - ~~6.~~ Other documents or information requested by the credentialing committee to determine the applicant's eligibility.
- ~~A.~~ To obtain the Board's approval of an educational program, an authorized representative of the regionally accredited col-



lege or university shall submit:

1. An application, using a form approved by the Board;
2. The fee prescribed under R4-6-215; and
3. Documentary evidence that the educational program is consistent with the curriculum standards specified in A.R.S. Title 32, Chapter 33, and this Chapter.

**B.** The Board shall review the application materials for administrative completeness and determine whether additional information is necessary.

1. If the application packet is incomplete, Board shall send a written deficiency notice to the applicant specifying the missing or incomplete information. The applicant shall provide the additional information within 60 days after the deficiency notice is served.
2. The applicant may obtain a 60-day extension of time to provide the deficient information by submitting a written request to the Board before expiration of the time specified in subsection (B)(1).
3. If an applicant fails to provide the deficient information within the time specified in the written notice or as extended under subsection (B)(2), the Board shall administratively close the applicant's file with no recourse to appeal. To receive further consideration for approval of an educational program, an applicant whose file is administratively closed shall comply with subsection (A).

**C.** When an application for approval of an educational program is administratively complete, the ARC shall substantively review the application packet.

1. If the ARC finds that additional information is needed, the ARC shall provide a written comprehensive request for additional information to the applicant.
2. The applicant shall provide the additional information within 60 days after the comprehensive request of additional information is served.
3. If an applicant fails to provide the additional information within the time specified under subsection (C)(2), the Board shall administratively close the applicant's file with no recourse to appeal. To receive further consideration for approval of an educational program, an applicant whose file is administratively closed shall comply with subsection (A).

**D.** After the ARC determines the substantive review is complete:

1. If the ARC finds the applicant's educational program is eligible for approval, the ARC shall recommend to the Board that the educational program be approved.
2. If the ARC finds the applicant's educational program is ineligible for approval, the ARC shall send written notice to the applicant of the finding of ineligibility with an explanation of the basis for the finding. An applicant may appeal a finding of ineligibility for educational program approval using the following the procedure:
  - a. Submit to the ARC a written request for an informal review meeting within 30 days after the notice of ineligibility is served. If the applicant does not request an informal review meeting within the time provided, the ARC shall recommend to the Board that the educational program be denied approval and the applicant's file be closed with no recourse to appeal.
  - b. If the ARC receives a written request for an informal review meeting within the 30 days provided, the ARC shall schedule the informal review meeting and provide at least 30 days' notice of the informal review meeting to the applicant.
  - c. At the informal review meeting, the ARC shall provide the applicant an opportunity to present additional information regarding the curriculum of the educational program.
  - d. When the informal review is complete, the ARC shall make a second finding whether the educational program is eligible for approval and send written notice of the second finding to the applicant.
  - e. An applicant that receives a second notice of ineligibility under subsection (D)(2)(d), may appeal the finding by submitting to the Board, within 30 days after the second notice is served, a written request for a formal administrative hearing under A.R.S. Title 41, Chapter 6, Article 10.
  - f. The Board shall either refer a request for a formal administrative hearing to the Office of Administrative Hearings or schedule the hearing before the Board. If no request for a formal administrative hearing is made under subsection (D)(2)(e), the ARC shall recommend to the Board that the educational program be denied approval and the applicant's file be closed with no recourse to appeal.
  - g. If a formal administrative hearing is held before the Office of Administrative Hearings, the Board shall review the findings of fact, conclusions of law, and recommendation of the Administrative Law Judge and issue an order either granting or denying approval of the educational program.
  - h. If a formal administrative hearing is held before the Board, the Board shall issue findings of fact and conclusions of law and issue an order either granting or denying approval of the educational program.
  - i. The Board shall send the applicant a copy of the findings of fact, conclusions of law, and order.

**E.** The Board shall add an approved educational program to the list of approved educational programs that the Board maintains.

**F.** The Board's approval of an educational program is valid for five years unless the accredited college or university makes a change to the educational program that is inconsistent with the curriculum standards specified in A.R.S. Title 32, Chapter 33, and this Chapter.



- G.** An authorized representative of a regionally accredited college or university with a Board-approved educational program shall certify annually, using a form available from the Board, that there have been no changes to the approved educational program.
- H.** If a regionally accredited college or university makes one of the following changes to an approved educational program, the regionally accredited college or university shall notify the Board within 60 days after making the change and request approval of the educational program change under subsection (I):
1. Change to more than 25 percent of course competencies;
  2. Change to more than 25 percent of course learning objectives;
  3. Addition of a course in one of the core content areas specified in R4-6-501, R4-6-601, or R4-6-701; or
  4. Deletion of a course in one of the core content areas specified in R4-6-501, R4-6-601, or R4-6-701.
- I.** To apply for approval of an educational program change, an authorized representative of the regionally accredited college or university shall submit:
1. An approved educational program change form available from the Board;
  2. The fee prescribed under R4-6-215; and
  3. Documentary evidence that the change to the approved educational program is consistent with the curriculum standards specified in A.R.S. Title 32, Chapter 33, and this Chapter.
- J.** To maintain approved status of an educational program after five years, an authorized representative of the regionally accredited college or university shall make application under subsection (A).
- K.** The Board shall process the materials submitted under subsections (I) and (J) using the procedure specified in subsections (B) through (D).
- L.** Unless an educational program is currently approved by the Board under this Section, the regionally accredited college or university shall not represent that the educational program is Board approved in any program or marketing materials.

#### ARTICLE 4. SOCIAL WORK

##### R4-6-401. Curriculum

- A.** An applicant for licensure as a baccalaureate social worker shall have a baccalaureate degree in social work from a regionally accredited college or university in a program accredited by the ~~Council on Social Work Education CSWE~~ or an equivalent foreign degree as determined by the Foreign Equivalency Determination Service of the ~~Council on Social Work Education CSWE~~.
- B.** An applicant for licensure as a master ~~social worker~~ or a clinical social worker shall have a master or higher degree in social work from a regionally accredited college or university in a program accredited by the ~~Council on Social Work Education CSWE~~ or an equivalent foreign degree as determined by the Foreign Equivalency Determination Service of the ~~Council on Social Work Education CSWE~~.

##### R4-6-402. Examination

- A.** To be licensed as a baccalaureate social worker, an applicant shall receive a passing score on the bachelors, masters, advanced generalist, or clinical examination offered by ~~A.S.W.B ASWB~~.
- B.** To be licensed as a master social worker, an applicant shall receive a passing score ~~as~~ on the masters, advanced generalist, or clinical examination offered by ~~A.S.W.B ASWB~~.
- C.** ~~To Except as specified in subsection (F)(2), to be licensed as a clinical social worker, an applicant shall receive a passing score on the clinical examination offered by A.S.W.B ASWB.~~
- D.** An applicant for baccalaureate ~~social worker~~, master ~~social worker~~, or clinical social worker licensure shall receive a passing score on an approved examination for the level of licensure requested within 12 months after receiving the date of service of the written deficiency notice described in R4-6-302(D)(6) examination authorization from the Board. An applicant shall not take an approved licensure examination more than twice during the 12-month testing period.
- E.** If an applicant does not receive a passing score on an approved licensure examination within the 12 months referenced in subsection (D), the ~~agency Board~~ shall close the applicant's file with no recourse to appeal. To receive further consideration for licensure, an applicant whose file is closed shall submit a new application and fee.
- F.** To be licensed by endorsement as a clinical social worker, an applicant shall receive a passing score on:
1. The clinical examination offered by ASWB; or
  2. The advanced generalist examination offered by ASWB if the applicant:
    - a. Was licensed as a clinical social worker before July 1, 2004;
    - b. Met the examination requirement of the state being used to qualify for licensure by endorsement; and
    - c. Has been licensed continuously at the same level since passing the examination.

##### R4-6-403. Supervised Work Experience for Clinical Social Worker Licensure

- A.** ~~After completing the degree required in R4-6-401(B), an An applicant for clinical social worker licensure shall complete a minimum of demonstrate completion of at least 3200 hours of supervised work experience in the practice of clinical social work in no less than 24 months. Supervised work experience in the practice of clinical social work shall include:~~
1. Supervised work experience in the practice of clinical social work is limited to the use of psychotherapy for the purpose of assessment, diagnosis and treatment of individuals, couples, families and groups. At least 1600 hours of direct client contact involving the use of psychotherapy, no more than 400 hours of which are in psychoeducation;
  2. The 3200 hours of supervised work experience in clinical social work shall include a minimum of 1600 hours of direct client contact. At least 100 hours of clinical supervision as prescribed under R4-6-212 and R4-6-404; and



- 3. For the purpose of licensure, no more than 1600 hours of indirect client contact related to psychotherapy services.
- ~~B.~~ For any month in which an applicant provides direct client contact, the applicant shall obtain at least one hour of clinical supervision.
- ~~C.~~ An applicant may submit more than the required 3200 hours of supervised work experience for consideration by the Board.
- ~~B-D.~~ During the period of required supervised work experience specified in subsection (A), an applicant for clinical social worker licensure shall not engage in independent practice behavioral health under the limitations specified in R4-6-210.
- ~~C-E.~~ There is no supervised work experience requirement for licensure as a baccalaureate social worker or a master social worker.

**R4-6-404. Clinical Supervision for Clinical Social Worker Licensure**

- ~~A.~~ During the supervised work experience required in R4-6-403, an An applicant for clinical social worker licensure shall receive a minimum of demonstrate that the applicant received at least 100 hours of clinical supervision that meet the requirements specified in subsection (B) and R4-6-212 in no less than 24 months during the supervised work experience required under R4-6-403.
- ~~B.~~ During the supervised work experience required in R4-6-403, an applicant for clinical social worker licensure shall demonstrate satisfactory performance in the following areas: assessment, diagnostics, individual and group psychotherapy, referrals, personal integrity, appropriate use of supervision, insight into client's problems, objectivity, ethics, concern for welfare of clients, responsibility, boundaries, recognition of own limits, and confidentiality by having the applicant's clinical supervisor submit a performance evaluation on forms available from the agency The Board shall accept hours of clinical supervision for clinical social worker licensure if the hours required under subsection (A) meet the following:
  - 1. At least 50 hours are supervised by a clinical social worker licensed by the Board, and
  - 2. The remaining hours are supervised by an individual qualified under R4-6-212(A), or
  - 3. The hours are supervised by an individual for whom an exemption was obtained under R4-6-212.01.
- ~~C.~~ The time span covered by the performance evaluations shall be the same as that for the supervised work experience required in R4-6-403.
- ~~D.~~ Clinical supervision of an applicant for clinical social worker licensure shall be provided by a clinical social worker licensed in Arizona.
- ~~E.~~ An applicant may submit a written request to the social work credentialing committee for an exemption from the requirement of subsection (D). The request shall include the name of the behavioral health professional proposed by the applicant to act as the clinical supervisor, a copy of the proposed clinical supervisor's transcript and curriculum vitae, and any additional documentation requested by the committee. The social work credentialing committee shall review the supervision exemption request to determine whether the proposed supervisor has the necessary education, training, and experience to provide supervision acceptable for clinical social worker licensure. If the proposed supervisor has the necessary education, training, and experience, the social work credentialing committee shall grant the supervision exemption request.
  - 1. The social work credentialing committee shall accept a maximum of 75 hours of clinical supervision provided by an alternative behavioral health professional as provided in subsection (E)(2). An applicant must obtain a minimum of 25 hours of clinical supervision by a social worker at the masters or higher level certified or licensed at the independent level by a state behavioral health regulatory entity.
  - 2. When reviewing supervision exemption requests, the social work credentialing committee will only consider supervision provided by a masters or higher level professional certified or licensed at the independent level by a state behavioral health regulatory entity, a licensed psychologist, or a medical doctor with a specialty in psychiatry. The social work credentialing committee will take into consideration an applicant's ability to demonstrate that supervision by a certified or licensed social worker was not available or available supervision was not specific to the applicant's area of practice. When considering the availability of a certified or licensed social worker, the social work credentialing committee will consider the size of the professional setting in which the applicant worked and its geographic location.
  - 3. The social work credentialing committee will not grant an exemption request for an unlicensed clinical supervisor providing clinical supervision in Arizona after July 1, 2006, except that an exemption may be granted by the committee if the clinical supervisor holds a current active license to practice behavioral health at the independent level and is providing services pursuant to a contract or grant with the federal government under the authority of 25 U.S.C. 450-450(n) or 25 U.S.C. 1601-1683.
  - 4. Beginning on July 1, 2006, the social work credentialing committee will The Board shall not grant an exemption request for a substance abuse counselor accept hours of clinical supervision for clinical social worker licensure provided by a substance abuse counselor.

**R4-6-405. Licensed Master Social Worker and Licensed Baccalaureate Social Worker — Independent Practice Prohibition Repealed**

- ~~A.~~ Neither a licensed master social worker nor a licensed baccalaureate social worker shall engage in the independent practice of clinical social work. A licensed master social worker and a licensed baccalaureate social worker shall only engage in the practice of clinical social work under direct supervision.
- ~~B.~~ A licensed baccalaureate social worker shall only engage in the independent practice of nonclinical social work after obtaining a minimum of 3200 hours of supervised work experience in social work in no less than 24 months after being



licensed as a bachelor social worker by the Board.

~~C.~~ A licensed master social worker may engage in the independent practice of nonclinical social work.

#### ARTICLE 5. COUNSELING

##### R4-6-501. Curriculum

- A. An applicant for licensure as an associate counselor or a professional counselor shall have a ~~master~~ master's or higher degree ~~in with a major emphasis in~~ counseling ~~or a related field~~ from:
1. ~~A regionally accredited college or university in a program that consists of a minimum of 48 semester credit hours,~~  
~~or~~
  2. ~~A program accredited by C.A.C.R.E.P. CACREP or C.O.R.E. CORE in a program that consists of a minimum of 48~~  
~~at least 60 semester or 90 quarter credit hours, including a supervised counseling practicum as prescribed under~~  
~~subsection (E);~~
  2. An educational program previously approved by the Board under A.R.S. § 32-3253(A)(14) that consists of at least 60 semester or 90 quarter credit hours, including a supervised counseling practicum as prescribed under subsection (E); or
  3. A program from a regionally accredited college or university that consists of at least 60 semester or 90 quarter credit hours, meets the requirements specified in subsections (C) and (D), and includes a supervised counseling practicum as prescribed under subsection (E).
- B. ~~Beginning on January 1, 2008, the program of study required under subsections (A)(1) or (2) shall include a minimum of 60 semester credit hours. To assist the Board to evaluate a program under subsection (A)(3), an applicant who obtained a degree from a program under subsection (A)(3) shall attach the following to the application required under R4-6-301:~~
1. Published college or university course descriptions for the year and semester enrolled for each course submitted to meet curriculum requirements.
  2. Verification, using a form approved by the Board, of completing the supervised counseling practicum required under subsection (E); and
  3. Other documentation requested by the Board.
- C. ~~The Board shall accept for licensure the curriculum for degrees from programs a program not accredited by C.A.C.R.E.P. CACREP or C.O.R.E. CORE shall include if the curriculum includes at least 60 semester or 90 quarter credit hours in counseling-related coursework, of which at least three semester or 4 quarter credit hours are in each of the following eight core content areas:~~
1. ~~One three-semester credit hour course from each of the following four content areas Professional orientation and ethical practice: Studies that provide a broad understanding of professional counseling ethics and legal standards, including but not limited to:~~
    - a. ~~Counseling Theory—studies that are limited to providing a broad understanding of multiple counseling theories, principles, and their application, including such theories as client centered, behaviorism, psychoanalytic, gestalt, rational-emotive, reality, and existential Professional roles, functions, and relationships;~~
    - b. ~~Supervised Counseling Practicum—studies that are limited to the provision of counseling services within an educational or professional setting under the direction of a faculty member or supervisor designated by the college or university Professional credentialing;~~
    - c. ~~Multi-cultural Foundations—studies that are limited to providing a broad understanding of cultures and the implications for counseling with individuals and families within the major racial and cultural groups in the U.S; Ethical standards of professional organizations; and~~
    - d. ~~Professional Counseling Ethics—studies that are limited to providing a broad understanding of professional counseling ethics, legal standards, and responsibilities Application of ethical and legal considerations in counseling;~~
  2. ~~Five three-semester credit hour courses from the following seven content areas Social and cultural diversity: Studies that provide a broad understanding of the cultural context of relationships, issues, and trends in a multicultural society, including but not limited to:~~
    - a. ~~Human Growth and Development—studies that are limited to providing a broad understanding of the physical, psychological, social and moral development of individuals throughout the lifespan, including normal and abnormal behavior; Theories of multicultural counseling, and~~
    - b. ~~The Helping Relationship—studies that are limited to providing a broad understanding of the counseling processes, basic and advanced interview skills, consultation theories, and their applications; Multicultural competencies and strategies;~~
    - e. ~~Group Dynamics Processing and Counseling—studies that are limited to providing a broad understanding of group development and dynamics, group counseling theories, group leadership styles, and basic and advanced group counseling methods and skills;~~
    - d. ~~Life and Career Development—studies that are limited to providing a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education, career decision making, and career development program planning and placement;~~



- e. ~~Social and Lifestyle Issues – studies that are limited to providing a broad understanding of social norms, changes, and trends, human roles, and alternative lifestyles;~~
- f. ~~Appraisal of Individuals – studies that are limited to providing a broad understanding of group and individual psychometric theories, formal and informal approaches to appraisal, data and information gathering methods, validity and reliability, factors influencing appraisals, diagnostic procedures, and use of appraisal results in the helping process; and~~
- g. ~~Research and Evaluation – studies that are limited to providing a broad understanding of types of research, statistics, research report development, research implementation, program evaluation, needs assessment, and publication of research.~~
- 3. ~~Sufficient semester credit hour courses in studies that provide a broad understanding in counseling-related subjects, including psychology, marriage and family studies, substance abuse, career counseling, and rehabilitation studies to equal the semester credit hour course requirements of subsection (A):~~ Human growth and development: Studies that provide a broad understanding of the nature and needs of individuals at all developmental stages, including but not limited to:
  - a. Theories of individual and family development across the life-span, and
  - b. Theories of personality development;
- 4. ~~This subsection expires December 31, 2006.~~ Career development: Studies that provide a broad understanding of career development and related life factors, including but not limited to:
  - a. Career development theories, and
  - b. Career decision processes;
- 5. Helping relationship: Studies that provide a broad understanding of counseling processes, including but not limited to:
  - a. Counseling theories and models,
  - b. Essential interviewing and counseling skills, and
  - c. Therapeutic processes;
- 6. Group work: Studies that provide a broad understanding of group development, dynamics, counseling theories, counseling methods and skills, and other group work approaches, including but not limited to:
  - a. Principles of group dynamics,
  - b. Group leadership styles and approaches, and
  - c. Theories and methods of group counseling;
- 7. Assessment: Studies that provide a broad understanding of individual and group approaches to assessment and evaluation, including but not limited to:
  - a. Diagnostic process including differential diagnosis and use of diagnostic classification systems such as the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases,
  - b. Use of assessment for diagnostic and intervention planning purposes, and
  - c. Basic concepts of standardized and non-standardized testing; and
- 8. Research and program evaluation: Studies that provide a broad understanding of recognized research methods and design and basic statistical analysis, including but not limited to:
  - a. Qualitative and quantitative research methods, and
  - b. Statistical methods used in conducting research and program evaluation.
- D. ~~To be applicable toward curriculum requirements, a course shall be exclusively devoted to the subject matter described in each curriculum requirement. The Board shall not accept a course in which the required curriculum subject matter is embedded in a course including other subject matter. In evaluating the curriculum required under subsection (C), the Board shall assess whether a core content area is embedded or contained in more than one course. The applicant shall provide information the Board requires to determine whether a core content area is embedded in multiple courses. The Board shall not accept a core content area embedded in more than two courses unless the courses are succession courses. The Board shall allow subject matter in a course to qualify in only one core content area.~~
- E. The Board shall accept a supervised counseling practicum that is part of a master’s or higher degree program if the supervised counseling practicum meets the following standards:
  - 1. Consists of at least 700 clock hours in a professional counseling setting,
  - 2. Includes at least 240 hours of direct client contact,
  - 3. Provides an opportunity for the supervisee to perform all activities associated with employment as a professional counselor,
  - 4. Oversight of the counseling practicum is provided by a faculty member, and
  - 5. Onsite supervision is provided by an individual approved by the college or university.
- F. The Board shall require that an applicant for professional counselor licensure who received a master’s or higher degree before July 1, 1989, from a program that did not include a supervised counseling practicum complete three years of post-master’s or higher degree work experience in counseling under direct supervision. One year of a doctoral-clinical internship may be substituted for one year of supervised work experience.
- ~~E.G. To receive credit towards licensure, an applicant shall complete each course described in this Section with a passing grade. The Board shall accept for licensure only courses that the applicant completed with a passing grade.~~
- ~~F.H. To be applicable towards curriculum requirements, a course taken before an applicant is accepted into a master or higher~~



degree program shall be used by the applicant to meet the master or higher degree requirements The Board shall deem that an applicant who holds an active associate counselor license issued by the Board and in good standing meets the curriculum requirements for professional counselor licensure.

- G.** The counseling credentialing committee shall approve the curriculum of an applicant with a degree of less than 48 semester credit hours if the applicant's degree was received before July 1, 1989, and all other current curriculum requirements are met. This subsection expires December 31, 2006.
- H.** An applicant for professional counselor licensure shall be deemed to meet the curriculum requirements in this Section if the applicant holds an active associate counselor license in good standing.
- I.** To be eligible for licensure, an applicant for professional counselor licensure who received a master or higher degree before July 1, 1989, and whose program of study did not offer a practicum, shall have completed three years of post-master or higher degree work experience in counseling under direct supervision. One year of a doctoral clinical internship may be substituted for one year of supervised work experience.
- J.** An applicant who does not meet all curriculum requirements is ineligible for licensure.
1. An applicant who is ineligible but has a master or higher degree in counseling or a related field may submit a reassessment request in accordance with R4-6-303.
  2. An ineligible applicant is considered to have a degree with a major emphasis in counseling if the ineligibility results from curriculum deficiencies that constitute no more than 15 semester credit hours.
  3. This subsection expires December 31, 2006.
- K.** Beginning on January 1, 2007, the curriculum for degrees from programs not accredited by C.A.C.R.E.P. or C.O.R.E. shall include:
1. Coursework from each of the following 14 required content areas:
    - a. ~~Diagnosis, Assessment, and Treatment Planning—~~one three-semester credit hour course in studies that are limited to providing an understanding of the use of assessment and diagnosis to develop appropriate treatment interventions for behavioral health disorders. ~~Studies in this area shall include the use of the current Diagnostic and Statistical Manual, the integration of diagnostic and other assessment information, and the development of treatment plans;~~
    - b. ~~Basic Tests and Appraisal in Counseling—~~one three-semester credit hour course in studies that are limited to providing an understanding of individual and group approaches to assessment and evaluation. ~~Studies in this area shall include all of the following:~~
      - i. ~~Basic concepts of standardized and non-standardized testing and other assessment techniques, which could include norm-referenced and criterion-referenced assessment, environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;~~
      - ii. ~~Statistical concepts, which could include scales of measurement, measures of central tendency, indices of variability, shapes and types of distributions, and correlations;~~
      - iii. ~~Reliability, which could include theory of measurement error, models of reliability, and the use of reliability information; and~~
      - iv. ~~Validity, which could include evidence of validity, types of validity, and the relationship between reliability and validity;~~
    - e. ~~Pre-practicum—~~A pre-practicum or supervised field work experience under the supervision of a faculty member, which shall include either of the following:
      - i. ~~100 total hours of pre-practicum activities, of which a minimum of 40 hours shall be direct client contact hours; or~~
      - ii. ~~300 clock hours in a supervised counseling practicum, field work experience, or internship in addition to the 600 clock hours required in subsection (K)(1)(d);~~
    - d. ~~Supervised Counseling Practicum, Field Work Experience, or Internship—~~A supervised counseling practicum, field work experience, or internship shall provide for the development of counseling skills under supervision. ~~The counseling practicum, field work experience, or internship must include a minimum of six semester credit hours and 600 clock hours in a professional counseling setting. The counseling practicum, field work experience, or internship must provide the opportunity for the student to perform all the activities that a regularly employed professional counselor would be expected to perform. Counseling practicum, field work experience, or internship services must be under the direction and supervision of a faculty member and an onsite supervisor approved by the college or university;~~
    - e. ~~Counseling Theories—~~one three-semester credit hour course in studies that are limited to providing a comprehensive survey of the major counseling theories and principles. ~~At a minimum, coursework shall include five of the following theories:~~
      - i. ~~Cognitive behavioral;~~
      - ii. ~~Person-centered;~~
      - iii. ~~Brief solution focused;~~
      - iv. ~~Adlerian;~~
      - v. ~~Behavioral;~~
      - vi. ~~Psychoanalytic and neopsychoanalytic; or~~
      - vii. ~~Rational emotive;~~



- f. Professional Counseling Ethics—one three-semester credit hour course in studies that are limited to providing a broad understanding of professional counseling ethics, legal standards, and responsibilities. Coursework may not include material in an adjunctive therapeutic area;
- g. Social and Cultural Diversity Issues in Counseling—one three-semester credit hour course in studies that are limited to providing a broad understanding of issues and trends in a multicultural and diverse society. Studies in this area shall include all of the following:
  - i. Attitudes and behaviors based on such factors as age, race, religious preference, physical disability, sexual orientation, ethnicity and culture, family patterns, gender, socioeconomic status and intellectual ability;
  - ii. Individual, family, group, and community strategies for working with diverse populations; and
  - iii. Theories of multicultural counseling, theories of identity development, and multicultural competencies;
- h. Basic Counseling Skills in the Helping Relationship—one three-semester credit hour course in studies that are limited to providing a broad understanding of counseling processes, including all of the following:
  - i. Counselor and client characteristics and behaviors that influence helping processes, which could include age, gender and ethnic differences, verbal and nonverbal behaviors, and personal characteristics, orientations, and skills; and
  - ii. Essential interviewing and counseling skills with a focus on the development of a therapeutic relationship, establishment of appropriate counseling goals and intervention strategies, evaluation of client outcome, and successful termination of the counseling relationship;
- i. Human Growth and Development—one three-semester credit hour course in studies that are limited to providing an understanding of the nature and needs of individuals at all developmental levels, including all of the following:
  - i. Theories of individual and family development and transitions across the life-span;
  - ii. Theories of learning and personality development; and
  - iii. Strategies for facilitating optimum development over the life-span;
- j. Career Development and Counseling—one three-semester credit hour course in studies that are limited to providing an understanding of career development and related life factors, including all of the following:
  - i. Career development theories and decision-making models;
  - ii. Interrelationships among and between work, family, and other life roles and factors including the role of diversity and gender in career development; and
  - iii. Psychotherapy and career counseling processes, techniques, and resources, including those applicable to specific populations;
- k. Group Counseling Theory and Practice—one three-semester credit hour course in studies that are limited to providing a broad understanding of group development, group dynamics, group counseling theories, group counseling methods and skills, and other group work approaches. Studies in this area shall include all of the following:
  - i. Principles of group dynamics, which could include group process components, developmental stage theories, and group members' roles and behaviors;
  - ii. Group leadership styles and approaches, which could include characteristics of various types of group leaders and leadership styles;
  - iii. Theories of group counseling, which could include commonalities, distinguishing characteristics, and pertinent research and literature; and
  - iv. Group counseling methods, which could include group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness;
- l. Research Methods—one three-semester credit hour course in studies that are limited to providing an understanding of research methods and basic statistical analysis, including all of the following:
  - i. The importance of research and opportunities and difficulties in conducting research in the counseling profession;
  - ii. Research methods such as qualitative, quantitative, single-case designs, action research and outcome-based research; and
  - iii. Use of research to improve counseling effectiveness;
- m. Marriage and Family Therapy—one three-semester credit hour course in studies that are limited to providing a broad understanding of the structure and dynamics of the family, which may include assessment and methods of marital and family intervention and counseling; and
- n. Chemical Dependency Counseling—one three-semester credit hour course in studies that are limited to providing a broad understanding of the stages, processes, and effects of chemical dependency, social and psychological dynamics of chemical dependency, and the professional's role in prevention, intervention, and aftercare. Coursework shall include all of the following:
  - i. Drug classification and effects;
  - ii. Chemical dependency assessment; and
  - iii. Theories and methods of chemical dependency counseling; and



2. Sufficient semester credit hour courses in any of the following counseling related elective subjects to equal the semester credit hour course requirements of subsections (A) and (B):
  - a. Human sexuality;
  - b. Psychopharmacology;
  - c. Crisis intervention;
  - d. Biological basis of behavior;
  - e. Counseling special populations, including forensic populations, sex offenders, children and adolescents, adults, elderly, gender specific populations, seriously mentally ill individuals, and individuals affected by domestic violence, dual diagnosis, co-morbidity, or co-occurring disorders;
  - f. Rehabilitation counseling;
  - g. Counseling interventions; or
  - h. Additional or advanced courses in any required curriculum category listed in subsection (K)(1).
- ~~L.~~ Beginning on January 1, 2007, an applicant who did not attend a college or university in Arizona shall provide:
  1. A university or college catalogue course description for the year and semester the applicant was enrolled in the course for every course the applicant submits to meet the curriculum requirements in subsection (K), and
  2. Any additional documentation the Counseling Credentialing Committee determines is necessary to evaluate an applicant's curriculum.
- ~~M.~~ Beginning on January 1, 2008, an applicant with a master or higher degree in counseling or a related field from a program accredited by C.A.C.R.E.P. or C.O.R.E. whose program of study did not include a minimum of 60 semester credit hours may submit coursework obtained outside of the degree from a regionally accredited college or university. Coursework completed outside of the degree shall meet curriculum requirements listed in any curriculum category in subsection (K).
- ~~N.~~ Beginning on January 1, 2007, an applicant who does not meet all curriculum requirements is ineligible for licensure.
  1. If an applicant is determined ineligible, but has a master or higher degree in counseling or a related field, the applicant may submit a request for reassessment according to R4-6-303.
  2. An ineligible applicant is considered to have a degree in counseling or a related field if the degree included a minimum of 36 semester credit hours in coursework identified in subsection (K).

#### **R4-6-502. Examination**

- ~~A.~~ The counseling credentialing committee Board approves the following licensure examinations of the following organizations for applicants for counselor licensure:
1. National Counselor Examination for Licensure and Certification offered by the National Board for Certified Counselors,
  2. National Clinical Mental Health Counseling Examination offered by the National Board for Certified Counselors, and
  - ~~2.3. Certified Rehabilitation Counselor Examination offered by the Commission on Rehabilitation Counselor Certification, and.~~
- ~~B.~~ Applicants An applicant for associate counselor and professional counselor licensure shall receive a passing score on an approved licensure examination.
- ~~C.~~ An applicant shall pass an approved examination within 12 months after the date of service of the receiving written deficiency notice described in R4-6-302(D)(6) examination authorization from the Board. An applicant shall not take an approved examination more than twice during the 12-month testing period.
- ~~D.~~ If an applicant does not receive a passing score on an approved licensure examination as required under subsection (B) within the 12 months referenced in subsection (C), the agency Board shall close the applicant's file with no recourse to appeal. To receive further consideration for licensure, the an applicant whose file is closed shall submit a new application and fee.

#### **R4-6-503. Supervised Work Experience for Professional Counselor Licensure**

- ~~A.~~ After completing the degree required in R4-6-501, an An applicant for professional counselor licensure shall complete a minimum of demonstrate completion of at least 3200 hours of supervised work experience in the practice of professional counseling in no less than 24 months. The applicant shall ensure that the supervised work experience includes:
1. Supervised work experience in the practice of professional counseling is limited to the use of psychotherapy for the purpose of assessment, diagnosis and treatment of individuals, couples, families and groups. At least 1600 hours of direct client contact involving the use of psychotherapy, no more than 400 hours of which are in psychoeducation;
  2. At least 100 hours of clinical supervision as prescribed under R4-6-212 and R4-6-504; and
  - ~~2.3. The 3200 hours of supervised work experience in professional counseling shall include a minimum of 1600 hours of direct client contact For the purpose of licensure, no more than 1600 hours of indirect client contact related to psychotherapy services.~~
- ~~B.~~ For any month in which an applicant provides direct client contact, the applicant shall obtain at least one hour of clinical supervision.
- ~~C.~~ An applicant may submit more than the required 3200 hours of supervised work experience for consideration by the Board.
- ~~B.D.~~ During the period of supervised work experience period required specified in subsection (A), an applicant for professional counselor licensure shall not engage in independent practice behavioral health under the limitations specified in



R4-6-210.

~~C.E.~~ There is no supervised work experience requirement for licensure as an associate counselor.

**R4-6-504. Clinical Supervision for Professional Counselor Licensure**

- A. ~~During the supervised work experience required in R4-6-503, an~~ An applicant for professional counselor licensure shall receive ~~a minimum of~~ demonstrate that the applicant received at least 100 hours of clinical supervision ~~that meet the requirements specified in subsection (B) and R4-6-212 in no less than 24 months during the supervised work experience required under R4-6-503.~~
- B. ~~During the supervised work experience required in R4-6-503, an applicant for licensure as a professional counselor shall demonstrate satisfactory performance in the following areas: assessment, diagnostics, individual and group psychotherapy, referrals, personal integrity, appropriate use of supervision, insight into client's problems, objectivity, ethics, concern for welfare of clients, responsibility, boundaries, recognition of own limits, and confidentiality by having the applicant's clinical supervisor submit a performance evaluation on forms available from the Agency. The Board shall accept hours of clinical supervision for professional counselor licensure if:~~
  - 1. At least 50 hours are supervised by a professional counselor licensed by the Board, and
  - 2. The remaining hours are supervised by an individual qualified under R4-6-212(A), or
  - 3. The hours are supervised by an individual for whom an exemption was obtained under R4-6-212.01.
- C. ~~The time span covered by the performance evaluation shall be the same as that for the supervised work experience requirement required in R4-6-503.~~
- D. ~~An applicant for professional counselor licensure shall receive the clinical supervision required by subsection (A) from any of the following behavioral health professionals licensed at the independent level in Arizona:~~
  - 1. ~~A licensed professional counselor;~~
  - 2. ~~A licensed clinical social worker;~~
  - 3. ~~A licensed marriage and family therapist;~~
  - 4. ~~A licensed psychologist; or~~
  - 5. ~~An allopathic or osteopathic medical doctor with a specialty in psychiatry.~~
- E. ~~An applicant may submit a written request to the counseling credentialing committee for an exemption from the requirement in subsection (D). The request shall include the name of the behavioral health professional proposed by the applicant to act as the clinical supervisor, a copy of the proposed clinical supervisor's transcript and curriculum vitae, and any additional documentation requested by the committee. The counseling credentialing committee shall review the supervision exemption request to determine if the proposed supervisor has the necessary education, training, and experience to provide supervision acceptable for professional counselor licensure. If the proposed supervisor has the necessary education, training, and experience, the counseling credentialing committee shall grant the supervision exemption request.~~
  - 1. ~~The counseling credentialing committee will not grant an exemption request for an unlicensed clinical supervisor providing clinical supervision in Arizona after July 1, 2006, except that an exemption may be granted by the committee if the clinical supervisor holds a current active license to practice behavioral health at the independent level and is providing services pursuant to a contract or grant with the federal government under the authority of 25 U.S.C. 450-450(n) or 25 U.S.C. 1601-1683.~~
  - 2. ~~Beginning on July 1, 2006, the counseling credentialing committee will~~ The Board shall not grant an exemption request for a substance abuse counselor accept hours of clinical supervision provided by a substance abuse counselor for professional counselor licensure.

**R4-6-505. Licensed Associate Counselor Independent Practice Prohibition Post-degree Programs**

~~A licensed associate counselor shall not engage in independent practice. A licensed associate counselor shall practice only under direct supervision. An applicant who has a master's or higher degree with a major emphasis in counseling but does not meet all curriculum requirements specified in R4-6-501 may take post-graduate courses from a regionally accredited college or university to remove the curriculum deficiencies as follows:~~

- 1. ~~An applicant whose degree did not consist of 60 semester or 90 quarter credit hours may take graduate or higher level counseling-related courses to meet the curriculum requirement;~~
- 2. ~~An applicant whose degree did not include the eight core content areas specified in R4-6-501(C) may take graduate or higher level courses to meet the core content requirement; and~~
- 3. ~~An applicant whose practicum did not meet the requirements specified in R4-6-501(E) may obtain additional graduate level supervised practicum hours.~~

**ARTICLE 6. MARRIAGE AND FAMILY THERAPY**

**R4-6-601. Curriculum**

~~A~~ An applicant for licensure as an associate marriage and family therapist or a marriage and family therapist shall have a ~~master's or higher degree in a behavioral health science from a regionally accredited college or university whose~~ in a behavioral health science program that is:

- 1. ~~Accredited~~ Is accredited by the Commission on Accreditation for Marriage and Family Therapy Education COAM-FTE; ~~or~~



2. Determined by the marriage and family therapy credentialing committee to be substantially equivalent to a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education Was previously approved by the Board under A.R.S. § 32-3253(A)(14); or
  3. Includes at least three semester or four quarter credit hours in each of the number of courses specified in the six core content areas listed in subsection (B).
- B.** A program is substantially equivalent if it includes the following courses for a minimum of three-semester credit hours each under subsection (A)(3) shall include:
- a-1. Marriage and Family Studies (3 courses) — studies of family studies: Three courses from a systems theory orientation including but not limited to:
    - a. ~~introductory~~ Introductory systems theory, family;
    - b. Family development, family;
    - c. Family systems, including marital, sibling, and individual subsystems;
    - d. ~~special~~ Special family issues; and
    - e. gender Gender and cultural issues; ~~all with a major focus from a systems theory orientation;~~
  - b-2. Marriage and Family Therapy (3 courses) — studies of family therapy: Three courses including but not limited to:
    - a. ~~advanced~~ Advanced systems theory and interventions;
    - b. ~~major~~ Major systemic marriage and family treatment approaches;
    - c. structural, strategic, neo-analytic, group therapy, behavioral marriage Group and family therapy;
    - d. communications, sex therapy, Communications;
    - e. Sex therapy; and
    - f. psychopharmacology Psychopharmacology;
  - e-3. Human Development (3 courses) — studies of development: Three courses that may integrate systems theory including but not limited to:
    - a. ~~normal~~ Normal and abnormal human development;
    - b. personality Personality theory;
    - c. ~~human~~ Human sexuality; and
    - d. psychopathology Psychopathology and abnormal behavior; ~~which may be integrated with systems theory;~~
  - d-4. Professional Studies (1 course) — studies of studies: One course including but not limited to:
    - a. ~~professional~~ Professional ethics as a therapist, including legal and ethical responsibilities and liabilities; and
    - b. ~~family~~ Family law;
  - e-5. Research; (1 course) — studies of One course in research design, methodology, and statistics in marriage and family therapy behavioral health science; and
  6. Supervised practicum: Two courses that supplement the practical experience gained under subsection (D).
- C.** In evaluating the curriculum required under subsection (B), the Board shall assess whether a core content area is embedded or contained in more than one course. The applicant shall provide information the Board requires to determine whether a core content area is embedded in multiple courses. The Board shall not accept a core content area embedded in more than two courses unless the courses are succession courses. The Board shall allow subject matter in a course to qualify in only one core content area.
- D.** f. Practicum or Internship (2 courses) — studies that are limited to the provision of A program's supervised practicum shall meet the following standards:
1. Provides an opportunity for the enrolled student to provide marriage and family therapy services to individuals, couples, and families within in an educational or professional setting under the direction of a faculty member or supervisor designated by the college or university;
  2. Includes at least 300 client-contact hours provided under direct supervision;
  3. Has supervision provided by a designated licensed marriage and family therapist designated by the college or university as provided in subsections (2)(f)(ii) or (iii).
    - i. The supervised practicum or internship shall consist of a minimum of 300 client contact hours under direct supervision; and
    - ii. A licensed marriage and family therapist shall supervise the required practicum or internship; or
- E.** iii. An applicant may submit a written request to the marriage and family therapy credentialing committee ARC for an exemption from the requirement of specified in subsection (2)(f)(ii) (D)(3). The request shall include the name of the behavioral health professional proposed by the applicant to act as supervisor of the practicum or internship supervisor, a copy of the proposed supervisor's transcript and curriculum vitae, and any additional documentation requested by the committee ARC. The marriage and family therapy credentialing committee ARC shall determine whether an grant the exemption if the ARC determines the individual proposed supervisor is qualified to provide supervision by evaluating the proposed supervisor's by education, experience, and training to provide supervision.
- F.** The Board shall deem an applicant who holds an active associate marriage and family therapist license issued by the Board and in good standing meets the curriculum requirements for marriage and family therapist licensure.

#### **R4-6-602. Examination**

- A.** The marriage and family therapy credentialing committee Board approves the marriage and family therapy licensure examination offered by the Professional Examination Service Association of Marital and Family Therapy Regulatory Boards.



- ~~B. Applicants~~ An applicant for associate marriage and family therapist and or marriage and family therapist licensure shall receive a passing score on an the approved licensure examination.
- ~~C. An applicant shall pass an the approved examination within 12 months after receiving the date of service of the written deficiency notice described in R4-6-302(D)(6) examination authorization from the Board. An applicant shall not take an approved-the examination more than twice during the 12-month testing period.~~
- ~~D. If the required examination is not passed within the 12 months referenced in an applicant does not receive a passing score as required under subsection (C) (B) within the 12 months referenced in subsection (C), the Agency Board shall close the applicant's file with no recourse to appeal. To receive further consideration for licensure, the an applicant whose file is closed shall submit a new application and fee.~~

**R4-6-603. Supervised Work Experience for Marriage and Family Therapy Licensure**

- ~~A. After completing the degree required in R4-6-601, an An applicant for licensure as a marriage and family therapist shall complete a minimum of demonstrate completion of at least 3200 hours of supervised work experience in the practice of marriage and family therapy in no less than 24 months. The applicant shall ensure that the supervised work experience includes:~~
  - ~~1. Supervised work experience in the practice of marriage and family therapy is limited to the use of psychotherapy for the purpose of assessment, diagnosis and treatment of individuals, couples, families and groups. At least 1600 hours of direct client contact involving the use of psychotherapy;~~
  - ~~2. The 3200 hours of supervised work experience in marriage and family therapy shall include a minimum of 1600 hours of direct client contact.~~
    - ~~a. A minimum of 1000 of the 1600 hours of direct client contact shall be client contact with couples and families. The remaining 600 hours may be with individuals and groups. At least 1000 hours of direct client contact are with couples or families; and~~
    - ~~b. During the required supervised work experience period, an applicant for marriage and family therapist licensure shall not engage in independent practice. No more than 400 hours of direct client contact are in psychoeducation and at least 60 percent of psychoeducation hours are with couples or families;~~
    - ~~e. There is no supervised work experience requirement for licensure as an associate marriage and family therapist.~~
  - ~~2. At least 100 hours of clinical supervision as prescribed under R4-6-212 and R4-6-604; and~~
  - ~~3. For the purpose of licensure, no more than 1600 hours of indirect client contact related to psychotherapy services.~~
- ~~B. For any month in which an applicant provides direct client contact, the applicant shall obtain at least one hour of clinical supervision.~~
- ~~C. An applicant may submit more than the required 3200 hours of supervised work experience for consideration by the Board.~~
- ~~D. During the period of supervised work experience specified in subsection (A), an applicant for marriage and family therapist licensure shall practice behavioral health under the limitations specified in R4-6-210.~~
- ~~E. There is no supervised work experience requirement for licensure as an associate marriage and family therapist.~~

**R4-6-604. Clinical Supervision for Marriage and Family Therapy Licensure**

- ~~A. During An applicant for marriage and family therapy licensure shall demonstrate that the applicant received at least 100 hours of clinical supervision that meets the requirements specified in subsection (B) and R4-6-212 during the supervised work experience required in under R4-6-603, an applicant for licensure as a marriage and family therapist shall receive a minimum of 200 hours of clinical supervision in no less than 24 months and at least 120 of the hours shall address issues focusing on couples and families.~~
- ~~B. An applicant for licensure as a marriage and family therapist shall ensure that the applicant's clinical supervisor submits a performance evaluation on forms available from the Agency. The Board shall not license an applicant unless the performance evaluation demonstrates satisfactory performance in the following areas: assessment, diagnostics, individual and group psychotherapy, referrals, personal integrity, appropriate use of supervision, insight into client's problems, objectivity, ethics, concern for welfare of clients, responsibility, boundaries, recognition of own limits, and confidentiality. The Board shall accept hours of clinical supervision for marriage and family therapist licensure if:~~
  - ~~1. The hours are supervised by an individual who meets the educational requirements under R4-6-214;~~
  - ~~2. At least 75 of the hours are supervised by a marriage and family therapist licensed by the Board, and~~
  - ~~3. The remaining hours are supervised by one or more of the following:~~
    - ~~a. A professional counselor licensed by the Board;~~
    - ~~b. A clinical social worker licensed by the Board;~~
    - ~~c. A marriage and family therapist licensed by the Board; or~~
    - ~~d. A psychologist licensed under A.R.S. Title 32, Chapter 19.1; or~~
  - ~~4. The hours are supervised by an individual for whom an exemption is obtained under R4-6-212.01.~~
- ~~C. The time span covered by the performance evaluation shall be the same period as the supervised work experience under R4-6-603.~~
- ~~D. Clinical supervision of an applicant for marriage and family therapist licensure shall be provided by a marriage and family therapist licensed in Arizona. The Board shall not accept hours of clinical supervision provided by a substance abuse counselor for marriage and family therapy licensure.~~
- ~~E. An applicant may submit a written request to the marriage and family therapy credentialing committee for an exemption from the requirement of subsection (D).~~



1. The request shall include the name of the behavioral health professional proposed by the applicant as the clinical supervisor and a copy of the proposed clinical supervisor's graduate degree transcript and curriculum vitae. The applicant shall provide any additional documentation requested by the committee.
2. The marriage and family therapy credentialing committee shall review the supervision exemption request to determine whether the proposed supervisor has education, training, and experience comparable to that of a licensed marriage and family therapist. If the proposed supervisor has comparable education, training, and experience, the marriage and family therapy credentialing committee shall grant the supervision exemption request.
  - a. Beginning on July 1, 2006, the marriage and family therapy credentialing committee shall not grant an exemption request for clinical supervision provided in Arizona by a person not licensed to practice psychotherapy in Arizona, except that the committee may grant an exemption if the clinical supervisor holds a current active license in any state or jurisdiction to practice psychotherapy at the independent level and is providing services pursuant to a contract or grant with the federal government under 25 U.S.C. 450—450n or 25 U.S.C. 1601—1683.
  - b. Beginning on July 1, 2006, the marriage and family credentialing committee shall not grant an exemption for clinical supervision by a substance abuse counselor.

#### R4-6-605. Post-degree Programs

An applicant who has a ~~master~~ master's or higher degree in a behavioral health science, but who does not meet all curriculum requirements specified in R4-6-601 may take post-graduate courses from a regionally accredited college or university to remove ~~any the curriculum~~ any curriculum deficiencies if ~~the curriculum deficiencies constitute no more than nine semester credit hours.~~

1. The deficiencies constitute no more than 12 semester or 16 quarter credit hours; and
2. Courses taken to remove the deficiencies are at a graduate or higher level.

#### R4-6-606. ~~Licensed Associate Marriage and Family Therapist—Independent Practice Prohibition~~ Repealed

~~A licensed associate marriage and family therapist shall not engage in independent practice. A licensed associate marriage and family therapist shall practice only under direct supervision.~~

### ARTICLE 7. SUBSTANCE ABUSE COUNSELING

#### R4-6-701. Licensed Substance Abuse Technician Curriculum

- A. An applicant for licensure as a substance abuse technician shall ~~present evidence acceptable to the substance abuse credentialing committee that the applicant has earned~~ have:
  1. ~~An associate of applied science degree from a regionally accredited college or university in chemical dependency with the following semester credit hours: An associate's or bachelor's degree from a regionally accredited college or university in a program accredited by NASAC;~~
    - a. ~~A minimum of 30 semester credit hours of counseling related coursework as determined by the substance abuse credentialing committee, and~~
    - b. ~~A minimum of 18 of the 30 semester credit hours of coursework required in subsection (A)(1)(a) shall specifically relate to chemical dependency, or~~
  2. ~~A bachelor's degree from a regionally accredited college or university in a behavioral science with a minimum of 30 semester credit hours of counseling related coursework as determined by the substance abuse credentialing committee. An associate's or bachelor's degree from a regionally accredited college or university in an educational program previously approved by the Board under A.R.S. § 32-3253(A)(14); or~~
  3. ~~An associate's or bachelor's degree from a regionally accredited college or university in a behavioral health science program that includes coursework from the seven core content areas listed in subsection (B).~~
- B. ~~Coursework restrictions and limitations: An associate's or bachelor's degree under subsection (A)(3), shall include at least three semester or four quarter credit hours in each of the following core content areas:~~
  1. ~~The Board shall not accept coursework in a general survey course, such as Psychology 101, as meeting the coursework requirements of this Section. Psychopharmacology, including but limited to:~~
    - a. ~~Nature of psychoactive chemicals;~~
    - b. ~~Behavioral, psychological, physiological, and social effects of psychoactive substance use;~~
    - c. ~~Symptoms of intoxication, withdrawal, and toxicity;~~
    - d. ~~Toxicity screen options, limitations, and legal implications; and~~
    - e. ~~Use of pharmacotherapy for treatment of addiction;~~
  2. ~~The Board shall not accept coursework that does not include a significant clinical component, such as statistics, as meeting the coursework requirements of this Section. Models of treatment and relapse prevention: Including but not limited to philosophies and practices of generally accepted and scientifically supported models of:~~
    - a. ~~Treatment.~~
    - b. ~~Recovery.~~
    - c. ~~Relapse prevention, and~~
    - d. ~~Continuing care for addiction and other substance use related problems;~~



- 3. ~~Undergraduate or graduate coursework completed outside of the associate of applied science degree and submitted to meet curriculum requirements shall constitute no more than six semester credit hours. Group work: Group dynamics and processes as they relate to addictions and substance use disorders;~~
- 4. ~~Undergraduate or graduate coursework completed outside of the bachelor's degree and submitted to meet curriculum requirements shall constitute no more than six semester credit hours. Working with diverse populations: Issues and trends in a multicultural and diverse society as they relate to substance use disorder and addiction;~~
- 5. ~~Co-occurring disorders, including but not limited to:
 
  - a. Symptoms of mental health and other disorders prevalent in individuals with substance use disorders or addictions;
  - b. Screening and assessment tools used to detect and evaluate the presence and severity of co-occurring disorders; and
  - c. Evidence-based strategies for managing risks associated with treating individuals who have co-occurring disorders;~~
- 6. ~~Ethics, including but not limited to:
 
  - a. Legal and ethical responsibilities and liabilities;
  - b. Standards of professional behavior and scope of practice;
  - c. Client rights, responsibilities, and informed consent; and
  - d. Confidentiality and other legal considerations in substance abuse counseling; and~~
- 7. ~~Assessment, diagnosis, and treatment. Use of assessment and diagnosis to develop appropriate treatment interventions for substance use disorders or addictions.~~
- C. ~~The substance abuse credentialing committee may Board shall~~ waive the education requirement in subsection (A) for an applicant requesting licensure as a substance abuse technician if the applicant demonstrates all of the following:
  - 1. ~~The applicant provides services pursuant to under a contract or grant with the federal government under the authority of 25 U.S.C. § 450 – 450(n) or 25 U.S.C. § 1601 – 1683;~~
  - 2. ~~The applicant has obtained at least the equivalent of a high school diploma or equivalent degree; or~~
  - 3. ~~Because of cultural considerations, obtaining the degree required for substance abuse technician licensure under subsection (A) would be an extreme hardship for the applicant; and~~
  - 4. ~~The applicant has completed a minimum of at least 6400 hours of supervised work experience in substance abuse counseling, as prescribed in R4-6-705(C), in no less than 48 months within the seven years immediately preceding the date of application;~~
  - 5. ~~The 6400 hours of supervised work experience in substance abuse counseling shall include a minimum of 3200 hours of direct client contact; and~~
  - 6. ~~The applicant has completed a minimum of 200 hours of clinical supervision in no less than 48 months within the supervised work experience submitted pursuant to R4-6-701(C)(4).~~
- D. ~~The supervised work experience in the practice of substance abuse counseling required in subsection (C) is limited to the use of psychotherapy for the purpose of assessment, diagnosis, and treatment of individuals, couples, families, and groups as they relate to substance abuse and chemical dependency issues. In evaluating the curriculum required under subsection (B), the Board shall assess whether a core content area is embedded or contained in more than one course. The applicant shall provide information the Board requires to determine whether a core content area is embedded in multiple courses. The Board shall not accept a core content area embedded in more than two courses unless the courses are succession courses. The Board shall allow subject matter in a course to qualify in only one core content area.~~
- E. ~~During the period of required supervised work experience in the practice of substance abuse counseling required in subsection (C), an applicant for substance abuse technician licensure shall not engage in independent practice. An applicant for licensure as a substance abuse technician who completed the applicant's educational training before the effective date of this Section or no later than October 31, 2017, may request that the Board evaluate the applicant's educational training using the standards in effect before the effective date of this Section.~~
- F. ~~During the supervised work experience required in subsection (C), an applicant for substance abuse technician licensure shall demonstrate satisfactory performance in the following areas as they relate to substance abuse counseling by having the applicant's clinical supervisor submit a performance evaluation on forms available from the agency:
 
  - 1. ~~Intake;~~
  - 2. ~~Diagnostics;~~
  - 3. ~~Assessment;~~
  - 4. ~~Triage;~~
  - 5. ~~Crisis intervention;~~
  - 6. ~~Treatment planning;~~
  - 7. ~~Family, group, and individual therapy;~~
  - 8. ~~Outreach; and~~
  - 9. ~~Consultation with other professionals.~~~~
- G. ~~The time span covered by the performance evaluations required under subsection (F) shall be the same as that for the supervised work experience required in subsection (C).~~
- H. ~~Clinical supervision of an applicant for substance abuse technician licensure required in subsection (C) shall be provided by an independent substance abuse counselor licensed in Arizona.~~



- I.** An applicant may submit a written request to the substance abuse credentialing committee for an exemption from subsection (H). The request shall include the name of the behavioral health professional proposed by the applicant to act as the clinical supervisor, a copy of the proposed supervisor's transcript and curriculum vitae, and any additional documentation requested by the committee.
1. The substance abuse credentialing committee shall review the supervision exemption request to determine whether the proposed supervisor has the necessary education, training, and experience to provide supervision acceptable for substance abuse technician licensure. If the proposed supervisor has the necessary education, training, and experience, the substance abuse credentialing committee shall grant the supervision exemption request.
  2. The substance abuse credentialing committee will not grant an exemption request for an unlicensed clinical supervisor providing clinical supervision in Arizona after July 1, 2006, except than an exemption may be granted by the committee if the clinical supervisor holds a current active license to practice behavioral health at the independent level and is providing services pursuant to a contract or grant with the federal government under the authority of 25 U.S.C. 450—450(n) or 25 U.S.C. 1601—1683.
- J.** A person who is licensed pursuant to subsection (C) shall only provide substance abuse counseling services to those eligible for services pursuant to 25 U.S.C. 450—450(n) or 25 U.S.C. 1601—1683.

#### **R4-6-702. Licensed Associate Substance Abuse Counselor Curriculum**

- A.** An applicant for licensure as an associate substance abuse counselor shall present evidence acceptable to the substance abuse credentialing committee that the applicant has either have one of the following:
1. A bachelor's degree from a regionally accredited college or university in a behavioral health service with a minimum of 30 semester credit hours of counseling related coursework as determined by the substance abuse credentialing committee, program accredited by NASAC and supervised work experience that meets the standards specified in R4-6-705(A); or
  2. A master's or higher degree from a regionally accredited college or university in a behavioral health service with a minimum of 24 semester credit hours of counseling related coursework as determined by the substance abuse credentialing committee program accredited by NASAC and includes at least 300 hours of supervised practicum as prescribed under subsection (C);
  3. Undergraduate or graduate coursework completed outside of the bachelor degree and submitted to meet the curriculum requirements in subsection (1) shall constitute no more than 12 semester credit hours through June 30, 2007, and six semester credit hours as of July 1, 2007. A bachelor's degree from a regionally accredited college or university in a behavioral health science program that meets the core content standards specified in R4-6-701(B) and supervised work experience that meets the standards specified in R4-6-705(A);
  4. Graduate coursework completed outside of the master or higher degree and submitted to meet curriculum requirements in subsection (2) shall constitute no more than three semester credit hours. A master's or higher degree from a regionally accredited college or university in a behavioral health science program that meets the core content standards specified in R4-6-701(B) and includes at least 300 hours of supervised practicum as prescribed under subsection (C); or
  5. The Board shall not accept coursework in a general survey course, such as Psychology 101, as meeting the coursework requirements in this Section. A bachelor's degree from a regionally accredited college or university in an educational program previously approved by the Board under A.R.S. § 32-3253(A)(14) and supervised work experience that meets the standards specified in R4-6-705(A); or
  6. The Board shall not accept coursework that does not include a significant clinical component, such as statistics coursework, as meeting the coursework requirements in this Section. A master's or higher degree from a regionally accredited college or university in an educational program previously approved by the Board under A.R.S. § 32-3253(A)(14) and includes at least 300 hours of supervised practicum as prescribed under subsection (C).
- B.** In evaluating the curriculum required under subsection (A)(3) or (4), the Board shall assess whether a core content area is embedded or contained in more than one course. The applicant shall provide information the Board requires to determine whether a core content area is embedded in multiple courses. The Board shall not accept a core content area embedded in more than two courses unless the courses are succession courses. The Board shall allow subject matter in a course to qualify in only one core content area.
- C.** Supervised practicum. A supervised practicum shall integrate didactic learning related to substance use disorders with face-to-face, direct counseling experience. The counseling experience shall include intake and assessment, treatment planning, discharge planning, documentation, and case management activities.
- D.** The Board shall deem an applicant to meet the curriculum requirements for associate substance abuse counselor licensure if the applicant:
1. Holds an active and in good standing substance abuse technician license issued by the Board; and
  2. Met the curriculum requirements with a bachelor's degree when the substance abuse technician license was issued.
- E.** An applicant for licensure as an associate substance abuse counselor who completed the applicant's educational training before the effective date of this Section or no later than October 31, 2017, may request that the Board evaluate the applicant's educational training using the standards in effect before the effective date of this Section.

#### **R4-6-703. Licensed Independent Substance Abuse Counselor Curriculum**

- A.** An applicant for licensure as an independent substance abuse counselor shall have a master's or higher degree



from a regionally accredited college or university in one of the following: in a behavioral health service with a minimum of 24 semester credit hours of counseling related coursework as determined by the substance abuse credentialing committee.

- 1. The Board shall not accept coursework in a general survey course, such as Introduction to Human Services, as meeting the coursework requirements in this Section. A program accredited by NASAC that includes at least 300 hours of supervised practicum as prescribed under subsection (D);
- 2. The Board shall not accept coursework that does not include a significant clinical component, such as statistics coursework, as meeting the coursework requirements in this Section. A behavioral health science program that meets the core content standards specified in R4-6-701(B) and includes at least 300 hours of supervised practicum as prescribed under subsection (D); or
- 3. Graduate coursework completed outside of the master or higher degree and submitted to meet curriculum requirements shall constitute no more than three semester credit hours. An educational program previously approved by the Board under A.R.S. § 32-3253(A)(14) that includes at least 300 hours of supervised practicum as prescribed under subsection (D).

**B.** In addition to the degree requirement under subsection (A), an applicant for licensure as an independent substance abuse counselor shall complete the supervised work experience requirements prescribed under R4-6-705(B).

**C.** In evaluating the curriculum required under subsection (A)(2), the Board shall assess whether a core content area is embedded or contained in more than one course. The applicant shall provide information the Board requires to determine whether a core content area is embedded in multiple courses. The Board shall not accept a core content area embedded in more than two courses unless the courses are succession courses. The Board shall allow subject matter in a course to qualify in only one core content area.

**D.** Supervised practicum. A supervised practicum shall integrate didactic learning related to substance use disorders with face-to-face, direct counseling experience. The counseling experience shall include intake and assessment, treatment planning, discharge planning, documentation, and case management activities.

**E.** The Board shall deem an applicant to meet the curriculum requirements for independent substance abuse counselor licensure if the applicant:

- 1. Holds an active and in good standing associate substance abuse counselor license issued by the Board; and
- 2. Met the curriculum requirements with a master's degree when the associate substance abuse counselor license was issued.

**F.** An applicant for licensure as an independent substance abuse counselor who completed the applicant's educational training before the effective date of this Section or no later than October 31, 2017, may request that the Board evaluate the applicant's educational training using the standards in effect before the effective date of this Section.

**R4-6-704. Examination**

**A.** The substance abuse counseling credentialing committee Board approves the following licensure examinations for an applicant for substance abuse technician licensure:

- 1. International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse Counselor and Advanced Alcohol and Drug Counselor Examinations offered by the International Certification and Reciprocity Consortium, and
- 2. Level II or higher examinations offered by the National Association of Alcoholism and Drug Abuse Counselors NAADAC, the Association of Addiction Professionals.

**B.** An applicant for substance abuse technician, associate substance abuse counselor and independent substance abuse counselor licensure shall receive a passing score on an approved licensure examination. The Board approves the following licensure examinations for an applicant for associate or independent substance abuse counselor licensure:

- 1. Advanced Alcohol and Drug Counselor Examination offered by the International Certification and Reciprocity Consortium,
- 2. Level II or higher examinations offered by the NAADAC, the Association of Addiction Professionals, and
- 3. Examination for Master Addictions Counselors offered by the National Board for Certified Counselors.

**C.** For an applicant for associate or independent substance abuse counselor licensure who received written examination authorization from the Board before the effective date of this Section, the Board shall accept an examination listed in subsection (A) through expiration of the written examination authorization provided by the Board.

**D.** Applicants An applicant shall pass an approved examination within 12 months after the date of service of the receiving written deficiency notice described in R4-6-302(D)(6) examination authorization from the Board. An applicant shall not take an approved examination more than twice during the 12-month testing period.

**E.** If an applicant does not receive a passing score on an approved licensure examination within the 12 months referenced in subsection (C) (D), the agency Board shall close the applicant's file with no recourse to appeal. To receive further consideration for licensure, an applicant whose file is closed shall submit a new application and fee.

**R4-6-705. Supervised Work Experience for Associate Substance Abuse Counselor and Independent Substance Abuse Counselor Licensure**

**A.** An applicant for associate substance abuse counselor licensure who has a bachelor's degree and is required under R4-6-702(1) R4-6-702(A) to participate in a supervised work experience shall complete a minimum of at least 3200 hours of supervised work experience in substance abuse counseling in no less than 24 months. The applicant shall ensure that the supervised work experience relates to substance use disorder and addiction and meets the following standards:

- 1. At least 1600 hours of direct client contact involving the use of psychotherapy related to substance use disorder and addiction issues.



2. No more than 400 hours of direct client contact in psychoeducation.
  3. For the purpose of licensure, no more than 1600 hours of indirect client contact related to psychotherapy services.
  4. At least 100 hours of clinical supervision as prescribed under R4-6-212 and R4-6-706, and
  5. At least one hour of clinical supervision in any month in which the applicant provides direct client contact.
- B.** After completing the master or higher degree described in R4-6-703, an An applicant for independent substance abuse counselor licensure shall complete a minimum of demonstrate completion of at least 3200 hours of supervised work experience in substance abuse counseling in no less than 24 months. The applicant shall ensure that the supervised work experience meets the standards specified in subsection (A).
- C.** The supervised work experience in the practice of substance abuse counseling required in this Section is limited to the use of psychotherapy for the purpose of assessment, diagnosis and treatment of individuals, couples, families and groups as they relate to substance abuse and chemical dependency issues. The 3200 hours of supervised work experience in substance abuse counseling shall include a minimum of 1600 hours of direct client contact. An applicant for substance abuse technician qualifying under R4-6-701(C) shall complete at least 6400 hours of supervised work experience in no less than 48 months. The applicant shall ensure that the supervised work experience includes:
1. At least 3200 hours of direct client contact;
  2. Using psychotherapy to assess, diagnose, and treat individuals, couples, families, and groups for issues relating to substance use disorder and addiction; and
  3. At least 200 hours of clinical supervision as prescribed under R4-6-212 and R4-6-706.
- D.** An applicant may submit more than the required number of hours of supervised work experience for consideration by the Board.
- ~~D.E.~~** During the period of required supervised work experience, an applicant for associate substance abuse counselor and independent substance abuse counselor licensure shall not engage in independent practice behavioral health under the limitations specified in R4-6-210.
- ~~E.F.~~** There is no supervised work experience requirement for an applicant for licensure as:
1. a A substance abuse technician for an applicant qualifying pursuant to under R4-6-701(A), or associate
  2. An associate substance abuse counselor for an applicant qualifying pursuant to R4-6-702(2) under R4-6-702(A) with a master's or higher degree.

**R4-6-706. Clinical Supervision for Associate Substance Abuse Counselor and Independent Substance Abuse Counselor Licensure**

- A.** During the supervised work experience required in under R4-6-705, an applicant for associate substance abuse counselor and independent substance abuse counselor licensure shall receive a minimum of 100 demonstrate that the applicant received, for the level of licensure sought, at least the number of hours of clinical supervision specified in R4-6-705 in no less than 24 months that meets the requirements in subsection (B) and R4-6-212.
- B.** During the supervised work experience required in R4-6-705, an applicant for associate substance abuse counselor and independent substance abuse counselor licensure shall demonstrate satisfactory performance in the following areas as they relate to substance abuse counseling: intake, diagnostics, assessment, triage, crisis intervention, treatment planning, family, group and individual psychotherapy, outreach, and consultation with other professionals by having the applicant's clinical supervisor submit a performance evaluation on forms available from the Agency. The Board shall accept hours of clinical supervision for substance abuse licensure if the focus of the supervised hours relates to substance use disorder and addiction and:
1. At least 50 hours are supervised by an independent substance abuse counselor licensed by the Board, and
  2. The remaining hours are supervised by an individual qualified under R4-6-212(A), or
  3. The hours are supervised by an individual for whom an exemption was obtained under R4-6-212.01.
- C.** The time span covered by the performance evaluations shall be the same as that for the supervised work experience required in R4-6-705.
- D.** Clinical supervision of an applicant for associate substance abuse counselor and independent substance abuse counselor licensure shall be provided by an independent substance abuse counselor licensed in Arizona.
- E.** An applicant may submit a written request to the substance abuse credentialing committee for an exemption from the requirement of subsection (D). The request shall include the name of the behavioral health professional proposed by the applicant to act as the clinical supervisor, a copy of the proposed clinical supervisor's transcript and curriculum vitae, and any additional documentation requested by the committee. The substance abuse credentialing committee shall review the supervision exemption request to determine whether the proposed supervisor has the necessary education, training, and experience to provide supervision acceptable for associate substance abuse counselor and independent substance abuse counselor licensure. If the proposed supervisor has the necessary education, training, and experience, the substance abuse credentialing committee shall grant the supervision exemption request. The substance abuse credentialing committee will not grant an exemption request for an unlicensed clinical supervisor providing clinical supervision in Arizona after July 1, 2006, except that an exemption may be granted by the committee if the clinical supervisor holds a current active license to practice behavioral health at the independent level and is providing services pursuant to a contract or grant with the federal government under the authority of 25 U.S.C. 450—450(n) or 25 U.S.C. 1601—1683.

**R4-6-707. Licensed Substance Abuse Technician and Licensed Associate Substance Abuse Counselor—Independent Practice Prohibition Post-degree Programs**

Neither a licensed substance abuse technician nor a licensed associate substance abuse counselor shall engage in independent practice. A licensed substance abuse technician and a licensed associate substance abuse counselor shall practice only under direct supervision.



An applicant who has a behavioral health science degree from a regionally accredited college or university but does not meet all curriculum requirements specified in R4-6-701, R4-6-702, or R4-6-703 may take post-graduate courses from a regionally accredited college or university to remove the curriculum deficiencies. The Board shall accept a post-graduate course from a regionally accredited college or university to remove a curriculum deficiency if the course meets the following requirement, as applicable:

1. For an applicant who has an associate's or bachelor's degree, an undergraduate or higher level course; or
2. For an applicant who has a master's degree, a graduate or higher level course.

ARTICLE 8. LICENSE RENEWAL AND CONTINUING EDUCATION

R4-6-801. Renewal of Licensure

- A. Under A.R.S. § 32-3273, a license issued by the Board under A.R.S. Title 32, Chapter 33 and this Chapter is renewable every two years. A licensee who has more than one license may request in writing that the Board synchronize the expiration dates of the licenses. The licensee shall pay any prorated fees required to accomplish the synchronization.
- B. A licensee holding an active license to practice behavioral health in this state shall complete 30 clock hours of continuing education as prescribed under R4-6-802 and R4-6-804 between the date the Board receives received the licensee's last renewal application and the next license expiration date. A licensee may not carry excess continuing education hours over to another renewal cycle from one license period to the next. One hour of credit is allowed for each clock hour of participation in continuing education activities.
- ~~B.C.~~ C. To renew licensure, a licensee shall submit the following to the agency Board on or before the date of license expiration or as specified in A.R.S. § 32-4301:
  1. A completed renewal application form, approved by the Board. The licensee shall ensure that the renewal form: that includes
    - a. Includes a list of 30 clock hours of continuing education activities that the licensee completed during the license period;
    - b. If the documentation previously submitted under R4-6-301(12) was a limited form of work authorization issued by the federal government, includes evidence that the work authorization has not expired; and
    - c. Is signed by the licensee and attesting that all information submitted in support of the renewal application is true and correct;
  2. A certified check, cashier's check, or money order for Payment of the renewal fee as prescribed in R4-6-215; and
  3. Other documents requested by the credentialing committee Board to determine that the licensee's continued eligibility licensee continues to meet the requirements under A.R.S. Title 32, Chapter 33 and this Chapter.
- C. A license shall expire unless the licensee submits to the agency the items listed in subsection (B) on or before the license expiration date.
- ~~D.~~ D. The Board shall mail to each licensee a license renewal application. Failure to receive the license renewal application shall not relieve the licensee of the requirements of subsection (A).
- ~~E.D.~~ E. The Board may audit a licensee to verify compliance with the continuing education requirements under subsection (A) (B). Documentation A licensee shall maintain documentation verifying compliance with the continuing education requirements shall be retained as prescribed under R4-6-803.
- ~~F.E.~~ F. A licensee whose license expires may renew licensure have the license reinstated by submitting a complete renewal application, other documents requested by the credentialing committee, complying with subsection (C) and paying a late fee renewal penalty within 90 days of the license expiration date. A license that is renewed reinstated under this subsection shall be considered is effective on the first of the month following the expiration date with no lapse in licensure.

R4-6-802. Continuing Education

- A. A licensee who maintains more than one license may apply the same continuing education hours for each license renewal of each license if the content of the continuing education relates to the scope of practice of each specific license.
- B. For each renewal license period, a licensee may report a maximum of:
  1. 10 Ten clock hours of continuing education from for first-time presentations by the licensee that deal with current developments, skills, procedures, or treatments related to the practice of behavioral health. The licensee may claim one clock hour for each hour spent preparing, writing, and presenting information;
  - ~~C.2.~~ 2. For each renewal period, a licensee other than a Board or credentialing committee member may report a maximum of six Six clock hours of continuing education for attendance at a Board or credentialing committee meeting where the licensee is not:
    - a. A member of does not address the Board, or credentialing committee
    - b. The subject of with regard to any matter on the agenda; or
    - c. The complainant in any matter that is on the agenda; and
  - ~~D.3.~~ 3. For each renewal period, a licensee may report a maximum of 10 Ten clock hours of continuing education for service as a Board or credentialing committee ARC member.
- C. For each license period, a licensee shall report:
  1. A minimum of three clock hours of continuing education sponsored, approved, or offered by an entity listed in subsection (D) in:
    - a. Behavioral health ethics or mental health law, and
    - b. Cultural competency and diversity; and
  2. Beginning January 1, 2018, complete a Board-approved tutorial on Board statutes and rules.



~~E.D.~~ Continuing Education A licensee shall participate in continuing education activities that relates to the scope of practice of the specific license held and to maintaining or improving the skill and competency of the licensee. The credentialing committee shall determine whether continuing education submitted by a licensee is appropriate for the purpose of maintaining or improving the skills and competency of a licensee. Appropriate Board has determined that in addition to the continuing education listed in subsections (B) and (C), the following continuing education activities include meets this standard:

1. Activities sponsored or approved by national, regional, or state professional associations or organizations in the specialties of marriage and family therapy, professional counseling, social work, substance abuse counseling, or in the allied professions of psychiatry, psychiatric nursing, psychology, or pastoral counseling;
2. Programs in the behavioral health field sponsored or approved by a regionally accredited college or university;
3. In-service training, courses, or workshops in the behavioral health field sponsored by federal, state, or local social service agencies, public school systems, or licensed health facilities or hospitals;
4. Graduate-level or undergraduate coursework courses in the behavioral health field offered by a regionally accredited colleges college or universities university. One semester-credit hour or the hour equivalent of one semester hour is equivalent to equals 15 clock hours of continuing education and one quarter-credit hour is equivalent to 10 clock hours of continuing education. Audited courses shall have hours in attendance documented;
5. A licensee's first time presentation of an academic course, in-service training workshop, or seminar, as prescribed in subsection (B);
- 6-5. Publishing a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of behavioral health. The For the license period in which publication occurs, the licensee may claim one clock hour for each hour spent preparing and writing materials. Publications can only be claimed after the date of actual publication;
7. Attendance at a Board or credentialing committee meeting, as prescribed in subsection (C), where the licensee does not address the Board or credentialing committee with regard to any matter on the agenda;
8. Service as a Board or credentialing committee member, as prescribed in subsection (D); and
- 9-6. Programs in the behavioral health field sponsored by a state superior court, adult probation department, or juvenile probation department.

E. The Board has determined that a substance abuse technician, associate substance abuse counselor, or an independent substance abuse counselor shall ensure that at least 20 of the 30 clock hours of continuing education required under R4-6-801(B) are in the following categories:

1. Pharmacology and psychopharmacology.
2. Addiction processes.
3. Models of substance use disorder and addiction treatment.
4. Relapse prevention.
5. Interdisciplinary approaches and teams in substance use disorder and addiction treatment.
6. Substance use disorder and addiction assessment and diagnostic criteria.
7. Appropriate use of substance use disorder and addiction treatment modalities.
8. Substance use disorder and addiction as it related to diverse populations.
9. Substance use disorder and addiction treatment and prevention.
10. Clinical application of current substance use disorder and addiction research, or
11. Co-occurring disorders.

#### **R4-6-803. Continuing Education Documentation**

- A. A licensee shall maintain documentation of continuing education activities for ~~48~~ 24 months following the date of the license renewal.
- B. The licensee shall retain the following documentation as evidence of participation in continuing education activities:
1. For conferences, seminars, workshops, and in-service training presentations, a signed certificate of attendance or a statement from the provider verifying the licensee's participation in the activity, including the title of the program, name, address, and ~~phone~~ telephone number of the sponsoring organization, names of presenters, date of the program, and clock hours involved;
  2. For first-time presentations by a licensee, the title of the program, name, address, and telephone number of the sponsoring organization, date of the program, syllabus, and clock hours required to prepare and make the presentation;
  3. For a graduate or undergraduate course, an official transcript;
  4. For an audited graduate or undergraduate course, an official transcript; and
  5. For attendance at a Board or credentialing committee member meeting, a signed certificate of attendance prepared by the Agency Board.

#### **~~R4-6-804. Licensure and Activity Specific Continuing Education Requirements Repealed~~**

- ~~A.~~ To be eligible to renew a license, a licensee shall complete a minimum of three clock hours of continuing education in behavioral health ethics or mental health law and a minimum of three clock hours of continuing education in cultural competency and diversity during the two years before the license renewal date.
- ~~B.~~ To be eligible to renew a license, a substance abuse technician, associate substance abuse counselor and an independent



substance abuse counselor shall complete a minimum of 20 clock hours of continuing education in any combination of the following categories during the two years before the license renewal date:

- 1. Pharmacology and psychopharmacology;
- 2. Addiction processes;
- 3. Models of substance abuse treatment;
- 4. Relapse prevention;
- 5. Interdisciplinary approaches and teams in substance abuse treatment;
- 6. Substance abuse assessment and diagnostic criteria;
- 7. Appropriate use of substance abuse treatment modalities;
- 8. Recognizing needs of diverse populations;
- 9. Substance abuse treatment and prevention;
- 10. Clinical application of current substance abuse research; or
- 11. Co-occurring disorders.

~~C. Clinical supervision of a supervisee for licensure as a marriage and family therapist, professional counselor, clinical social worker, or independent substance abuse counselor. Beginning on July 1, 2006, a licensee acting as a clinical supervisor shall complete continuing education as follows:~~

- ~~1. Between July 1, 2004, and the individual's first license expiration date following July 1, 2006, at least 12 clock hours shall be taken in the following categories:
 
  - a. The role and responsibility of a clinical supervisor;
  - b. The skill sets necessary to provide oversight and guidance to a supervisee who diagnoses, creates treatment plans, and treats clients;
  - e. The concepts of supervision methods and techniques; and
  - d. Evaluation of a supervisee's ability to plan and implement clinical assessment and treatment processes; and~~
- ~~2. A licensee who seeks to continue providing clinical supervision after completion of the requirements under subsection (C)(1) shall complete at least six clock hours of continuing education as provided in subsection (C)(1)(a) through (d) between the date the Board receives the licensee's last renewal application and the next license expiration date.~~

~~D. Clinical supervision training required pursuant to subsection (C) shall be waived if the clinical supervisor holds any of the following certifications or designations if the certification or designation is current as of the clinical supervisor's license renewal date:~~

- ~~1. NBCC/CCE Approved Clinical Supervisor certification.~~
- ~~2. ICRC Clinical Supervisor certification.~~
- ~~3. American Association of Marriage and Family Therapists Clinical Member with Approved Supervisor designation.~~

~~E. Continuing education clock hours completed pursuant to this Section may be submitted to meet the general continuing education requirements described in R4-6-801(A).~~

~~F. The agency shall begin enforcement of this Section on July 1, 2006.~~

**ARTICLE 9. APPEAL OF LICENSURE OR LICENSURE RENEWAL INELIGIBILITY**

**R4-6-901. Appeal Process for Licensure Ineligibility**

**A.** An applicant for licensure may be found ineligible because of unprofessional conduct or failure to meet licensure requirements.

**B.** If the ~~credentia~~ling committee ARC finds that an applicant is ineligible because of failure to meet licensure requirements, ~~the following procedures shall be used:~~

- 1. The ~~credentia~~ling committee ARC shall send a written notice of the finding of ineligibility to the applicant, ~~including with~~ an explanation of the basis for the finding.
- 2. An applicant who wishes to appeal the finding of ineligibility shall submit a written request for a an informal review meeting to the ~~credentia~~ling committee ARC within 30 days ~~from the date of service of~~ after the notice of ineligibility is served. If an informal review meeting is not requested within the time provided, the ~~credentia~~ling committee ARC shall recommend to the Board that licensure be denied and ~~that~~ the licensee's file be closed with no recourse to appeal.
- 3. If a request for a an informal review meeting is received within the ~~required~~ 30 days provided under subsection (B)(2), the ~~credentia~~ling committee ARC shall schedule the informal review meeting and provide a minimum of 30 days at least 30-days' notice of the informal meeting to the applicant. At the informal review meeting, the ~~credentia~~ling committee ARC shall allow the applicant to present additional information regarding the applicant's qualifications for licensure.
- 4. ~~Upon completion of~~ When the review is complete, the ~~credentia~~ling committee ARC shall make a second finding whether the applicant is eligible for licensure. The ~~agency~~ ARC shall send written notice of this second finding to the applicant with an explanation of the basis for the finding.
- 5. ~~If the credentia~~ling committee again finds the applicant is ineligible for licensure, an applicant who wishes to appeal the second finding of ineligibility shall submit a written request for an informal meeting to the ~~credentia~~ling committee within 30 days from the date of service of the notice of ineligibility. If an informal meeting is not



- requested within the time provided, the credentialing committee shall recommend to the Board that licensure be denied and that the licensee's file be closed with no recourse to appeal.
6. If a request for an informal meeting is received within the required 30 days, the credentialing committee shall schedule the informal meeting and provide a minimum of 30 days notice of the informal meeting to the applicant. At the informal meeting, the credentialing committee shall allow the applicant to present additional information regarding the applicant's qualifications for licensure.
  7. Upon completion of the informal meeting, the credentialing committee shall make a third finding whether the applicant is eligible for licensure. The agency shall send written notice of this third finding to the applicant.
  - 8-5. If the credentialing committee ARC again finds the applicant is ineligible for licensure, an applicant who wishes to appeal the ~~third~~ second finding of ineligibility shall submit ~~within 30 days from the date of service of the third notice of ineligibility~~ a written request to the Board for a formal administrative hearing under the Administrative Procedure Act, A.R.S. § 41-1061 et seq Title 41, Chapter 6, Article 10, within 30 days after the second notice of ineligibility is served. The ~~request~~ Board shall either ~~be referred~~ refer the request for a formal administrative hearing to the Office of Administrative Hearings for ~~scheduling~~ or ~~scheduled~~ schedule the formal administrative hearing before the Board. If a formal administrative hearing is not requested within 30 days, the ~~credentialing committee ARC~~ shall recommend to the Board that licensure be denied and ~~that~~ the applicant's file be closed with no recourse to appeal.
  - 9-6. If a ~~the~~ formal administrative hearing is held before the Office of Administrative Hearings, the Board shall review the findings of fact, conclusions of law, and recommendation and issue an order either to grant or deny licensure.
  - 10-7. If a ~~the~~ formal administrative hearing is held before the Board, the Board shall issue the findings of fact and conclusions of law and shall ~~enter~~ issue an order either to grant or deny licensure.
  - 11-8. The Board shall send the applicant a copy of the final findings of fact, conclusions of law, and order. An applicant who is denied licensure following a formal administrative hearing is required to exhaust the applicant's administrative remedies as described in R4-6-1002 before seeking judicial review of the Board's final administrative decision.
- C. If the Board receives a complaint against an applicant while ~~an~~ the applicant is under review for licensure, the Board shall review the complaint ~~shall be reviewed~~ in accordance with the procedures in R4-6-1001. The Board shall not take ~~any~~ final action on an application while a complaint is pending against the applicant.

#### **R4-6-902. Appeal Process for Licensure Renewal Ineligibility**

- A. A licensee who applies for licensure renewal may be found ineligible because of failure to meet licensure renewal requirements.
- B. If the ~~credentialing committee Board~~ finds ~~that~~ an applicant for licensure renewal is ineligible because of failure to meet licensure renewal requirements, ~~the following procedures shall apply:~~
  1. The ~~credentialing committee Board~~ shall send a written notice of the finding of ineligibility to the licensee, ~~including with~~ an explanation of the basis for the finding.
  2. A licensee who wishes to appeal the finding of ineligibility for licensure renewal shall submit a written request for an informal review meeting to the ~~credentialing committee Board~~ within 30 days ~~from the date of service of~~ after the notice of ineligibility is served. If an informal review meeting is not requested within the time provided, the ~~credentialing committee Board~~ shall ~~recommend to the Board that deny~~ licensure renewal ~~be denied~~ and ~~that close~~ the licensee's file ~~be closed~~ with no recourse to appeal.
  3. If a request for an informal review meeting is received within the required 30 days provided under subsection (B)(2), the ~~credentialing committee Board~~ shall schedule an the informal review meeting and provide ~~a minimum of 30 days at least 30-days' notice of the informal meeting~~ to the licensee. At the informal review meeting, the ~~credentialing committee Board~~ shall allow the licensee to present additional information regarding the licensee's qualifications for renewal.
  4. ~~Upon completion of~~ When the informal review meeting is complete, the ~~credentialing committee Board~~ shall make a second finding whether the licensee meets renewal requirements. The ~~agency Board~~ shall send written notice of this second finding to the licensee with an explanation of the basis for the finding.
  5. If the ~~credentialing committee Board~~ again finds the licensee is ineligible for licensure renewal, a licensee who wishes to appeal the second finding of ineligibility shall submit ~~within 30 days of the date of service of the second notice of ineligibility~~ a written request to the Board for a formal administrative hearing under the Administrative Procedure Act, A.R.S. § 41-1061 et seq Title 41, Chapter 6, Article 10, within 30 days after the second notice of ineligibility is served. The ~~request Board~~ shall either ~~be referred~~ refer the request for a formal administrative hearing to the Office of Administrative Hearings for ~~scheduling~~ or ~~scheduled~~ schedule the formal administrative hearing before the Board. If a formal administrative hearing is not requested within 30 days, the ~~credentialing committee Board~~ shall ~~recommend to the Board that deny~~ licensure renewal ~~be denied~~ and ~~that close~~ the licensee's file ~~be closed~~ with no recourse to appeal.
  6. If the formal administrative hearing is held before the Office of Administrative Hearings, the Board shall review the findings of fact, conclusions of law, and recommendation and issue an order either to grant or deny licensure renewal.



- 7. If the formal administrative hearing is held before the Board, the Board shall issue the findings of fact and conclusions of law and issue an order either to grant or deny licensure renewal.
- 8. The Board shall send the licensee a copy of the final findings of fact, conclusions of law, and order. A licensee who is denied licensure renewal following a formal administrative hearing is required to exhaust the licensee's administrative remedies as described in R4-6-1002 before seeking judicial review of the Board's final administrative decision.

**ARTICLE 10. DISCIPLINARY PROCESS FOR UNPROFESSIONAL CONDUCT**

**R4-6-1001. Disciplinary Process for Unprofessional Conduct**

- A.** ~~If the agency Board receives a written complaint alleging a licensee is or may be incompetent, guilty of unprofessional practice by a licensee or an applicant, or mentally or physically unable to engage in the practice of behavioral health safely, the agency Board shall send written notice of the complaint to the licensee or applicant and require the licensee or applicant to submit a written response within 30 days from the date of service of the written notice of the complaint.~~
- B.** The Board shall conduct all disciplinary proceedings according to A.R.S. §§ 32-3281 and 3282 and Title 41, Chapter 6, Article 10.
- C.** As provided under A.R.S. § 32-3282(B), a licensee who is the subject of a complaint, or the licensee's designated representative, may review the complaint investigative file at the Board office at least five business days before the meeting at which the Board is scheduled to consider the complaint. The Board may redact confidential information before making the investigative file available to the licensee.
- B-D.** ~~When determining the degree of discipline~~ If the Board determines that disciplinary action is appropriate, the Board may shall consider certain factors including, but not limited to, the following when determining the appropriate discipline:
  - 1. Prior disciplinary offenses;
  - 2. Dishonest; or self-serving motive;
  - 3. Pattern of misconduct; multiple offenses;
  - 4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Board;
  - 5. Submission of false evidence, false statements, or other deceptive practices during the investigative or disciplinary process;
  - 6. Refusal to acknowledge wrongful nature of conduct; and
  - 7. Vulnerability of the victim.

**R4-6-1002. Review or Rehearing of a Board Decision**

- A.** The Board shall provide for a rehearing or review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B.** Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies. A party that has exhausted the party's administrative remedies may apply for judicial review of the final order issued by the Board in accordance with A.R.S. § 12-901 et seq.
- C.** When a motion for rehearing or review is based on affidavits, the affidavits shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.
- D.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- E.** ~~Except as provided in subsection (F), an An~~ aggrieved party may seek a review or rehearing of a Board decision that results from a formal administrative hearing by submitting a written request for a review or rehearing to the Board within 30 days from the date of after service of the decision. The request shall specify the grounds for a review or rehearing. The Board shall grant a request for a review or rehearing for any of the following reasons materially affecting the rights of an aggrieved party:
  - 1. Irregularity in the ~~Board or credentialing committee's~~ administrative proceedings or any abuse of discretion that deprived the aggrieved party of a fair hearing;
  - 2. Misconduct of the Board, ~~credentialing committee its staff,~~ or any duly authorized agent of the Board or credentialing committee an administrative law judge, or any party;
  - 3. Accident or surprise that could not have been prevented by ordinary prudence;
  - ~~3-4.~~ Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
  - ~~4-5.~~ Excessive penalties;
  - ~~5-6.~~ Decision, findings of fact, or conclusions not justified by the evidence or contrary to law; or
  - ~~6-7.~~ Errors regarding the admission or rejection of evidence or errors of law that occurred at the hearing or during the progress of the proceedings.
- B-F.** ~~The Board may affirm or modify the decision or grant a rehearing to any party on all or part of the issues for any shall determine whether one of the reasons listed in subsection (A) (E), materially affected the rights of the aggrieved party and issue an order either to grant or deny the request for review or rehearing. The Board shall specify with particularity the reason the request is granted or denied An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order. The rehearing, if granted, shall be limited to the matters specified by the Board.~~
- C-G.** ~~The Board shall send written notice of the decision to grant or deny a request for review or rehearing to the complainant and the licensee or applicant No later than 30 days after a decision is rendered, the Board may order a rehearing or~~



review on its own initiative, for any reason it might have granted relief on motion of a party.

~~D.H.~~ If the Board grants a request for a review or rehearing, the new hearing shall address only the question or questions related to the reasons in subsection (A) for which the review or rehearing was granted, if separable. Board shall hold the rehearing within 60 days after the date on the order granting the rehearing.

~~E.~~ An aggrieved party may apply for judicial review of the final order issued by the Board in accordance with A.R.S. § 12-901 et seq.

~~F.I.~~ If the Board makes a specific finding in that a particular order decision needs to be effective immediately that the immediate effectiveness of the order is necessary to preserve the public health, safety, or welfare, and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision order without an opportunity for a rehearing or review. If the Board issues a decision as a final decision without an opportunity for a review or rehearing, the licensee or applicant may apply for judicial review of the decision in accordance with A.R.S. § 12-901 et seq.

## ARTICLE 11. STANDARDS OF PRACTICE

### R4-6-1101. Consent For Treatment

A licensee shall:

1. Provide treatment to a client only in the context of a professional relationship based on valid informed consent for treatment;
2. Document in writing for each client served the following elements of informed consent for treatment:
  - a. Purpose of treatment;
  - b. General procedures to be used in treatment, including benefits, limitations, and potential risks;
  - c. ~~A~~ The client's right to have ~~client~~ the client's records and all information regarding the client kept confidential and an explanation of the limitations on confidentiality;
  - d. Notification of the licensee's supervision or involvement with a treatment team of professionals;
  - e. Methods for ~~a~~ the client to obtain information about the client's records;
  - f. The client's right to participate in treatment decisions and in the development and periodic review and revision of the client's treatment plan;
  - g. ~~A~~ The client's right to refuse any recommended treatment or to withdraw informed consent to treatment and to be advised of the consequences of such refusal or withdrawal; and
  - h. The client's right to be informed of all fees that the client is required to pay and the licensee's refund and collection policies and procedures; ~~and~~
3. Obtain a dated and signed informed consent for treatment from a client or ~~a~~ the client's legal representative before providing treatment to ~~a~~ the client ~~and when a change occurs in an element listed in subsection (2) that might affect the client's consent for treatment; and~~
4. ~~Inform a client of the limitations and risks associated with providing treatment via electronic media before providing such services;~~
5. ~~Obtain a dated and signed informed consent for treatment from a client or a client's legal representative before providing treatment to the client via electronic media; and~~
- 6-4. Obtain a dated and signed informed consent for treatment from a client or ~~a~~ the client's legal representative before audio or video taping ~~a~~ the client or permitting a third party to observe treatment provided to ~~a~~ the client.

### R4-6-1102. Treatment Plan

A licensee shall:

1. Work jointly with each client served or ~~a~~ the client's legal representative to prepare an integrated, individualized, written treatment plan, based on the licensee's provisional or principal diagnosis and assessment of behavior and the treatment needs, abilities, resources, and circumstances of the client, that includes:
  - a. One or more treatment goals;
  - b. One or more treatment methods;
  - c. The date when the client's treatment plan ~~shall will~~ be reviewed;
  - d. If a discharge date has been determined, the aftercare needed ~~after discharge~~;
  - e. The dated signature ~~and date signed by~~ of the client or the client's legal representative; and
  - f. The dated signature ~~and date signed by~~ of the licensee;
2. ~~At a minimum, review~~ Review and reassess the treatment plan:
  - a. ~~according~~ According to the review date specified in the treatment plan ~~as required under subsection (1)(c); and~~
  - b. ~~at~~ At least annually with ~~each~~ the client or the client's legal representative to ensure the continued viability and effectiveness of the treatment plan and, where appropriate, add a description of the services the client may need after terminating treatment with the licensee;
3. Ensure that all treatment plan ~~updates and~~ revisions include the dated signature ~~and date signed by~~ of the client or the client's legal representative and ~~the signature and date signed by~~ the licensee;
4. Upon written request, provide a client or ~~a~~ the client's legal representative an explanation of all aspects of the client's condition and treatment; ~~and~~
5. Ensure that a client's treatment is in accordance with the client's treatment plan.



**R4-6-1103. Client Record**

- A. A licensee shall ensure that a client record is maintained for each client and:
  1. Is protected at all times from loss, damage, or alteration;
  2. Is confidential;
  3. Is legible and recorded in ink or electronically recorded;
  4. Contains entries that are dated and signed with include the first and last printed name and signature of the individual signing the document or electronically authenticated by electronic signature of the individual making the entry;
  5. Is current and accurate;
  6. Contains original documents and original signature, initials, or authentication; and
  7. Is disposed of in a manner that protects client confidentiality.
- B. A licensee shall ensure that a client record contains the following, if applicable:
  1. The client's name, address, and ~~home~~ telephone number;
  2. ~~Documentation of informed consent to treatment;~~
  3. ~~Documentation of the treatment plan and all updates and revisions to the treatment plan;~~
  4. ~~Information or records provided by or obtained from another person regarding the client;~~
  5. ~~Written authorization to release a client the client's record or information;~~
  6. ~~Documentation of requests for client records and of the resolution of those requests;~~
  7. ~~Documentation of the release of any information in the client record;~~
  8. ~~Progress notes;~~
  9. ~~Documentation of telephone, written, or face to face contact with the client or another individual that relates to the client's health, safety, welfare, or treatment;~~
  10. ~~Documentation of behavioral health services provided to the client;~~
  5. Informed consent to treatment;
  6. Contemporaneous documentation of:
    - a. Treatment plan and all revisions to the treatment plan;
    - b. Requests for client records and resolution of the requests;
    - c. Release of any information in the client record;
    - d. Contact with the client or another individual that relates to the clients health, safety, welfare, or treatment; and
    - e. Behavioral health services provided to the client;
  11. ~~Other information or documentation required by state or federal law.~~
  12. ~~Financial records, including:~~
    - a. Records of financial arrangements for the cost of providing behavioral health services;
    - b. Measures that will be taken for nonpayment of the cost of behavioral health services provided by the licensee.
- C. A licensee shall make client records in the licensee's possession promptly available to another health professional; and the client or the client's legal representative in accordance with A.R.S. § 12-2293.
- D. A licensee shall make client records of a minor client in the licensee's possession promptly available to the minor client's parent in accordance with A.R.S. § ~~25-403(H)~~ 25-403.06.
- E. A licensee shall retain records in accordance with A.R.S. § 12-2297.
- F. A licensee shall ensure the safety and confidentiality of any client records the licensee creates, maintains, transfers, or destroys whether the records are written, taped, computerized, or stored in any other medium.
- G. A licensee shall ensure that a client's privacy and the confidentiality of information provided by the client is maintained by subordinates, including employees, supervisees, clerical assistants, and volunteers.
- H. A licensee shall ensure that ~~a~~ each progress note includes the following:
  1. The date a behavioral health service was provided;
  2. The ~~duration~~ of time spent providing the behavioral health service;
  3. If counseling services were provided, whether the counseling was individual ~~counseling~~, couples, family, ~~counseling~~ or group ~~counseling~~; and
  4. The dated signature ~~and date signed by~~ of the licensee who provided the behavioral health service.

**R4-6-1104. Financial and Billing Records**

A licensee shall:

1. Make financial arrangements with a client, ~~a or the~~ the client's legal representative, ~~third party payer or~~ third-party payer, or supervisee that are reasonably understandable and conform to accepted billing practices;
2. Before entering a therapeutic relationship, clearly explain to ~~each a~~ a client or the client's legal representative, all financial arrangements related to professional services, including the use of collection agencies or legal measures for nonpayment;
3. Truthfully represent financial and billing facts to a client, ~~a or the~~ the client's legal representative, ~~third party payer or~~ third-party payer, or supervisee regarding services rendered; and
4. Maintain ~~separate written or electronic~~ separate billing records, ~~separate from clinical documentation, that which~~ that correspond with the client record.

**R4-6-1105. Confidentiality**

A. A licensee shall ~~only~~ release or disclose client records or any information regarding a client only:



1. In accordance with applicable federal or state law that authorizes release or disclosure; or
  2. With written authorization from the client or the client's legal representative.
- B.** A licensee shall ensure that written authorization for release of client records or any information regarding a client is obtained before a client record or any information regarding a client is released or disclosed unless otherwise allowed by state or federal law.
- C.** Written authorization includes:
1. The name of the person disclosing the client record or information;
  2. The purpose of the disclosure;
  3. The individual, agency, or entity requesting or receiving the record or information;
  4. A description of the client record or information to be released or disclosed;
  5. A statement indicating authorization and understanding that authorization may be revoked at any time;
  6. The date or circumstance when ~~that the~~ authorization expires, not to exceed 12 months;
  7. The date the authorization was signed; and
  8. The dated signature ~~and date signed by~~ of the client or the client's legal representative.
- D.** A licensee shall ensure that any written authorization to release a client record or any information regarding a client is maintained in the client record.
- E.** ~~Where~~ If a licensee provides behavioral health services to ~~more than one person in~~ multiple members of a family, each ~~family member who is legally competent, participating family member to consent to authorize release of client records~~ shall ~~sign a~~ independently provide written authorization to release client records regarding ~~that the~~ family member ~~or any information obtained from that family member~~. Without ~~such an~~ authorization from a family member, ~~a the~~ licensee shall not disclose ~~that the~~ family member's client record or any information obtained from ~~that the~~ family member.

**R4-6-1106. Telepractice**

- A.** Except as otherwise provided by statute, an individual who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located in Arizona shall be licensed by the Board.
- B.** Except as otherwise provided by statute, a licensee who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located outside Arizona shall comply with not only A.R.S. Title 32, Chapter 33, and this Chapter but also the laws and rules of the jurisdiction in which the client is located.
- C.** An individual who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice shall:
1. In addition to complying with the requirements in R4-6-1101, document the limitations and risks associated with telepractice, including but not limited to the following:
    - a. Inherent confidentiality risks of electronic communication.
    - b. Potential for technology failure.
    - c. Emergency procedures when the licensee is unavailable, and
    - d. Manner of identifying the client when using electronic communication that does not involve video.
  2. In addition to complying with the requirements in R4-6-1103, include the following in the progress note required under R4-6-1103(H):
    - a. Mode of session, whether interactive audio, video, or electronic communication; and
    - b. Physical location of the client during the session.



NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

[R15-160]

PREAMBLE

- 1. **Articles, Parts, and Sections Affected (as applicable)**      **Rulemaking Action**

R4-16-201	Amend
R4-16-201.1	New Section
R4-16-202	Amend
R4-16-203	Amend
R4-16-204	Repeal
R4-16-205	Amend
R4-16-205.1	New Section
R4-16-206	Amend
R4-16-207	Repeal
Table 1	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. §§ 32-1403(A)(8) and 32-1404(D)  
 Implementing statute: A.R.S. §§ 32-1422, 32-1423, 32-1425, 32-1426, 32-1428, 32-1429, 32-1430, 32-1432, 32-1432.01, 32-1432.02, and 32-1432.03  
 Statute or session law authorizing the exemption: Laws 2015, Chapter 251, Section 3
  
- 3. **The effective date for the rules and the reason the agency selected the effective date:**  
 October 15, 2015. Under A.R.S. § 41-1032(A)(1) and (4), the rules in this rulemaking will be effective immediately because the rules are necessary to preserve public health and safety and because they provide a benefit to the public and no penalty is associated with the rules.
  
- 4. **Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**  
 None
  
- 5. **The agency's contact person who can answer questions about the rulemaking:**  
 Name: Patricia McSorley, Executive Director  
 Address: Arizona Medical Board  
 9545 E. Doubletree Ranch Road  
 Scottsdale, AZ 85258  
 Telephone: (480) 551-2700  
 Fax: (480) 551-2704  
 E-mail: patricia.mcsorley@azmd.gov  
 Web site: www.azmd.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 Board is initiating this rulemaking in response to a 2013 report issued by the Arizona Office of the Ombudsman-Citizens' Aide regarding the Board's handling of license applications and complaints and a U.S. Department of Justice report concluding that questions similar to those asked by the Board single out applicants based on their status of having a mental health disability rather than their conduct and violate the Americans with Disabilities Act. Additionally, the rulemaking makes the rules consistent with Laws 2015, Chapter 251, in which the legislature amended the Board's statutes regarding submission of documents with a license application.  
 An exemption from Executive Order 2015-01 was provided to the Board by Ted Vogt, Chief of Operations in the Governor's office, in an e-mail dated July 17, 2015.
  
- 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 Board neither reviewed nor relied on a study relevant to the rulemaking in its evaluation of or justification for any rule in 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, if applicable:**  
The Board, which currently licenses 22,670 individuals, believes the rules will have minimal economic impact. During the last year, the Board received applications from 1,523 individuals. The changes, all of which will have positive economic benefits for licensees and applicants, include:
- Making the rules consistent with the ADA
  - No longer requiring certified copies of documents
  - Establishing a procedure for waiving the documentation requirements regarding malpractice allegations
  - Easing requirements regarding necessary photographs
  - Allowing electronic submission of documentation
  - Allowing use of credential verification organizations
  - Allowing an extension of time to respond to a notice of deficiency or request for additional information
- 10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking (if applicable):**  
The Board did not publish the proposed rules in the *Register*. It did, however, post them on the Board's web site and took public comment. After the posting, the Board added R4-16-206(D), which provides that an applicant may obtain an extension of time to respond to a notice of deficiency or a request for additional information.
- 11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments, if applicable:**  
The Board held three public meetings regarding the proposed rules. The meeting on September 9, 2015, was attended by seven individuals. Minor changes were suggested and made. One of those who attended the September 9, 2015, meeting was the only individual to attend the September 14, 2015, meeting. No additional comments were made. No one attended the September 16, 2015 meeting.
- 12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**  
Laws 2015, Chapter 251, Section 3, requires the Board to provide public notice and an opportunity for public comment on the proposed rules at least 30 days before a rule is made or amended. The Board posted a draft of the proposed rules on its web site on August 28, 2015. The Board held three public meetings regarding the proposed rules.
- 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 licenses, permits, and registrations listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.
- 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:**  
None of the rules is more stringent than federal law. There are numerous federal laws relating to the provision of health care but none is directly applicable to this rulemaking. Some of the amendments to R4-16-201 are designed to ensure the rule is consistent with the Americans with Disabilities Act.
- 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:**  
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:**  
None of the rules in this rulemaking was previously made, amended, or repealed as an emergency rule.
- 15. The full text of the rules follows:**

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 16. ARIZONA MEDICAL BOARD

#### ARTICLE 2. LICENSURE



Section

- R4-16-201. Application for Licensure ~~by Examination or Endorsement~~
- R4-16-201.1 Application for Renewal of License
- R4-16-202. Application and Reapplication for Pro Bono Registration
- R4-16-203. Application for Locum Tenens Registration
- R4-16-204. ~~Licensure by Endorsement Repealed~~
- R4-16-205. Fees and Charges
- R4-16-205.1. Mandatory Reporting Requirement
- R4-16-206. ~~Time frames~~ Time Frames for Licenses, Permits, and Registrations
- R4-16-207. ~~Time frames for License Renewal; Expiration Repealed~~
- Table 1. ~~Time frames~~ Time Frames (in calendar days)

ARTICLE 2. LICENSURE

**R4-16-201. Application for Licensure by Examination or Endorsement**

- A. For purposes of this Article, unless otherwise specified:
  - 1. “ABMS” means American Board of Medical Specialties.
  - ~~1-2.~~ “ECFMG” means Educational Commission for Foreign Medical Graduates.
  - 3. “FCVS” means Federation Credentials Verification Service.
  - ~~2-4.~~ “FLEX” means Federation Licensing Examination.
  - ~~3-5.~~ “LMCC” means Licentiate of the Medical Council of Canada.
  - 4. ~~“Medical Condition” means the following physiological, mental, or psychological conditions or disorders: (a) chronic and uncorrected orthopedic, visual, speech, or hearing impairments; (b) cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, HIV disease, or tuberculosis; or (c) specific learning disabilities, dementia, Alzheimer’s, bipolar disorder, schizophrenia, paranoia, or any psychotic disorder.~~
  - 6. “NBME” means National Board of Medical Examiners.
  - 7. “Primary source” means the original source or an approved agent of the original source of a specific credential that can verify the accuracy of a qualification reported by an applicant.
  - ~~5-8.~~ “SPEX” means Special Purposes Examination.
  - ~~6-9.~~ “USMLE” means United States Medical Licensing Examination.
- B. An applicant for licensure to practice medicine by ~~endorsement~~, Step 3 of the USMLE; or ~~by endorsement with the SPEX~~ shall submit the following information on an application form ~~provided by~~ available on request from the Board and on the Board’s web site:
  - 1. Applicant’s full name, social security number, business and home addresses, primary e-mail address, business and home telephone numbers, and date and place of birth;
  - 2. Name of the school of medicine from which the applicant graduated and date of graduation;
  - 3. A complete list of the applicant’s internship, residency, and fellowship training;
  - 4. List of all licensing examinations taken;
  - ~~2-5.~~ Names of the states, U.S. territories, or provinces in which the applicant has applied for or ~~has~~ been granted a license or registration to practice medicine, including license number, date issued, and current status of the license;
  - ~~3-6.~~ A statement of whether the applicant:
    - a. ~~Whether the applicant has~~ Has had an application for medical licensure denied or rejected by another state or province licensing board, and if so, an explanation;
    - ~~4-b.~~ Whether any Has ever had any disciplinary or rehabilitative action ~~has ever been~~ taken against the applicant by another licensing board, including other health professions, and if so, an explanation;
    - ~~5-c.~~ Whether any Has had any disciplinary actions, restrictions, or limitations ~~have been~~ taken against the applicant while participating in any type of training program or by any health care provider, and if so, an explanation;
    - ~~6-d.~~ Whether the applicant has Has been found in violation of a statute, rule, or regulation of any domestic or foreign governmental agency, and if so, an explanation;
    - ~~7-e.~~ Whether the applicant is Is currently under investigation by any medical board or peer review body, and if so, an explanation;
    - ~~8-f.~~ Whether the applicant has ever had a medical license disciplined resulting in a revocation, suspension, limitation, restriction, probation, voluntarily surrender, cancellation during an investigation or entered into a consent agreement or stipulation, and if so, an explanation; Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
    - ~~9-g.~~ Whether the applicant has Has had hospital privileges revoked, denied, suspended, or restricted, and if so, an explanation;
    - ~~10-h.~~ Whether the applicant has Has been named as a defendant in a malpractice matter currently pending or that resulted in a settlement or judgment against the applicant, and if so, an explanation;



- ~~11.i. Whether the applicant has Has been subjected to any regulatory disciplinary action, including censure, practice restriction, suspension, sanction, or removal from practice, imposed by any agency of the federal or state government, and if so, an explanation;~~
- ~~12.j. Whether the applicant has Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action, and if so, an explanation;~~
- ~~13. Whether the applicant, within the last five years, has or had a medical condition that impairs or limits the applicant's ability to safely practice medicine, and if so, an explanation;~~
- ~~14. Whether the applicant engages in the illegal use of any controlled substance, habit-forming drug, or prescription medication, and if so, an explanation;~~
- ~~15. Whether the applicant has consumed intoxicating beverages resulting in the applicant's present ability to exercise the judgment and skills of a medical professional, being impaired or limited, and if so, an explanation;~~
- ~~16.k. Whether the applicant has Has been found guilty or entered into a plea of no contest to a felony, or a misdemeanor involving moral turpitude in any state, and if so, an explanation;~~
- ~~17. A complete list of the applicant's internship, residency, and fellowship training;~~
- ~~18.7. Whether the applicant is currently certified by any of the American Board of Medical Specialties;~~
- ~~19.8. The applicant's intended specialty;~~
- ~~20.9. Consistent with the Board's statutory authority at A.R.S. § 32-1422(B), other information the Board may deem necessary to fully evaluate the applicant fully;~~
- ~~21. A photograph of passport quality no larger than 2 1/2 x 3 inches taken not more than 60 days before the date of application; and~~
10. Whether the applicant completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter;
11. In addition to the answers provided under subsections (B)(1) through (B)(10), the applicant shall answer the following confidential question:
- a. Whether the applicant has received treatment within the last five years for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects the applicant's ability to exercise the judgment and skills of a medical professional;
- b. If the answer to subsection (B)(11)(a) is yes:
- i. A detailed description of the use, disorder, or condition; and
- ii. An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and
- c. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution within the last five years, if applicable; and
- ~~22.12. A notarized statement, signed by the applicant, verifying the truthfulness of the information provided, and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules, and authorizing release of any required records or documents to complete application review.~~
- C. In addition to the application form required under subsection (B), an applicant for licensure to practice medicine by endorsement, Step 3 of the USMLE; or endorsement with the SPEX shall submit the following:
1. Certified ~~A~~ copy of the applicant's birth certificate or passport with a notarized certificate of identification, which is a form available on request from the Board and on the Board's web site;
  2. Certified ~~evidence~~ Evidence of legal name change if the applicant's legal name is different from that shown on the document submitted under subsection ~~(B)(4)~~ (C)(1);
  3. Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
  - ~~3.4. Complete list of all hospital affiliations and medical employment for the ~~past~~ five years before the date of application;~~
  - ~~4.5. Verification of any medical malpractice matter currently pending or resulting in a settlement or judgment against the applicant, including a copy of the complaint and either the agreed terms of settlement or the judgment and a narrative statement specifying the nature of the occurrence resulting in the medical malpractice action. ~~The verification must contain the name and address of each defendant, the name and address of each plaintiff, the date and location of the occurrence which created the claim and a statement specifying the nature of the occurrence resulting in the medical malpractice action; An applicant who is unable to obtain a document required under this subsection may apply under subsection (E) a waiver of the requirement;~~~~
  6. A full set of fingerprints and the processing charge specified in R4-16-205;
  7. A paper or digital headshot photograph of the applicant taken no more than 60 days before the date of application; and
  - ~~5.8. The fee required in authorized under A.R.S. § 32-1436 and specified in R4-16-205.~~



- D. In addition to the requirements of subsections ~~(A) and (B) and (C)~~, an applicant for licensure to practice medicine by ~~endorsement~~, by Step 3 of the USMLE; or by endorsement ~~with the SPEX~~ shall have the following ~~directly~~ submitted to the Board, ~~electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:~~
  - 1. ~~The following forms must be included with the application and be completed by persons other than the applicant: Official transcript or other authentication of graduation from a school of medicine:~~
    - a. ~~Medical College Certification;~~
    - b. ~~Postgraduate Training Certification;~~
    - e. ~~Clinical Instructor Certification;~~
    - d. ~~ECFMG certification if applicant is an international graduate;~~
    - e. ~~Federation of State Medical Boards Disciplinary Search;~~
    - f. ~~American Medical Association Physician Profile; and~~
    - g. ~~Verification of American Board of Medical Specialty Certification, if applicable;~~
  - 2. ~~Verification of completion of postgraduate training;~~
  - 3. ~~Verification of ECFMG certification if the applicant graduated from an unapproved school of medicine;~~
  - 2-4. ~~Examination and Board History Report history report scores for USMLE, FLEX, NBME, and SPEX;~~
  - 3-5. ~~Verification of LMCC exam score; or state written exam score; or national board exam score;~~
  - 4-6. ~~Verification of licensure from every state in which the applicant has ever held a medical license; and~~
  - 5-7. ~~Verification of all hospital affiliations and employment for the past during the five years before the date of application. This must be submitted by the verifying entity on its Under A.R.S. § 32-1422(A)(11)(b), this verification is required to be on the hospital's official letterhead; or the electronic equivalent; and~~
  - 8. ~~Verification of all medical employment during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification may be submitted by the employer.~~
- E. ~~As provided under A.R.S. § 32-1422(F), the Board may waive a documentation requirement specified under subsections (C)(5) and (D).~~
  - 1. ~~To obtain a waiver under this subsection, an applicant shall submit a written request that includes the following information:~~
    - a. ~~Applicant's name;~~
    - b. ~~Date of request;~~
    - c. ~~Document required under subsection (C)(5) or (D) for which waiver is requested;~~
    - d. ~~Detailed description of efforts made by the applicant to provide the document as required under subsection (C)(5) or (D);~~
    - e. ~~Reason the applicant's inability to provide the document as required under subsection (C)(5) or (D) is due to no fault of the applicant; and~~
    - f. ~~If applicable, documents that support the request for waiver.~~
  - 2. ~~The Board shall consider the request for waiver at its next regularly scheduled meeting.~~
  - 3. ~~In determining whether to grant the request for waiver, the Board shall consider whether the applicant:~~
    - a. ~~Made appropriate and sufficient effort to satisfy the requirement under subsection (C)(5) or (D); and~~
    - b. ~~Demonstrated that compliance with the requirement under subsection (C)(5) or (D) is not possible because:~~
      - i. ~~The entity responsible for issuing the required document no longer exists;~~
      - ii. ~~The original of the required document was destroyed by accident or natural disaster;~~
      - iii. ~~The entity responsible for issuing the required document is unable to provide verification because of armed conflict or political strife; or~~
      - iv. ~~Another valid reason beyond the applicant's control prevents compliance with the requirement under subsection (C)(5) or (D).~~
  - 4. ~~In determining whether to grant the request for waiver, the Board shall:~~
    - a. ~~Consider whether it is possible for the Board to obtain the required document from other source; and~~
    - b. ~~Request the applicant to obtain and provide additional information the Board believes will facilitate the Board's decision.~~
  - 5. ~~If the Board determines the applicant is unable to comply with a requirement under subsection (C)(5) or (D) in spite of the applicant's best effort and for a reason beyond the applicant's control, the Board may grant the request for waiver and include the decision in the Board's official record for the applicant.~~
  - 6. ~~The Board shall provide the applicant with written notice of its decision regarding the request for waiver. The Board's decision is not subject to review or appeal.~~
- F. ~~As provided under A.R.S. § 32-1426(B), the Board may require an applicant for licensure by endorsement who passed an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of application to provide evidence the applicant is able to engage safely in the practice of medicine.~~
  - 1. ~~If an applicant is board certified by one of the specialties recognized by the ABMS, the Board shall find that the applicant is able to engage safely in the practice of medicine.~~
  - 2. ~~If an applicant is not board certified by one of the specialties recognized by the ABMS, the Board may consider one or more of the following to determine whether the applicant is able to engage safely in the practice of medicine:~~
    - a. ~~The applicant's records.~~



- b. The applicant's practice history.
- c. The applicant's score on the SPEX, and
- d. A physical or psychological assessment of the applicant.

**R4-16-201.1. Application for Renewal of License**

- A.** Under A.R.S. § 32-1430(A), an individual licensed under A.R.S. Title 32, Chapter 13, shall renew the license every other year on or before the licensee's birthday.
- B.** To renew a license, a licensee shall submit the following information on an application form available on request from the Board and on the Board's web site:
- 1. The licensee's full name, license number, business and home addresses, primary e-mail address, and business and home telephone numbers;
  - 2. Identification of changes to medical specialties and fields of practice;
  - 3. A statement of whether, since the time of last license issuance, the licensee:
    - a. Has had an application for medical licensure denied or rejected by another state or province licensing board and if so, an explanation;
    - b. Has had any disciplinary or rehabilitative action taken against the licensee by another licensing board, including other health professions and if so, an explanation;
    - c. Has had any disciplinary action, restriction, or limitation taken against the licensee by any program or health care provider and if so, an explanation;
    - d. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during an investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
    - e. Has had hospital privileges revoked, denied, suspended, or restricted and if so, an explanation (do not report if the licensee's hospital privileges were suspended due to failure to complete hospital records and reinstated after no more than 90 days);
    - f. Has been subjected to disciplinary action including censure, practice restriction, suspension, sanction, or removal from practice by an agency of the state or federal government and if so, an explanation;
    - g. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action and if so, an explanation;
    - h. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude, or an alcohol or drug-related offense in any state and if so, an explanation; and
    - i. Has failed the SPEX;
  - 4. A statement of whether the licensee understands and complies with the medical records and recordkeeping requirements in A.R.S. §§ 32-3211 and 12-2297;
  - 5. A statement of whether the licensee has completed at least 40 hours of CME as required under A.R.S. § 32-1434 and R4-6-102;
  - 6. A statement of whether the licensee requests that the license be inactivated or cancelled; and
  - 7. A statement of whether the licensee completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter.
- C.** Additionally, the licensee shall answer the following confidential question:
- 1. Whether the applicant has received treatment since the last renewal for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects the applicant's ability to exercise the judgment and skills of a medical professional;
  - 2. If the answer to subsection (C)(1) is yes:
    - a. A detailed description of the use, disorder, or condition; and
    - b. An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and
  - 3. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution since the last renewal, if applicable.
- D.** To renew a license, a licensee shall submit the following with the required application form:
- 1. If the document submitted under R4-16-201(C)(3) was a limited form of work authorization issued by the federal government, evidence that the licensee's presence in the U.S. continues to be authorized under federal law;
  - 2. The renewal fee specified under R4-16-205 and, if applicable, the penalty fee for late renewal; and
  - 3. An attestation that all information submitted is correct.

**R4-16-202. Application and Reapplication for Pro Bono Registration**

- A.** An applicant for a pro bono registration to practice medicine for a maximum of 60 days in a calendar year in Arizona shall submit the following information on an application on a form provided by available on request from the Board and on the Board's web site: that provides the information required by R4-16-106(B).



1. Applicant's full name, social security number, business and home addresses, primary e-mail address, and business and home telephone numbers;
  2. List of all states, U.S. territories, and provinces in which the applicant is or has been licensed to practice medicine;
  3. A statement verifying that the applicant:
    - a. Agrees to render all medical services without accepting a fee or salary; or
    - b. Agrees to perform only initial or follow-up examinations at no cost to the patient or the patient's family through a charitable organization.
- B.** In addition to the application form required under subsection (A), an applicant for a pro bono registration to practice medicine shall submit the following: documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law.
1. Certified copy of the applicant's medical degree diploma;
  2. Certified copies of internship, residency, or fellowship certificates;
  3. Photocopy of any current license to practice medicine in another state, territory, or possession of the United States or the District of Columbia, along with a letter from the medical board issuing the license, certifying that the license is current and in good standing;
  4. Certified copy of ECFMG certificate, if applicable;
  5. The fee required in A.R.S. § 32-1436.
- C.** In addition to the requirements of subsections (A) and (B), an applicant for pro bono registration shall have the following directly submitted to the Board: An applicant may make application for a pro bono registration annually. A previously registered applicant may apply for a pro bono registration by submitting the following information on an application form available on request from the Board and on the Board's web site:
1. American Medical Association physician profile; Applicant's full name, home address and telephone number, and primary e-mail address;
  2. Federation of State Medical Boards disciplinary search; and Number of previous pro bono registration;
  3. Verification of licensure from every state in which the applicant has ever held a license. Name of each state, U.S. territory, and province in which the applicant holds an active medical license;
  4. A statement whether since issuance of the last pro bono registration:
    - a. Any disciplinary action has been taken against the applicant, and
    - b. Any unresolved complaints are currently pending against the applicant with any state board; and
  5. If the document submitted under R4-16-202(B) was a limited form of work authorization issued by the federal government, evidence that the applicant's presence in the U.S. continues to be authorized under federal law.

**R4-16-203. Application for Locum Tenens Registration**

- A.** An applicant for a locum tenens registration to practice medicine for a maximum of 180 consecutive days in Arizona shall submit an application on a form provided by available on request from the Board and on the Board's web site that provides the information required by R4-16-107(A) under R4-16-201(B).
- B.** In addition to the application form required under subsection (A), an applicant for a locum tenens registration to practice medicine shall have the submit the following submitted directly to the Board, electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:
1. Certified copy of the applicant's medical degree diploma Official transcript or other authentication of graduation from a school of medicine;
  2. Certified copies of internship, residency, or fellowship certificates Verification of completion of postgraduate training;
  3. A statement completed by the sponsoring Arizona-licensed physician giving the reason for the request for issuance of the registration; and
  4. Certified copy Verification of ECFMG certificate; certification if applicable; the applicant graduated from an unapproved school of medicine; and
  5. Verification of licensure from every state in which the applicant has ever held a medical license.
- C.** In addition to the requirements of subsections (A) and (B), an applicant for locum tenens registration shall have the following directly submitted to the Board: In addition to the application form required under subsection (A), an applicant for a locum tenens registration to practice medicine shall submit the following:
1. American Medical Association physician profile; Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
  2. Federation of State Medical Boards disciplinary search; and A full set of fingerprints and the charge specified in R4-16-205;
  3. Verification of licensure from every state in which the applicant has ever held a license. A copy of a government-issued photo identification; and
  4. The fee specified under R4-16-205.

**R4-16-204. Licensure by Endorsement Repealed**

- A.** An applicant for licensure by endorsement may make a written request of the Board, for an extension of the seven-year period provided by A.R.S. § 32-1426(B)(4) to pass one of the combinations of specified examinations. The applicant shall submit the written request to the Board with evidence that:



1. The applicant meets all requirements for licensure and for taking the United States Medical Licensing Examination;
  2. The combination of examinations cannot be passed in the time required by law, and
  3. The applicant is:
    - a. A full-time student in an approved school of medicine, as defined in A.R.S. § 32-1401(5);
    - b. A participant in an approved hospital internship, residency, or clinical fellowship program, as defined in A.R.S. § 32-1401(4); or
    - e. A full-time student in a recognized medical degree program, as defined in subsection (E), concurrently or consecutively with medical school or postgraduate training.
- B.** If the Board determines that the applicant satisfies the requirements of subsection (A), the Board shall grant the extension.
- C.** An extension shall not exceed 10 years from the date on which the applicant successfully completes the first part of the combination of examinations.
- D.** If the Board denies the request for extension, the applicant may request a hearing by filing a written notice with the Board no later than 30 days after receipt of notice of the Board's action. A hearing shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E.** In this Section, a "recognized degree program" means an education program offered by a college or university approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges or accredited by the United States Department of Education, Council on Postsecondary Accreditation, Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Medical Association.
- F.** An applicant for licensure by endorsement under A.R.S. § 32-1426(C) who provides proof of passing an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of filing shall:
1. Hold a current certification in an American Board of Medical Specialty ("ABMS"), or
  2. Take and pass the Special Purposes Examination (SPEX).

#### **R4-16-205. Fees and Charges**

- A.** The As specifically authorized under A.R.S. § 32-1436(A), the Board charges establishes and shall collect the following fees, which are nonrefundable unless A.R.S. § 41-1077 applies:
1. Application for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500;
  2. Issuance of an initial license, \$500, ~~which may be prorated from date of issuance to date of license renewal;~~
  3. ~~Two-year~~ Renewal of license renewal for two years, \$500;
  4. Reactivation of an inactive license, \$500, ~~which may be prorated from date of reactivation to date of license renewal;~~
  5. Locum tenens registration, \$350;
  6. ~~Duplicate license, \$50;~~
  - 7-6. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$50;
  - 8-7. Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$250;
  - 9-8. Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;
  10. ~~Copy of the annual allopathic medical directory, \$30;~~
  - 11-9. ~~Initial registration to dispense drugs and devices devices, \$200;~~
  - 12-10. ~~Annual renewal to dispense drugs and devices devices, \$150; and~~
  - 13-11. ~~Penalty fee for late renewal of an active license, \$350;~~
- B.** As specifically authorized under A.R.S. § 32-1436(B), the Board establishes the following charges for the services listed:
1. Processing fingerprints to conduct a criminal background check, \$50;
  2. Providing a duplicate license, \$50;
  - 14-3. ~~Verifying a license, \$10 per request;~~
  - 15-4. ~~Copies~~ Providing a copy of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page;
  5. Providing a copy of annual allopathic medical directory, \$30; and
  - 16-6. ~~Data disk~~ Providing an electronic medium containing public information about licensed physicians, \$100.

#### **R4-16-205.1. Mandatory Reporting Requirement**

- A.** As required under A.R.S. § 32-3208, an applicant, licensee, permit holder, or registrant who is charged with a misdemeanor involving conduct that may affect patient safety or a felony shall provide written notice of the charge to the Board within 10 working days after the charge is filed.
- B.** An applicant, licensee, permit holder, or registrant may obtain a list of reportable misdemeanors on request from the Board and on the Board's web site.
- C.** Failure to comply with A.R.S. § 32-3208 and this Section is unprofessional conduct.



**R4-16-206. Time frames Time Frames for Licenses, Permits, and Registrations**

- A. For each type of license, permit, or registration issued by the Board, the overall ~~time frame~~ time frame under A.R.S. § 41-1072(2) is shown on Table 1.
- B. For each type of license, permit, or registration issued by the Board, the administrative completeness review ~~time frame~~ time frame under A.R.S. § 41-1072(1) is shown on Table 1 and begins on the date the Board receives an application and all required documentation and information.
  - 1. If the ~~required~~ application is not administratively complete, the Board shall send a written deficiency notice to the applicant.
    - a. In the deficiency notice, the Board shall state each deficiency and the information ~~required to complete the application~~ or supporting documentation required to complete the application. In the deficiency notice, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the ~~additional required~~ information or documentation within the time provided for response.
    - b. Within the time provided in Table 1 for response to a deficiency notice, the applicant shall submit to the Board the ~~requested~~ documentation or information specified in the notice. The ~~time frame~~ time frame for the Board to finish the administrative completeness review is suspended from the date of the notice until the date the Board receives the ~~requested~~ documentation or information from the applicant.
  - 2. Within 30 days after receipt of a deficiency notice, an applicant who disagrees with the deficiency notice may submit ~~a written hearing request~~ a written request for a hearing regarding the deficiency notice.
  - 3. The Board shall schedule and conduct the applicant’s deficiency hearing according to provisions prescribed under A.R.S. § 32-1427(E).
  - 4. In addition to hearing provisions prescribed under subsection (B)(3), the Board shall send the following to the applicant in writing:
    - a. A notice of ~~a~~ the scheduled hearing at least 21 days before the hearing date; and
    - b. The Board’s decision within 30 days after the hearing ~~that shall include~~ and notice of any applicable right of appeal.
- C. For each type of license, permit, or registration issued by the Board, the substantive review ~~time frame~~ time frame under A.R.S. § 41-1072(3) is shown on Table 1.
  - 1. The Board may ~~request~~ make a comprehensive written request for additional information from an applicant according to provisions prescribed under A.R.S. § 41-1075 during the substantive review ~~time frame~~ time frame. In any request for additional information, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional information within the time provided for response.
  - 2. In response to a single comprehensive written request from the Board under A.R.S. § 41-1075(A), the applicant shall submit the information identified to the Board within the time to respond specified in Table 1. The ~~time frame~~ time frame for the Board to finish the substantive review is suspended from the date the Board sends the comprehensive written request for additional information until the date the Board receives the additional information from the applicant.
  - 3. If the Board determines ~~that~~ the applicant does not meet all substantive criteria for a license, permit, or registration as required under A.R.S. Title 32, Chapter 13 or this Chapter, the Board shall send written notice of denial to the applicant. The Board shall include ~~notification~~ notice of any applicable right of appeal in the denial notice.
  - 4. If the applicant meets all substantive criteria for a license, permit, or registration required under A.R.S. Title 32, Chapter 13 and this Chapter, the Board shall issue the applicable license, permit, or registration to the applicant.
- D. An applicant may receive a 30-day extension of the time provided under subsection (B)(1) or (C)(2) by providing written notice to the Board’s Executive Director before the time expires.
- E. If a licensee does not apply for license renewal according to the biennial renewal requirement, the licensee’s license expires according to provisions prescribed under A.R.S § 32-1430(A) unless the licensee is under investigation according to provisions under A.R.S. § 32-3202. If a licensee makes timely application according to the biennial renewal requirement but fails to respond timely to a deficiency notice under subsection (B)(1) or a request for additional information under subsection (C)(2) and fails to request from the Executive Director an extension of time to respond, the licensee’s license expires according to provisions prescribed under A.R.S § 32-1430(A).

**R4-16-207. Time frames for License Renewal; Expiration Repealed**

- ~~A. For license renewal, the overall time frame under A.R.S. § 41-1072(2) is 90 days.~~
- ~~B. For license renewal, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is 45 days and begins on the date the Board receives the renewal application.~~
  - 1. ~~If the required application is not administratively complete, the Board shall send a written deficiency notice to the applicant.~~
    - a. ~~In a deficiency notice, the Board shall state each deficiency and the information required to complete the application or supporting documentation.~~
    - b. ~~Within 60 days after the Board sends a deficiency notice, the applicant shall submit to the Board the requested documentation or information specified in the notice. The time frame for the Board to finish the administrative completeness review is suspended from the date of the notice until the date the Board receives the requested documentation or information from the applicant.~~
  - 2. ~~The provisions prescribed under R4-16-206(B)(2) through (B)(4) apply to this Section.~~



- C. For license renewal, the substantive review time frame under A.R.S. § 41-1072(3) is 45 days.
  1. During the substantive review time frame, the Board may request additional information according to provisions prescribed under A.R.S. § 41-1075.
  2. The applicant shall submit to the Board information identified by a single comprehensive written request from the Board for additional information allowed under A.R.S. § 41-1075(A) within 60 days after the Board sends its request.
  3. If the applicant meets all license renewal substantive criteria and remits the applicable fee required under A.R.S. Title 31, Chapter 13 and this Chapter, the Board shall issue a license renewal to the applicant.
- D. If a person holding an active license does not apply for license renewal according to the biennial renewal requirement or fails to meet time frame requirements under this Section, the person’s license expires according to provisions prescribed under A.R.S. § 32-1430(A) unless the person is under investigation according to provisions prescribed under A.R.S. § 32-3202.

**Table 1. Time frames Time Frames**

**Time frames Time Frames (in calendar days)**

Type of License	Overall Time-frame Time Frame	Administrative Review Time-frame Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame Time Frame	Time to Respond to Request for Additional Information
Initial License by Examination or Endorsement	240	120	365	120	90
Initial Biennial License by Endorsement Renewal	240 90	120 45	365 60	120 45	90 60
Locum Tenens or Pro Bono Registration	120	60	30 90	60	30
Temporary License	60	30	30	30	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20	10	30	10	10
Training Permit	40	20	30	20	30
Short Term Short-term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30
Annual Registration to Dispense Controlled Substances and Prescription only Drugs and Devices	150	45	30	105	30



**NOTICE OF AGENCY GUIDANCE DOCUMENTS**

The Administrative Procedure Act requires the publication of guidance documents and substantive policy statements issued by agencies (A.R.S. § 41-1013(B)(14)).

Substantive policy statements and guidance documents are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements and agency guidance documents do not include internal procedural documents which may only affect the internal procedures of the agency and do not impose additional requirements or penalties on regulated parties in accordance with A.R.S. Title 41.

**NOTICE OF AGENCY GUIDANCE DOCUMENT**

**ARIZONA DEPARTMENT OF REVENUE**

[M15-275]

1. **Title of the guidance document and the guidance document number by which the document is referenced:**  
Procedure for the Annual Recognition and the Documentation of Exempt Status of Certain Nonprofit Healthcare Organizations; TPP 15-1
2. **Date of the publication of the guidance document and the effective date of the document if different from the publication date:**  
June 22, 2015
3. **Summary of the contents of the guidance document:**  
This procedure gives information about the transaction privilege and use tax exemptions available to organizations recognized annually by the Department as exempt from tax under certain specific business activities, as well as the application process for obtaining an annual Exemption Letter from the Department and the documentation required for exemptions applicable to vendors, lessors, and utilities.
4. **A statement as to whether the guidance document is a new document or a revision:**  
This guidance document supersedes TPP 99-5.
5. **The name and address of the person to whom questions and comments about the guidance document may be directed:**  
Name: Arizona Department of Revenue, Tax Research & Analysis Section  
Address: 1600 W. Monroe – Division Code 3  
Phoenix, AZ 85007-2650  
Telephone: (602) 716-6803
6. **Information about where a person may obtain a copy of the guidance document and the costs for obtaining the document:**  
Anyone wishing to obtain a copy of this document should call (602) 255-2060, or write to:  
Taxpayer Information and Assistance  
Arizona Department of Revenue  
1600 W. Monroe – Division Code 11  
Phoenix, AZ 85007-2650

This information is also available by visiting our web site at <http://www.azdor.gov>.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2015-01

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2015, as a notice to the public regarding state agencies' rulemaking activities.

[M15-02]

WHEREAS, Arizona has lost more jobs per capita than any other state and has yet to recover all of those jobs;

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency, subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency, subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
g. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
h. To address matters pertaining to the control, mitigation or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
3. Paragraphs 1 and 2 apply to all State agencies, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission, or (c) any State agency whose agency head is not appointed by the Governor. Those State agencies to which Paragraphs 1 and 2 do not apply are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
4. Pursuant to Article 5, Section 4 of the Arizona Constitution and Arizona Revised Statutes Section 41-101(A)(1), the State agencies identified in Paragraph 3 must provide the Office of the Governor with a written report for each proposed rule 30 days prior to engaging in any rulemaking proceeding and must also provide the Office of the



Governor with a written report within 15 days of any rulemaking. The reports required by this Paragraph shall explain, in detail, how the rulemaking advances the priorities and principles set forth in this Order.

5. No later than September 1, 2015, each State agency shall provide to the Office of the Governor an evaluation of their rules, with recommendations for which rules could be amended or repealed consistent with the priorities and principles set forth in this Order. The evaluation shall also include a summary of licensing time frames and describe how those time frames compare to real processing time, and whether or not they can be reduced. Additionally, each agency shall identify any existing licenses or permits in which a general permit could be used in lieu of an individual permit, pursuant to Arizona Revised Statutes Section 41-1037.
6. No later than July 1, 2015, each State agency shall provide to the Office of the Governor an update on divisions where electronic reporting and payment are not implemented and a suggested plan for how to implement this customer-service-oriented service.
7. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
8. This Executive Order expires on December 31, 2015.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this fifth day of January in the year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-ninth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

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**REGISTER INDEXES**

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The *Register* is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
PM = Proposed amended Section  
PR = Proposed repealed Section  
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
SPM = Supplemental proposed amended Section  
SPR = Supplemental proposed repealed Section  
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
FM = Final amended Section  
FR = Final repealed Section  
F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
PSMM = Proposed Summary amended Section  
PSMR = Proposed Summary repealed Section  
PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
FSMM = Final Summary amended Section  
FSMR = Final Summary repealed Section  
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
PEM = Proposed Expedited amended Section  
PER = Proposed Expedited repealed Section  
PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
SPEM = Supplemental Proposed Expedited amended Section  
SPER = Supplemental Proposed Expedited repealed Section  
SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
FEM = Final Expedited amended Section  
FER = Final Expedited repealed Section  
FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
PXM = Proposed Exempt amended Section  
PXR = Proposed Exempt repealed Section  
PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
SPXR = Supplemental Proposed Exempt repealed Section  
SPXM = Supplemental Proposed Exempt amended Section  
SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULMAKING**

FXN = Final Exempt new Section  
FXM = Final Exempt amended Section  
FXR = Final Exempt repealed Section  
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
EM = Emergency amended Section  
ER = Emergency repealed Section  
E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

TN = Terminated proposed new Sections  
TM = Terminated proposed amended Section  
TR = Terminated proposed repealed Section  
T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**

EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**

C = Corrections to Published Rules

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*Editor's Note: The terminated rulemaking action (TM) notated in the above sections is in reference to the Notice of Proposed Rulemaking published at 20 A.A.R. 3590, December 26, 2014.*

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RULE EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

Table with 12 columns: January (Date Filed, Effective Date), February (Date Filed, Effective Date), March (Date Filed, Effective Date), April (Date Filed, Effective Date), May (Date Filed, Effective Date), June (Date Filed, Effective Date). Rows list dates from 1/1 to 1/31 and corresponding effective dates.



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



### REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
September 4, 2015	September 25, 2015	October 26, 2015
September 11, 2015	October 2, 2015	November 2, 2015
September 18, 2015	October 9, 2015	November 9, 2015
September 25, 2015	October 16, 2015	November 16, 2015
October 2, 2015	October 23, 2015	November 23, 2015
October 9, 2015	October 30, 2015	November 30, 2015
October 16, 2015	November 6, 2015	December 7, 2015
October 23, 2015	November 13, 2015	December 14, 2015
October 30, 2015	November 20, 2015	December 21, 2015
November 6, 2015	November 27, 2015	December 28, 2015
November 13, 2015	December 4, 2015	January 4, 2016
November 20, 2015	December 25, 2015	January 25, 2016
November 27, 2015	December 18, 2015	January 18, 2016
December 4, 2015	December 25, 2015	January 25, 2016
December 11, 2015	January 1, 2016	February 1, 2016
December 18, 2015	January 8, 2016	February 8, 2016
December 25, 2015	January 15, 2016	February 15, 2016
January 1, 2016	January 22, 2016	February 22, 2016
January 8, 2016	January 29, 2016	February 29, 2016
January 15, 2016	February 5, 2016	March 7, 2016
January 22, 2016	February 12, 2016	March 14, 2016
January 29, 2016	February 19, 2016	March 21, 2016
February 5, 2016	February 26, 2016	March 28, 2016
February 12, 2016	March 4, 2016	April 4, 2016
February 19, 2016	March 11, 2016	April 11, 2016
February 26, 2016	March 18, 2016	April 18, 2016
March 4, 2016	March 25, 2016	April 25, 2016
March 11, 2016	April 1, 2016	May 2, 2016
March 18, 2016	April 8, 2016	May 9, 2016



### GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5:00 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

DEADLINE TO BE PLACED ON COUNCIL AGENDA	FINAL MATERIALS DUE FROM AGENCIES	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
November 17, 2014	December 17, 2014	December 30, 2014	January 6, 2015
December 15, 2014	January 14, 2015	January 27, 2015	February 3, 2015
January 20, 2015	February 11, 2015	February 24, 2015	March 3, 2015
February 17, 2015	March 18, 2015	March 31, 2015	April 7, 2015
March 16, 2015	April 15, 2015	April 28, 2015	May 5, 2015
April 20, 2015	May 13, 2015	May 28, 2015	June 2, 2015
May 18, 2015	June 17, 2015	June 30, 2015	July 7, 2015
June 15, 2015	July 15, 2015	July 28, 2015	August 4, 2015
July 20, 2015	August 12, 2015	August 25, 2015	September 1, 2015
August 17, 2015	September 16, 2015	September 29, 2015	October 6, 2015
September 21, 2015	October 14, 2015	October 27, 2015	November 3, 2015
October 19, 2015	November 12, 2015	November 24, 2015	December 1, 2015
November 16, 2015	December 16, 2015	December 29, 2015	January 5, 2016