



NOTICES OF FINAL RULEMAKING

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 the rules. 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 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R16-242]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):
3. The effective date for the rules:
4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:



method. These amendments will ensure the public has notice of how they may participate in the ASRS rulemaking process, including what a person's options may be if the person disputes a rule. Ultimately, this will establish a more certain and robust rulemaking process for the ASRS, lending itself to the equitable promulgation of more effective rules, which, in turn, will result in the more effective administration of the ASRS.

- 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:**
No study was reviewed
- 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:**
There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. The Arizona Administrative Procedures Act allows people to petition the agency regarding the agency's rules. The rules in Article 6, simply clarify how people may submit particular petitions and further participate in the agency's rulemaking process. These amendments will clarify the rulemaking process for the public and such clarification will increase the understandability of the rules. Thus, the economic impact is minimized.
- 10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
With the exception of minor grammatical corrections, there were no changes between the proposed rulemaking and the final rulemaking.
- 11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on August 25, 2016.
- 12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
None
- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
The rules do not require a permit.
- 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:**
Federal law applies to retirement programs, but no federal law specifically applies to 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:**
No materials are incorporated by reference.
- 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 rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

Section	
R2-8-602.	Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements
R2-8-603.	Petition for Rulemaking
R2-8-604.	Review of a Rule, Agency Practice, or Substantive Policy Statement
R2-8-605.	Objection to Rule Based Upon Economic, Small Business, and Consumer Impact



- R2-8-606. Oral Proceedings
- R2-8-607. Petition for Delayed Effective Date

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements

Except on a state holiday, ~~an individual a person~~ may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

R2-8-603. Petition for Rulemaking

- A. ~~An individual~~ A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
 1. The name and current address of the ~~an individual person~~ submitting the petition;
 2. An identification of the rule to be made or amended;
 3. The suggested language of the rule;
 4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
 - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
 - b. If applicable, statistical data with references to attached exhibits;
 5. The signature of the ~~individual person~~ submitting the petition; and
 6. The date the ~~individual person~~ signs the petition.
- B. The ASRS shall send a written notice of the ASRS’s decision regarding the Petition for Rulemaking to the ~~individual person~~ within ~~30-60~~ days of receipt of the petition.

R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement

- A. ~~An individual~~ A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the ~~individual person~~ alleges constitutes a rule shall include the following in the petition:
 1. The name and current address of the ~~individual person~~ submitting the petition,
 2. The reason the ~~individual person~~ alleges that the agency practice or substantive policy statement constitutes a rule,
 3. The signature of the ~~individual person~~ submitting the petition, and
 4. The date the ~~individual person~~ signs the petition.
- B. The ~~individual person~~ who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C. The ASRS shall send a written notice of the ASRS’s decision regarding the petition to the ~~individual person~~ within ~~30-60~~ days of receipt of the petition.

R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact

- A. ~~An individual~~ A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
 1. The name and current address of the ~~individual person~~ submitting the objection;
 2. Identification of the rule;
 3. Either evidence that the actual economic, small business and consumer impact:
 - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
 - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
 - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 4. The signature of the ~~individual person~~ submitting the objection; and
 5. The date the ~~individual person~~ signs the objection.
- B. The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

R2-8-606. Oral Proceedings

- A. ~~An individual~~ A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
 1. The name and current address of the ~~individual person~~ making the request;
 2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the ~~individual person~~ represents; and
 3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B. The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, transcripts, lists, speaker slips, and written comments received shall become part of the official record.
- C. A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as pre-



scribed under A.R.S. § 41-1023:

1. Provide a method for ~~individuals~~ a person who ~~attend~~ attends the oral proceeding to voluntarily note ~~their~~ the person's attendance;
 2. Provide a ~~speaker slip~~ Request to Present Oral Comment form that includes space for:
 - a. ~~An individual's~~ The name of the person submitting the Request to Present Oral Comment form,
 - b. ~~The person entity~~ the individual person represents, if applicable, and
 - c. ~~The rule on which~~ the individual person wishes to comment ~~on or about which the person~~ has a question about, and;
 - d. ~~The approximate length of time the individual wishes to speak;~~
 3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
 4. Explain the background and general content of the proposed rulemaking;
 5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
 6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D. A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

R2-8-607. Petition for Delayed Effective Date

- A. ~~An individual~~ A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date ~~identified in the Notice of Proposed Rulemaking~~. The petition shall contain the:
1. Name and current address of the ~~individual person~~ submitting the petition;
 2. Identification of the proposed rule;
 3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
 4. Reason why the public interest will not be harmed by the delayed effective date;
 5. Signature of the ~~individual person~~ submitting the petition; and
 6. Date the ~~individual person~~ signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision to the ~~individual person~~ within 30 days of receipt of the Petition for b Delayed Effective Date.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R16-243]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R2-8-704 | Amend |
| R2-8-706 | 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. § 38-714(E)(4)
 Implementing statutes: A.R.S. §§ 38-711, 38-738, 38-783
 - 3. The effective date for the rules:**
 January 1, 2017
 - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable
 - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
 Not applicable
 - 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
 Notice of Rulemaking Docket Opening: 22 A.A.R. 1064, May 6, 2016



Notice of Proposed Rulemaking: 22 A.A.R. 2079, August 12, 2016

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

Name: Jessica A.R. Thomas, Rules Writer
Address: State Retirement System
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-mail: JessicaT@azasrs.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 ASRS needs to amend approximately two rules in Article 7. The rules need to reflect that Contributions Not Withheld (CNW) payments are not due to the ASRS when the employer remits an Alternate Contribution Rate (ACR) payment pursuant to A.R.S. § 38-766 or when contributions are made to another Arizona retirement system. This amendment will prevent the employer from overpaying contributions during the same time period and will clarify that members are not entitled to receive service credit for the same hours worked in more than one state retirement system. The rules also need to reflect that the employer representative is not required to initial each statement of understanding on the Verification of Contributions Not Withheld form; and that gross salary and hours worked are reported by pay period within each fiscal year.

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:

No study was reviewed.

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

Not applicable

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

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because they merely clarify contributing requirements that are already contained in statute, thereby reducing the regulatory burden and the economic impact.

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

There were no changes between the proposed rulemaking and the final rulemaking.

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

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on September 14, 2016.

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

None

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

The rules do not require a permit.

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:

Federal law applies to retirement programs, but no federal law specifically applies to 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:

No materials are incorporated by reference.



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 rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

Section

R2-8-704. Member's Discovery of Error

R2-8-706. Determination of Contributions Not Withheld

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

R2-8-704. Member's Discovery of Error

~~A.~~ If a member believes that an ~~ASRS employer~~ Employer has not withheld contributions for the member for a period of eligible service, the member shall:

~~1.A.~~ Provide the ~~ASRS employer~~ Employer with documentation of the member's claim and request that the ~~ASRS employer~~ Employer provide a letter that includes the information in the Verification of Contributions Not Withheld form or complete a Verification of Contributions Not Withheld form that includes:

~~a.1.~~ The member's full name;

~~b.2.~~ Other names used by the member;

~~e.3.~~ The member's Social Security number;

~~d.4.~~ Whether the position was covered under the ~~ASRS employer's~~ Employer's 218 agreement prior to July 24, 2014;

~~e.5.~~ The position title the member held at the time the contributions should have been withheld;

~~f.6.~~ The eligibility of the member at the time the contributions should have been withheld;

~~g.7.~~ The following statements of understanding and agreements ~~to be initialed-certified~~ by the authorized ~~employer representative filling out the form~~ Employer representative's signature indicating:

~~i.a.~~ I understand it is my responsibility to verify the accuracy of the information I am providing on this form. I understand any individual who knowingly makes a false statement, or who falsifies or permits to be falsified any record of the ASRS with an intent to defraud the ASRS, is guilty of a Class 6 felony pursuant to A.R.S. § 38-793; and

~~ii.b.~~ I understand that, based on the information provided on this form, the ASRS may determine that contributions are owed on behalf of the member listed on this form, and the ~~ASRS employer~~ Employer may incur a substantial financial obligation; I understand that I may receive an invoice for the member contributions I owe.

~~h.8.~~ The following information ~~months worked, the hours per week worked, and the compensation earned by the member,~~ by fiscal year:

~~a.~~ All pay period end dates;

~~b.~~ The hours per week worked within each pay period; and

~~c.~~ The compensation earned by the member within each pay period.

~~i.9.~~ The name of the ~~ASRS employer~~ Employer;

~~j.10.~~ The printed name and signature of the authorized ~~employer~~ Employer representative;

~~k.11.~~ The daytime telephone number of the authorized ~~employer~~ Employer representative;

~~l.12.~~ The title of the authorized ~~employer~~ Employer representative; and

~~m.13.~~ The date the authorized ~~employer~~ Employer representative signed the form;

~~2.B.~~ Provide the ASRS with the completed Verification of Contributions Not Withheld form; and

~~3.C.~~ If the ~~ASRS employer~~ Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the ~~ASRS employer~~ Employer completes on the form, the member shall provide the ASRS with the documentation the member believes supports the allegation that contributions should have been withheld, that includes proof:

~~a.1.~~ That the employee was covered under the ~~ASRS employer's~~ Employer's 218 agreement prior to July 24, 2014,

~~b.2.~~ Of the number of hours worked,

~~e.3.~~ Of the length of time the member was employed by the ~~ASRS employer~~ Employer, and

~~d.4.~~ Of the compensation paid to the member by the ~~ASRS employer~~ Employer.

R2-8-706. Determination of Contributions Not Withheld

A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the ~~ASRS employer~~ Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.



Fax: (480) 784-4962
E-mail: daune@azboc.gov
Web site: www.azboc.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 currently contracts with Professional Credential Services, Inc. (PCS) to administer and grade the Board's licensing examinations. PCS offers written cosmetology licensing examinations in English, Spanish, Korean, and Vietnamese. This rulemaking allows the written licensing examination to be offered in Arizona in all available languages. The rulemaking also relates, in part, to a 5YRR approved by the Council on August 2, 2016.

An exemption from EO2016-03 was provided for this rulemaking by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's office, in an email dated May 16, 2016.

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 did not review or rely on a study in its evaluation of or justification for the 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:

This rulemaking may make it easier for individuals who are more fluent in Spanish, Korean, or Vietnamese than English to pass the written licensing examination and obtain a license. This will have a positive economic benefit for these individuals. The Board incurred the cost of doing this rulemaking.

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

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

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

The Board received no written comments about the rulemaking. No one attended the oral proceeding on September 12, 2016.

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

None

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

The rule does not require a permit.

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 directly applicable to examination of cosmetology applicants.

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

No analysis was submitted.

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

None

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

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

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. BOARD OF COSMETOLOGY



ARTICLE 1. GENERAL PROVISIONS

Section

R4-10-108. Pre-screening Review; Licensing Examinations Examination

ARTICLE 1. GENERAL PROVISIONS

R4-10-108. Pre-screening Review; Licensing Examinations Examination

- A. ~~The A student planning to apply to the Board for licensure may, but is not required to, request that the Board may complete a pre-screening review of examination qualifications, if requested, whether the student is qualified to take the licensing examination, before the student graduates from a school, but the Board shall not approve the examination application until the The student may request the pre-screening review before the student graduates from a school licensed by the Board but the student shall not be issued an examination date until the student has completed a minimum of:~~
 1. 1450 hours of cosmetology training,
 2. 500 hours of aesthetics or nail technician training,
 3. 550 hours of cosmetology instructor training,
 4. 400 hours for aesthetics instructor training, or
 5. 250 hours of nail technician instructor training.
- B. ~~After the Board completes the pre-screening review and determines the student has completed the number of hours specified in subsection (A), an applicant may receive the Board or national professional organization with which the Board contracts to administer the licensing examination shall issue an examination date; to the student, but the applicant is However, the Board shall not allowed in allow the student to take the examination site until the applicant student applies for licensure and provides a certification of graduation to the Board.~~
- C. ~~If the applicant a student who has been issued an examination date fails to apply for licensure and provide a certification of graduation by the date set for the examination date or the applicant does not fails to appear at the examination site at the scheduled examination time, the applicant forfeits the examination fee is forfeited.~~
- D. ~~A request for a pre-screening review is not a substitute for an official agency acceptance or issuance of a license an application for licensure and does not guarantee the Board will issue a license.~~
- C. ~~If the applicant does not request an examination pre-screening review, the Board shall not consider an examination application until the applicant has received the hours required for graduation and has graduated from a school licensed by the Board.~~
- ~~D.E.~~ ~~All examinations shall be held in the Board's examination center at the Board's office unless another location is designated by the Board in its written notice to the applicant. The Board or national professional organization with which the Board contracts to administer the licensing examination shall provide written notice to an applicant of the date, time, and location for the examination.~~
- ~~E.~~ ~~The Board shall notify applicants in writing of the time and place assigned for the examination.~~
- F. ~~An applicant shall provide photographic identification upon entering the examination center site. Acceptable forms of identification include United States issued The following U.S.-issued forms of identification are acceptable: passport, driver license, bank identification card, military identification, or other government-issued identification card. Identification shall contain a photograph of the applicant.~~
- G. ~~An The licensing examination shall consist of both a written and practical sections section, and the practical sections An applicant shall include perform a live demonstrations demonstration on a model as follows: during the practical section of the licensing examination. During the live demonstration, the applicant shall:~~
 1. ~~An applicant shall perform a cosmetology or nail technology demonstration on a mannequin, Provide the model required for the demonstration. If the applicant provides a live model for the demonstration, the live model shall not be a current or former student of aesthetics, cosmetology, or nail technology or a current or former licensee;~~
 2. ~~An applicant shall perform a demonstration for an aesthetics examination on a person, and Provide all equipment, supplies, tools, or instruments required for the demonstration; and~~
 3. ~~An applicant shall perform demonstrations for an instructor examination on a person for an aesthetics class or a mannequin for a cosmetology or nail technology class. Comply with all infection control and safety standards specified in R4-10-112, including those regarding blood spills. If an applicant fails to follow proper blood-spill procedures during the demonstration, the examination administrator shall dismiss the applicant from the examination and cause the examination fee to be forfeited.~~
- ~~H.~~ ~~An applicant shall comply with all infection control and safety standards required by R4 10 112 during the examination.~~
- ~~I.H.~~ ~~An If an applicant who cannot fails to appear for an a licensing examination as scheduled, shall forfeit the applicant forfeits the examination fee. An If an applicant who arrives at an examination site after a the scheduled examination begins, the examination administrator shall not be allowed to test at the scheduled time allow the applicant to take the examination. If an An applicant arrives after the examination begins or fails to appear for a scheduled examination, the Board shall may reschedule the a missed examination upon payment of by paying another examination fee.~~
- ~~I.~~ ~~The An applicant is allowed a one time cancellation of the may cancel a scheduled examination test date if the applicant eaneels once by providing notice of cancellation at least 48 hours before the examination start time. The Board does not require another examination fee for rescheduling to reschedule a canceled examination.~~
- ~~J.~~ ~~An applicant shall supply equipment, supplies, tools or instruments, and a model as required.~~
- ~~K.~~ ~~An applicant shall not use a current or former student in an aesthetics, cosmetology, or nail technology school as a model in the live demonstration of aesthetics or instructor examinations.~~



- ~~L.J.~~ Examination Neither the Board nor the examination administrator shall make examination materials ~~are not~~ available for inspection or copying by any person, ~~nor shall any~~ A person shall not attempt to obtain or provide examination materials.
- ~~M.K.~~ The An applicant shall not bring and the examination administrator shall not allow written material or recording media ~~in to~~ either the written or practical ~~sections section~~ of the licensing examination for aestheticians, cosmetologists, or nail technicians. The examination administrator may exclude ~~other items~~ from the written or practical ~~sections section~~ of the licensing examination any items the examination administrator believes that may impede the fair administration or security of the examination. ~~An~~ The examination administrator shall dismiss from the examination an applicant who seeks to impede the fair administration of ~~an exam the examination~~, or copies or asks for information from another applicant ~~shall be dismissed from the examination and shall forfeit and cause the examination fee to be forfeited. An applicant who has a blood spill that is not treated following proper blood spill procedures in R4-10-112 shall be dismissed from the examination and shall forfeit the examination fee.~~
- ~~N.L.~~ If an applicant passes the examination but does not apply for an original license fails to complete the licensure process within one year after the date of the examination, the Board shall void the examination scores.
- ~~O.M.~~ If application is made for licensure by reciprocity, the Board may shall accept a score on a written or practical examination from another jurisdiction if the examination:
 1. Is the same national examination ~~as that~~ administered in Arizona,
 2. The score obtained by the applicant is at least the same as the passing score ~~that was~~ required by the Board at the time the applicant took the examination in the other jurisdiction, and
 3. The applicant provides the Board with documentation from the other jurisdiction verifying the passing score and that the score was received within one year ~~of before~~ the application for licensure by reciprocity.
- ~~P.N.~~ The Board or national professional organization with which the Board contracts to administer the licensing examination shall conduct:
 1. ~~all examinations~~ The practical section of the licensing examination in English and applicants an applicant shall submit answers in English;
 2. The written section of the licensing examination in English and other languages specified by the national professional organization. An applicant may choose to take the written section of the licensing examination in any of the offered languages.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ARIZONA LONG-TERM CARE SYSTEM**

[R16-245]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable)** **Rulemaking Action**
R9-28-702 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. §§ 36-2903.01, 36-2903, 36-2932
Implementing statute: A.R.S. §§ 36-2999.52, 36-2999.54
- 3. The effective date of the rule:**
January 3, 2017
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
Notice of Rulemaking Docket Opening: 22 A.A.R. 2057, August 5, 2016
Notice of Proposed Rulemaking: 22 A.A.R. 2015, August 5, 2016
- 5. The agency’s contact person who can answer questions about the rulemaking:**
Name: Gina Relkin
Address: AHCCCS
701 E. Jefferson St.
Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.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:

This final rulemaking will amend the current rule to increase the amount of the nursing facility provider assessment charged for health care items and services provided by nursing facilities authorized by State Law ARS§36-2999.51 et seq. The statutory scheme requires the AHCCCS Administration to administer a provider assessment (also referred to as a quality assessment) on health care items and services provided by nursing facilities and to make supplemental payments to nursing facilities for covered Medicaid expenditures. As a result of the final rulemaking which will increase the dollar amount of the nursing facility assessment in R9-28-702, additional supplemental funding will be available to nursing facilities for covered Medicaid expenditures, thus supporting accessibility of critical health care services to vulnerable populations and enhancing the ability of nursing facilities to provide higher quality yet cost effective care to frail Arizona residents.

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:

A study was not referenced or relied upon when revising the regulations.

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

Not applicable

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

The Administration anticipates a minimal to moderate economic impact to individual qualifying nursing facilities. Under the statute, the amount of the assessment cannot exceed three and one-half percent of the net patient service revenue. The estimated increase in the total assessment for the fiscal year ending September 30, 2017 is \$8.1M. Ninety nine percent of the funds will be used as the non-federal share of supplemental payments to qualifying nursing facilities through the Medicaid program administered by AHCCCS. Because those funds will be matched with federal funds, the estimated increase in the total supplemental payments funded by this assessment for the fiscal year ending September 30, 2017 is \$16.1M.

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

No changes were made between the proposed rulemaking and the final rulemaking.

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

Item #	Rule Cite Line #	Comment From and Date rec’d.	Comment	Analysis/ Recommendation
1.		Kathleen Collins-Pagels 09/06/16 Executive Director of the AZHCA	I just wanted to take this opportunity to thank the AHCCCS administration for this rule revision. The Arizona Health Care Association would like to offer its unqualified support for this change, we believe that it will contribute to the financial well-being of the Long Term Care Community throughout the state of Arizona and we believe it will contribute to quality outcomes. We appreciate the leadership of Shelli Silver and Victoria Burns and all of the AHCCCS administrative team in making this possible.	AHCCCS thanks Ms. Collins-Pagels for the support.

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:

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:

Not applicable

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:

42 Code of Federal Regulations section 433.68(e)(1) and (2) is applicable to the subject of this rulemaking. The rule is not more stringent than federal law.



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 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 rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

R9-28-702. Nursing Facility Assessment

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-28-702. Nursing Facility Assessment

A. For purposes of R9-28-702 and R9-28-703, in addition to the definitions under A.R.S. § 36-2999.51, the following terms have the following meaning unless the context specifically requires another meaning:

“820 transaction” means the standard health care premium payments transaction required by 45 CFR 162.1702.

“Assessment year” means the 12 month period beginning October 1st each year.

“Medicaid patient days” means patient days reported on the Nursing Care Institution Uniform Accounting Report (UAR) as attributable to AHCCCS and its contractors as the primary payor.

“Medicare days” means resident days where the Medicare program, a Medicare advantage or special needs plan, or the Medicare hospice program is the primary payor.

“Medicare patient days” means patient days reported on the Nursing Care Institution UAR as Skilled Medicare Patient Days or Part C/Advantage/Medicare Replacement Days.

“Nursing Care Institution UAR” means the Nursing Care Institution Uniform Accounting Report described by R9-11-204.

B. Subject to Centers for Medicare and Medicaid Services (CMS) approval, effective October 1, 2012, nursing facilities shall be subject to a provider assessment payable on a quarterly basis.

C. All nursing facilities licensed in the state of Arizona shall be subject to the provider assessment except for:

1. A continuing care retirement community,
2. A facility with 58 or fewer beds, according to the Arizona Department of Health Services, Division of Licensing Services, Provider & Facility Database,
3. A facility designated by the Arizona Department of Health Services as an Intermediate Care Facility for the Intellectually Disabled,
4. A tribally owned or operated facility located on a reservation, or
5. Arizona Veteran's Homes.

D. The Administration shall calculate the prospective nursing facility provider assessment for qualifying nursing facilities as follows:

1. In September of each year, the Administration shall obtain from the Arizona Department of Health Services the most recently published Nursing Care Institution UAR and the information required in subsection (C)(2). At the request of the Administration, a nursing facility shall provide the Administration with any additional information necessary to determine the assessment.
2. The Administration shall use the information obtained under subsection (D)(1) to determine:
 - a. Each nursing facility's total annual Medicaid patient days,
 - b. Each nursing facility's total annual Medicare patient days,
 - c. Each nursing facility's total annual patient days,
 - d. The aggregate net patient service revenue of all assessed providers, and
 - e. The slope described under 42 CFR 433.68(e)(2).



3. For each nursing facility, other than a nursing facility exempted in subsection (C) or described in subsection (D)(4), the provider assessment is calculated by multiplying the nursing facility's total annual patient days, other than Medicare patient days, by ~~\$10.50~~15.63.
4. For a nursing facility, other than a nursing facility exempted in subsection (C), with ~~the~~ a number of total annual Medicaid patient days greater than or equal to the number required to achieve a slope of at least 1 applying the uniformity tax waiver test described in 42 CFR 433.68(e)(2), the provider assessment is calculated by multiplying the nursing facility's total annual patient days, other than Medicare patient days, by ~~\$1.40~~1.80.
5. For each assessment year the slope described under 42 CFR 433.68(e)(2) shall be recalculated.
6. The total annual assessment calculated under subsections (D)(3), (D)(4) and (D)(5), shall not exceed 3.5 percent of the aggregate net patient service revenue of all assessed providers as reported on the Nursing Care Institution UAR obtained under subsection (D)(1).
7. All calculations and determinations necessary for the provider assessment shall be based on information possessed by the Administration on or before November 1 of the assessment year.
8. The Administration shall forward the provider assessments for all assessed facilities to the Arizona Department of Revenue on or before December 1 of the assessment year.
9. In the event a nursing facility closes during the assessment year, the nursing facility shall cease to be responsible for the portion of the assessment applied to the dates the nursing facility is not operating.
10. In the event a nursing facility begins operation during the assessment year, that facility will have no responsibility for the assessment until such time as the facility has submitted to the Arizona Department of Health Services the report required by R9-11-204(A) covering a full year of operation.
11. In the event a nursing facility has a change of ownership such that the facility remains open and the ownership of the facility changes, the assessment liability transfers with the change in ownership.