

# Arizona Administrative REGISTER

Published by the Department of State ~ Office of the Secretary of State

Vol. 23, Issue 27

~ Administrative Register Contents ~

July 7, 2017

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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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

Vol. 23

Issue 27

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**ADMINISTRATIVE REGISTER**  
The printed version of the *Administrative Register* is the official publication of Arizona state agency rules.  
Rates: \$276 yearly  
New subscriptions, renewals and address changes contact us at (602) 364-3223.

This publication is available online for free at [www.azsos.gov](http://www.azsos.gov).

**ADMINISTRATIVE CODE**  
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 us at (602) 364-3223.

**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.

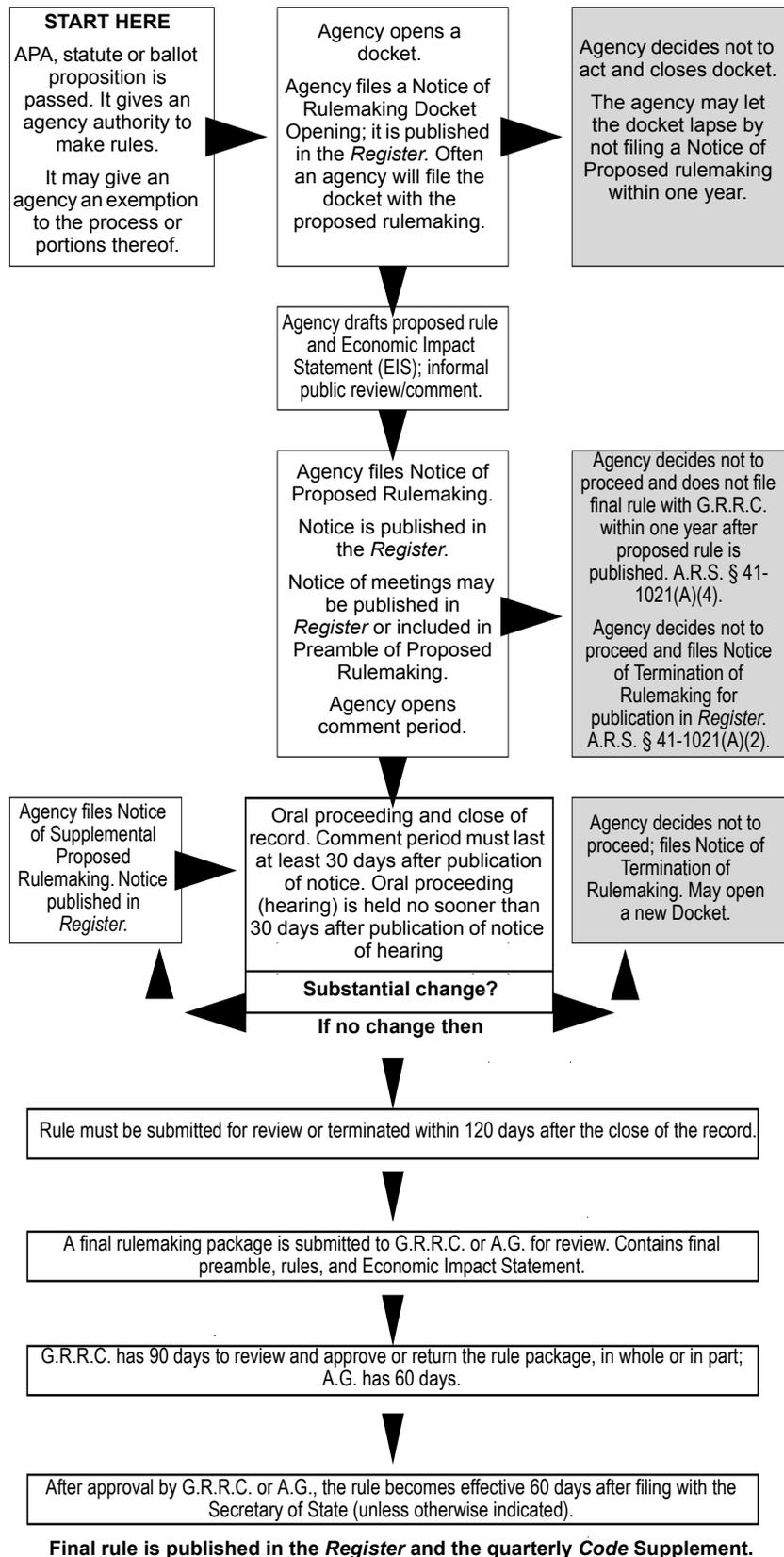
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## 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.



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION**

[R17-111]

**PREAMBLE**

**1. Article, Part, or Section Affected (as applicable):**

- R9-22-712.60
- R9-22-712.62
- R9-22-712.63
- R9-22-712.64
- R9-22-712.65
- R9-22-712.66
- R9-22-712.68
- R9-22-712.71
- R9-22-712.72
- R9-22-712.80

**Rulemaking Action:**

- Amend

**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. § 36-2903.01(A)  
 Implementing statute: A.R.S. § 36-2903.01(G)(12)

**3. 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: 23 A.A.R. 1811, July 7, 2017 (*in this issue*)

As of the filing of this Notice of Proposed Rulemaking, there is also pending separate amendments to R9-22-712.71 regarding incremental payments for hospitals that qualify for a value-based purchasing adjustment. Additional amendments to that same rule are proposed herein; however, because the value-based purchasing amendments are not final as of this Notice of Proposed Rulemaking, those proposed amendments are not reflected in this rulemaking. Additional information regarding the value-based purchasing amendments can be found via the following related notices published in the *Register*:

Notice of Rulemaking Docket Opening: 23 A.A.R. 1046, May 5, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1015, May 5, 2017

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

Name: Gina Relkin  
 Address: AHCCCS  
 Office of Administrative Legal Services  
 701 E. Jefferson, Mail Drop 6200  
 Phoenix, AZ 85034  
 Telephone: (602) 417-4232  
 Fax: (602) 253-9115  
 E-mail: AHCCCSrules@azahcccs.gov



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

The Arizona Health Care Cost Containment System Administration is the single State agency responsible for administration of the Medicaid program in Arizona. The program is jointly funded by the State, counties, and the federal government. Federal law imposes a substantial number of conditions on the receipt of federal financial assistance reflected in federal statutes (42 U.S.C. § 1396 et seq.) and regulation (generally, 42 C.F.R. Parts 430 through 455). While States are provided substantial flexibility with respect to the payment methods for health care providers that agree to participate, federal law does require that states “assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. 42 U.S.C. § 1396a(a)(30)(A). State law requires the agency to adopt a diagnosis-related group (DRG) based hospital reimbursement methodology consistent with title XIX of the social security act for inpatient dates of service on and after October 1, 2014. A.R.S. § 36-2903.01(G)(12).

A diagnosis- related group (DRG) based hospital reimbursement methodology pays a fixed amount on a “per discharge basis.” Under this methodology each claim is assigned to a DRG based on the patient’s diagnoses, surgical procedures performed, age, gender, birth weight, and discharge status. The goal of diagnosis related groups is to classify inpatient stays into categories based on similar clinical conditions and on similar levels of hospital resources required for treatment. These categories are identified using Diagnosis Related Group (DRG) codes each of which is assigned a relative weight appropriate for the relative amount of hospital resources expected to be used to treat the patient. An essential element of a DRG based hospital payment methodology is the selection of one of the several DRG classification systems. The DRG system was first implemented via rule published in 20 A.A.R. 1956, published September 6, 2014. As originally published, the agency elected to use the All Patient Refined DRG (APR-DRG) system of codes and relative weights established and maintained by 3M Health Information Systems. At the time, the most current version of that system was version 31. More than three years have elapsed since initial implementation of APR-DRG. The original DRG reimbursement methodology was developed using Fiscal Year 2011 data from the agency’s tiered per diem system. Since that time, 3M Health Information Systems has issue version 34 of the system which is in use in the health care industry as the basis for payments by other payers. In addition, there have been updates to the national code sets used for diagnoses and procedures.

To meet its federal obligation to establish payment methodologies that are consistent with efficiency, economy, quality and access, the agency contracted with Navigant Consulting to assess the impacts of these changes on reimbursement for inpatient hospital reimbursement (often referred to as “rebasin” the payment methodology). The current rebase will utilize updated claims and encounter data, and incorporates related changes to policy and service adjustors in an effort to maintain cost effectiveness.

Hospitals may wish to take particular note of the proposed amendment to R9-22-712.72(B). The proposed amendment strikes an overly restrictive direction regarding the coding of claims when a member’s enrollment changes during an inpatient stay, which direction may result in certain claims failing to qualify for the outlier payment add-on under R9-22-712.68 when such payment is appropriate. Providers should consult AHCCCS policy manuals that are incorporated by reference into the provider participation agreement for specific guidance on correct coding practices effective for claims with dates of discharge on and after January 1, 2018.

In addition, hospitals should note that the wage indices referenced in R9-22-712.62(B) include the “rural floor” such that the wage index for a hospital in any urban area cannot be less than the wage index received by rural hospitals in the same State. Use of the rural floor is required for the Medicare program under 42 C.F.R. 412.64, and the AHCCCS administration has elected to adopt the rural floor as part of this rulemaking.

Pursuant to A.R.S. § 36-2903.01(G), the agency promulgates rules that describe the payment methodology; however, per A.R.S. § 41-1005(A)(9), the agency is not required to have rules that set forth the actual amounts of fee-for-service payments. As a condition of federal financial participation, the agency is required to provide notice through its website and/or publication through the State administrative register. In addition the State must provide an opportunity for public comment on significant proposed changes to methods and standard for payment rates. 42 U.S.C. § 1396a(a)(13) and 42 C.F.R. § 447.205. To accommodate future editions of the APR-DRG system, changes in the national code sets, and the corresponding changes to service and policy adjustors, the agency is proposing to remove from the text of the rule references to specific dollar amounts and other numerical factors which, going forward, will be published to the agency’s website with advanced notice and public comment prior to implementation. For ease of reference, the amounts intended for use as of January 1, 2018 (and historical values) appear in the following table (see next page) and will be published to the agency’s website:



Rule Section (R9-22)	Description of Value Moved to Web	Current Values	Updated Values
712.60(C) 712.60(F)(1)	Reference to the version of the 3M APR-DRG classification system	Version 31	Version 34
712.62(B)	The amount of the statewide standardized amount of the base payment.	\$5,295.40	\$5,168.06
712.63	The amount of the alternative to the statewide standardized amount of the base payment for urban hospitals with high Medicare utilization and short-term hospitals.	\$3,436.08	\$3,359.24
712.64(A)(2)	The amount of the DRG base payment for out of state hospitals.	\$5,184.75	\$5,157.58
712.65(A)	The multiplier for high-utilization hospitals	1.055	1.110
712.66	Multipliers for service policy adjusters.	Newborns: 1.55 Neonates: 1.10 Obstetrics: 1.55 Psychiatric: 1.65 Rehab: 1.65 Children - • Severity level 1 & 2: 1.25 • Severity levels 3 & 4 (2016): 1.60	Newborns: 1.55 Neonates: 1.10 Obstetrics: 1.55 Psychiatric: 1.65 Rehab: 1.65 Burns: 2.70 Children - • Severity level 1 & 2: 1.25 • Severity levels 3 & 4 (2016): 1.60 • Severity levels 3 & 4 (2017): 1.945 • Severity levels 3 & 4 (2018): 2.30 All other claims: 1.025
712.68(D)	The fixed loss amount for CAHs and all other hospitals.	CAHs \$5,000 All others \$65,000	CAHs \$5,000 All others \$65,000
712.68(E)	The DRG marginal cost percentages for burns and all other claims.	Burns 90% All others 80%	Burns 90% All others 80%

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

The agency engaged the services of Navigant consulting who modeled the estimated impact of the proposed amendments on payments to hospitals for inpatient services under the DRG payment methodology. Information regarding that model will be posted to the agency’s website with the publication of this Notice of Proposed Rulemaking.

**7. 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 as the rulemaking will not diminish a previous grant to authority of a political subdivision of the state.

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

Multiple factors may influence the actual economic impact of the amendments proposed by this rulemaking including the nature and frequency of inpatient hospital services and where those services are received. Assuming no significant changes in utilization from prior years, the agency anticipates that the aggregate increase in expenditures as a result of this rule will be \$35.5 million in additional payments to hospitals. Through the Medicaid program, the federal government funds a substantial percentage of the agency’s expenditures for medical services which percentage varies by eligibility category. Based on estimates of the level of federal financial participation, the agency estimates the proposed amendments increase State expenditures (General Fund and hospital assessment) by \$8.3 million. The agency does not anticipate that the proposed rulemaking will have an effect on State revenues or materially impact political subdivisions of the State. According to hospital uniform accounting reports information filed with the Arizona Department of Health Services for 2015 (the most current information publicly available), 4 of the 106 hospitals listed reported fewer than one hundred full-time employees which qualifies those hospitals as “small businesses” under A.R.S. § 41-



1001(21). Two of those hospitals have since ceased operations. The other two hospitals, Arizona Orthopedic Surgical and Specialty Hospital and Arizona Spine & Joint Hospital are hospitals that are small businesses impacted by the DRG payment system. Estimates regarding the impact to those hospitals and all other hospitals participating in the AHCCCS program are posted to the agency's website.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Gina Relkin  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Proposed rule language will be available on the AHCCCS website www.azahcccs.gov the week of June 19, 2017. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., August 8, 2017.

Date: August 8, 2017  
Time: 1:00 p.m.  
Location: AHCCCS  
701 E. Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: August 8, 2017  
Time: 1:00 p.m.  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr., Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: August 8, 2017  
Time: 1:00 p.m.  
Location: 2717 N. 4th St., Suite 130  
Flagstaff, AZ 86004  
Nature: Public Hearing

**11. 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:**

No other matters have been prescribed.

**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:**

Not applicable

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

Not applicable

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

Proposed R9-22-712.62(B) references the labor share for the Medicare inpatient prospective payment system published in Volume 81 of the Federal Register at page 57312 and the wage index tables referenced in Volume 81 of the Federal Register at page 57311 for the fiscal year beginning October 1, 2016.

Proposed R9-22-712.71(4)(b) references 42 C.F.R. § 495.22.

Proposed R9-22-712.81 references 42 C.F.R. § 447.205.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**



## ARTICLE 7. STANDARDS FOR PAYMENT

### Section

- R9-22-712.60. Diagnosis Related Group Payments
- R9-22-712.62. DRG Base Payment
- R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount
- R9-22-712.64. DRG Base Payments and Outlier CCR for Out-of-State Hospitals
- R9-22-712.65. DRG Provider Policy Adjustor
- R9-22-712.66. DRG Service Policy Adjustor
- R9-22-712.68. DRG Reimbursement: Unadjusted Outlier Add-on Payment
- R9-22-712.71. Final DRG Payment
- R9-22-712.72. DRG Reimbursement: Enrollment Changes During an Inpatient Stay
- R9-22-712.80. DRG Reimbursement: New Hospitals
- R9-22-712.81. DRG Reimbursement: Updates

## ARTICLE 7. STANDARDS FOR PAYMENT

### R9-22-712.60. Diagnosis Related Group Payments

- A. Inpatient hospital services with discharge dates on or after October 1, 2014, shall be reimbursed using the diagnosis related group (DRG) payment methodology described in this section and sections R9-22-712.61 through R9-22-712.81.
- B. Payments made using the DRG methodology shall be the sole reimbursement to the hospital for all inpatient hospital services and related supplies provided by the hospital. Services provided in the emergency room, observation area, or other outpatient departments that are directly followed by an inpatient admission to the same hospital are not reimbursed separately. Are reimbursed through the DRG methodology and not reimbursed separately.
- C. Each claim for an inpatient hospital stay shall be assigned a DRG code and a DRG relative weight based on ~~version 31~~ of the All Patient Refined Diagnosis Related Group (APR-DRG) classification system established by 3M Health Information Systems. ~~If version 31 of the APR-DRG classification system will no longer support assigning DRG codes and relative weights to claims, and 3M Health Information Systems issues a newer version of the APR-DRG classification system using updated DRG codes and/or updated relative weights, then an updated version established by 3M Health Information Systems will be used; however, The applicable version of the APR-DRG classification system shall be available on the agency website. if the posted version employs updated relative weights, those weights will be adjusted using a single adjustment factor applied to all relative weights if necessary to ensure that the statewide weighted average of the updated relative weights does not increase or decrease from the statewide weighted average of the relative weights used under version 31.~~
- D. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to quick pay discounts and slow pay penalties under A.R.S. 36-2904.
- E. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to the Urban Hospital Reimbursement Program under R9-22-718.
- F. For purposes of this section and sections R9-22-712.61 through R9-22-712.81:
  1. "DRG National Average length of stay" means the national arithmetic mean length of stay published in ~~version 31~~ of the All Patient Refined Diagnosis Related Group (APR-DRG) classification established by 3M Health Information Systems.
  2. "Length of stay" means the total number of calendar days of an inpatient stay beginning with the date of admission through discharge, but not including the date of discharge (including the date of a discharge to another hospital, i.e., a transfer) unless the member expires.
  3. "Medicare" means Title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*
  4. "Medicare labor share" means a hospital's labor costs as a percentage of its total costs as determined by CMS for purposes of the Medicare Inpatient Prospective Payment System.

### R9-22-712.62. DRG Base Payment

- A. The initial DRG base payment is the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code assigned to the claim, and any applicable provider and service policy adjustors.
- B. The DRG base rate for each hospital is the statewide standardized amount of which the hospital's labor-related share of that amount is adjusted by the hospital's wage index, ~~where the standardized amount is \$5,295.40, and the~~ The hospital's labor share is determined based on the labor share for the Medicare inpatient prospective payment system published in Volume 81 of the Federal Register at page 57312 published August 22, 2016, and the ~~The hospital's wage index are those used in the Medicare inpatient prospective payment system for the fiscal year beginning October 1, 2013 is determined based on the wage index tables reference in Volume 81 of the Federal Register at page 57311 published August 22, 2016. The statewide standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.~~
- C. Claims shall be assigned both a DRG code derived from all diagnosis and surgical procedure codes included on the claim (the "pre-HCAC" DRG code) and a DRG code derived excluding diagnosis and surgical procedure codes associated with the health care acquired conditions that were not present on admission or any other provider-preventable conditions (the "post-HCAC" DRG code). The DRG code with the lower relative weight shall be used to process claims using the DRG methodology.

### R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount

- A. Notwithstanding section R9-22-712.62, ~~the amount of \$3,436.08 a select specialty hospital standardized amount~~ shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:
  1. Hospitals located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2011 Medicare Cost Report are reimbursed by Medicare.



- 2. Hospitals designated as type: hospital, subtype: short-term that has a license number beginning “SH” in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year.

**B.** The select specialty hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency’s website.

**R9-22-712.64. DRG Base Payments and Outlier CCR for Out-of-State Hospitals**

**A.** DRG Base payment:

- 1. For high volume out-of-state hospitals defined in subsection (C), the wage adjusted DRG base payment is determined as described in R9-22-712.62.
- 2. Notwithstanding subsection R9-22-712.62 the wage adjusted DRG base rate for out-of-state hospitals that are not high volume hospitals shall be ~~\$5,184.75~~ included in the AHCCCS capped fee schedule available on the agency’s website.

**B.** Outlier CCR:

- 1. Notwithstanding subsection R9-22-712.68, the CCR used for the outlier calculation for out-of-state hospitals that are not high volume hospitals shall be the sum of the statewide urban default operating cost-to-charge ratio and the statewide capital CCR in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.
- 2. The CCR used for the outlier calculation for high volume out-of-state hospitals is the same as in-state hospitals as described in R9-22-712.68.

**C.** A high volume out-of-state hospital is a hospital not otherwise excluded under R9-22-712.61, that is located in a county that borders the State of Arizona and had 500 or more AHCCCS covered inpatient days for the fiscal year beginning October 1, ~~2010~~ 2015.

**D.** Other than as required by this section, DRG reimbursement for out-of-state hospitals is determined under R9-22-712.60 through R9-22-712.81.

**R9-22-712.65. DRG Provider Policy Adjustor**

**A.** After calculating the DRG base payment as required in sections R9-22-712.62, R9-22-712.63, or R9-22-712.64, for claims from a high-utilization hospital, the product of the DRG base rate and the DRG relative weight for the post-HCAC DRG code shall be multiplied by a provider policy adjustor of ~~1.055~~ that is included in the AHCCCS capped fee schedule published by the Administration on its website.

**B.** A hospital is a high-utilization hospital if the hospital had:

- 1. ~~At least 46,112 AHCCCS covered~~ Covered inpatient days subject to DRG reimbursement, determined using adjudicated claim and encounter data during the fiscal year beginning October 1, 2010 2015, which is equal to at least four hundred percent of the statewide average number of AHCCCS-covered inpatient days at all hospitals of 11,528 days; and,
- 2. A Medicaid inpatient utilization rate greater than 30% calculated as the ratio of AHCCCS-covered inpatient days to total inpatient days as reported in the hospital’s Medicare Cost Report for the fiscal year ending 2014 2016; and,
- 3. Received less than \$2 million in add-on payment for outliers under R9-22-712.68, based on adjudicated claims and encounters for fiscal year beginning October 1, 2015.

**R9-22-712.66. DRG Service Policy Adjustor**

In addition to subsection R9-22-712.65, for claims with DRG codes in the following categories, the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code, and the DRG provider policy adjustor shall be multiplied by the service policy adjustor listed in the AHCCCS capped fee schedule published by the Administration on its website corresponding to the following DRG codes following service policy adjustors:

- 1. Normal newborn DRG codes: ~~1.55.~~
- 2. Neonates DRG codes: ~~1.10.~~
- 3. Obstetrics DRG codes: ~~1.55.~~
- 4. Psychiatric DRG codes: ~~1.65.~~
- 5. Rehabilitation DRG codes: ~~1.65.~~
- 6. Burn DRG codes.
- 67. Claims for members under age 19 assigned DRG codes other than listed above:
  - a. ~~1.25 for~~ For dates of discharge occurring on or after October 1, 2014 and ending no later than December 31, 2015 regardless of severity of illness level,
  - b. ~~1.25 for~~ For dates of discharge on or after January 1, 2016, for severity of illness levels 1 and 2,
  - c. ~~1.60 for~~ For dates of discharge on or after January 1, 2016 and before January 1, 2017, for severity of illness levels 3 and 4.
  - d. For dates of discharge on or after January 1, 2017, and before January 1, 2018 for severity of illness levels 3 and 4.
  - e. For dates of discharge on or after January 1, 2018, for severity of illness levels 3 and 4.
- 8. Claims for members assigned DRG codes other than listed above.

**R9-22-712.68. DRG Reimbursement: Unadjusted Outlier Add-on Payment**

**A.** Claims for inpatient hospital services qualify for an outlier add-on payment if the claim cost exceeds the outlier cost threshold.

**B.** The claim cost is determined by multiplying covered charges by an outlier CCR as described by the following subsections:

- 1. For hospitals designated as type: hospital, subtype: children’s in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year. The outlier CCR will be calculated by dividing the hospital total costs by the total charges using the most recent Medicare Cost Report available as of September 1 of that year.
- 2. For Critical Access Hospitals the outlier CCR will be the sum of the statewide rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.



3. For all other hospitals the outlier CCR will be the sum of the operating cost-to-charge ratio and the capital cost-to-charge ratio established for each hospital in the impact file established as part of the Medicare Inpatient Prospective Payment System by CMS.
- C. AHCCCS shall update the CCRs described in subsection (B) to conform to the most recent CCRs established by CMS as of September 1 of each year, and the CCRs so updated shall be used ~~For~~ for claims with dates of discharge on or after October 1 of that year.
- D. The outlier threshold is equal to the sum of the unadjusted DRG base payment plus the fixed loss amount. The fixed loss amount ~~is \$5,000 for critical access hospitals and \$65,000 for all other hospitals~~ are included in the AHCCCS capped fee schedule published by the Administration on its website.
- E. For those inpatient hospital claims that qualify for an outlier add-on payment, the payment is calculated by subtracting the outlier threshold from the claim cost and multiplying the result by the DRG marginal cost percentage. The DRG marginal cost percentage ~~is 90% for claims assigned DRG codes associated with the treatment of burns and 80% for all other claims~~ are included in the AHCCCS capped fee schedule published by the Administration on its website.

#### R9-22-712.71. Final DRG Payment

The final DRG payment is the sum of the final DRG base payment, the final DRG outlier add-on payment, and the Inpatient Value Based Purchasing (VBP) Differential Adjusted Payment.

1. ~~For claims with dates of discharge prior to January 1, 2018, the~~ the final DRG base payment is an amount equal to the product of the covered day adjusted DRG base payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition. For claims with dates of discharge on and after January 1, 2018, no adjustment will be made to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology or to account for improvements in documentation and coding.
2. ~~For claims with dates of discharge prior to January 1, 2018, the~~ the final DRG outlier add-on payment is an amount equal to the product of the covered day adjusted DRG outlier add-on payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition. For claims with dates of discharge on and after January 1, 2018, no adjustment will be made to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology or to account for improvements in documentation and coding.
3. The factor for each hospital and for ~~each federal fiscal year~~ claims with dates of discharge prior to January 1, 2018 is published as part of the AHCCCS capped fee schedule and is available on the AHCCCS administration's website and is on file for public inspection at the AHCCCS administration located at 701 E. Jefferson Street, Phoenix, Arizona.
4. For inpatient services with a date of discharge from October 1, 2016 through September 30, 2017, the Inpatient VBP Differential Adjusted Payment is the sum of the final DRG base payment and the final DRG outlier add-on payment multiplied by a percentage published on the Administration's public website as part of its fee schedule, subsequent to the public notice published no later than September 1, 2016. To qualify for the Inpatient VBP Differential Adjusted Payment, a hospital providing inpatient hospital services must meet the following criteria:
  - a. ~~By June 1, 2016~~ May 15, 2017, the hospital must have executed an agreement with and electronically submitted admission, discharge, and transfer information, as well as data from the hospital emergency department, to a qualifying health information exchange organization, and
  - b. No sooner than January 4, 2016, and no later than February 29, 2016, CMS must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015; or, for a children's hospital that does not participate in the medicare electronic health record incentive program, no sooner than January 4, 2016, and no later than the date established by CMS, the administration must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015.

#### R9-22-712.72. DRG Reimbursement: Enrollment Changes During an Inpatient Stay

- A. If a member's enrollment changes during an inpatient stay, including changing enrollment from fee-for-service to a contractor, or vice versa, or changing from one contractor to another contractor, the contractor with whom the member is enrolled on the date of discharge shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in sections R9-22-712.60 through R9-22-712.81. If the member is eligible but not enrolled with a contractor on the date of discharge, then the AHCCCS administration shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in sections R9-22-712.60 through R9-22-712.81.
- B. When a member's enrollment changes during an inpatient stay, the hospital shall use the date of enrollment with the payer responsible on the date of discharge as the "from" date of service on the claim regardless of the date of admission. ~~The claim may include all surgical procedures performed during the entire inpatient stay, but the hospital shall only include revenue codes, service units, and charges for services performed on or after the date of enrollment.~~
- C. Interim claims submitted to a payer other than the payer responsible on the day of discharge shall be processed in the same manner as other interim claims as described in R9-22-712.76.

#### R9-22-712.80. DRG Reimbursement: New Hospitals

- A. DRG base payment for new hospitals. For any hospital that does not have a labor share or wage index published by CMS as described in section R9-22-712.62(B) because the hospital was not in operation, the DRG base rate described in section R9-22-712.62(B) shall be calculated as the statewide standardized amount of ~~\$5,295.40~~ after adjusting that amount for the labor-related share and the wage index published by CMS as described in section R9-22-712.62(B) that is appropriate to the location of the hospital published by CMS as described in section R9-22-712.62(B).



- B. Outlier calculations for new hospitals. For any hospital that does not have an operating cost-to-charge ratio listed in the impact file described in section R9-22-712.68(B) because the hospital was not in operation prior to the publication of the impact file, the statewide urban or rural default operating cost-to-charge ratio appropriate to the location of the hospital and the statewide capital cost-to-charge ratio shall be used to determine the unadjusted outlier add-on payment. The statewide urban or rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio shall be based on the ratios published by CMS and updated by the Administration as described in section R9-22-712.68(C).
- C. In addition to the requirement of this section, DRG reimbursement for new hospitals is determined under R9-22-712.60 through R9-22-712.79.

**R9-22-712.81. DRG Reimbursement: Updates**

In addition to the other updates provided for in sections R9-22-712.60 through R9-22-712.80, the Administration may update the version of the APR-DRG classification system established by 3M Health Information Systems, adjust the statewide standardized amount in section R9-22-712.62, the base payments in sections R9-22-712.63 and R9-22-712.64, the provider policy adjustor in section R9-22-712.65, service policy adjustors section R9-22-712.66, and the fixed loss amounts and marginal cost percentages used to calculate the outlier threshold in section R9-22-712.68 to the extent necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area. The administration shall publish a public notice to the agency's website at least 30 days prior to the effective date of any update to allow for public comment consistent with federal requirements at 42 C.F.R. § 447.205. In addition, the public notice shall be available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. The requirements of 42 C.F.R. § 447.205 as of November 2, 2015 are incorporated by reference and do not include any later amendments.



**NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKINGS**

This section of the *Arizona Administrative Register* contains Notices of Supplemental Proposed Rulemakings.

After an agency has filed a Notice of Proposed Rulemaking and it is published in the *Register*, an agency may decide to make substantial changes to the rule after it is proposed. The agency prepares a Notice of Supplemental Proposed Rulemaking with these proposed changes. When filed, the notice is published under the deadline schedule in the back of the *Register*.

The Notice of Supplemental Proposed Rulemaking shall be published in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #11 for the close of record and information related to public hearings and oral comments.

**NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING  
TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE  
CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

[R17-113]

**PREAMBLE**

**1. Citations to that agency’s Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register as specified in R1-1-409(A):**

Notice of Rulemaking Docket Opening: 23 A.A.R. 1047, May 5, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1019, May 5, 2017

<b><u>2. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
Article 12	Amend
R20-5-1201	Amend
R20-5-1202	Amend
R20-5-1205	Amend
R20-5-1206	Amend
R20-5-1208	Amend
R20-5-1209	Amend
R20-5-1210	Amend
R20-5-1211	Amend
R20-5-1213	Amend
R20-5-1218	Amend

**3. Citations to agency’s statutory rulemaking authority to include the authorizing statute and the implementing statute:**

Authorizing statutes: A.R.S. §§ 23-364, 23-376

Implementing statutes: A.R.S. Title 23, Chapter 2, Articles 8 and 8.1

**4. The agency’s contact person who can answer questions about the rulemaking:**

Name: Steven Welker  
 Address: Industrial Commission of Arizona  
 Labor Department  
 800 W. Washington St., Suite 303  
 Phoenix, AZ 85007  
 Telephone: (602) 542-4515  
 Fax: (602) 542-8097  
 E-mail: PublicComments@azica.gov (include “Article 12 Proposed Rulemaking” in the subject line)

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

Arizona voters approved Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), in November 2016. The Act established a new state minimum wage effective January 1, 2017, and grants employees earned paid sick time rights effective July 1, 2017. The Act authorizes the Industrial Commission of Arizona (the “Commission”) to “enforce and implement” both the minimum wage and earned paid sick time provisions and promulgate regulations consistent with the articles. *See* A.R.S. § 23-364(A); A.R.S. Title 23, Chapter 2, Articles 8 and 8.1. In the earned paid sick time context, the Act provides that “[t]he commission shall be authorized to coordinate implementation and enforcement of [Article 8.1, Earned Paid Sick Time] and shall promulgate appropriate guidelines or regulations for such purposes.” A.R.S. § 23-376.

Currently, the rules in Article 12—implemented in 2007 after the referendum that created the Arizona Minimum Wage Act—



address only those procedures related to the enforcement and implementation of minimum wage law. Because the Commission is now statutorily tasked with implementing, enforcing, and regulating the Act’s earned paid sick time provisions, the Commission is proposing to amend existing rules in Article 12 to be consistent with the Act’s new provisions.

In addition, the proposed rulemaking conforms the independent contractor analysis to factors outlined in A.R.S. §§ 23-902(D) and 23-1601(B); defines “small employer” and exempts “small employers” from the Act’s posting requirements; amends R20-5-1209 to conform to current technologies, and includes various non-substantive amendments.

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

The Commission did not review or rely on any study relevant to the proposed amended rules.

**7. An explanation of the substantial change which resulted in the supplemental notice:**

The Commission made the following substantial changes to the proposed rulemaking, primarily in response to public comments received after the Commission published its May 5, 2017 Notice of Proposed Rulemaking:

Generally

- Where necessary, included “equivalent paid time off” when referencing earned paid sick time.

**R20-5-1202**

- Amended the rule’s preamble to apply definitions found in the Act to Article 12 and apply the definitions in Article 12 to the Act.
- Added the following definitions:
  - “Amount of earned paid sick time available to the employee”;
  - “Amount of earned paid sick time taken by the employee to date in the year”;
  - “Amount of pay the employee has received as earned paid sick time”;
  - “Employee’s regular paycheck”;
  - “Equivalent paid time off”;
  - “Health care professional”;
  - “Smallest increment that the employer’s payroll system uses to account for absences or use of other time”
- Amended and reorganized the definition of “same hourly rate,” as follows: (1) modified the methods for determining “same hourly rate” to result in hourly rates, not lump sums; (2) added a reference to minimum wage in each method of determining “same hourly rate”; (3) amended the method for determining “same hourly rate” for salaried employees; (4) modified and added an option for determining “same hourly rate” for commission, piece-rate, or fee-for-service employees; and (5) added language to subsection 25(f)(ii) referencing subsection 25(e).

**R20-5-1206**

- Changed Section title to reference the ability to “front load” earned paid sick time.
- Added subsections (F, G, and H) to address procedures for “front loading” earned paid sick time and the effect of “front loading” on accrual and carry over.
- Amended prior proposed subsection (H) (now subsection [I]) to address: (1) an employer’s carry over obligations; (2) an employer’s ability to permit greater carry over than that required by the Act; and (3) the impact of carry over on accrual, usage rights, and usage limits.

**R20-5-1210**

- Added reference in subsection (B) to the collective bargaining agreement exception found in A.R.S. § 23-381.
- Deleted subsections (B)(13) and (B)(14) and replaced with subsections (B)(13) through (B)(16), which: (1) make earned paid sick time recordkeeping requirements consistent with A.R.S. § 23-375’s notice requirements; (2) add a requirement to maintain records concerning employees’ earned paid sick time balances; and (3) define the phrase “[t]he employee’s earned paid sick time balance.”
- Amended subsection (C)(1) to reference the changes to subsection (B).

**R20-5-1218**

- Changed Section title to reference earned paid sick time and equivalent paid time off.

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

The proposed rulemaking is primarily responsive to the Act, and, as such, creates minimal economic, small business, or consumer impact beyond that already created by the Act. To the extent the proposed rulemaking creates any impact beyond the Act, the Commission anticipates that the proposed amendments will reduce regulatory burden on businesses by aligning Article 12 with current Arizona statutes and providing clarification that reduces uncertainty for Arizona businesses and consumers. In addition, the proposed rulemaking seeks to reduce the regulatory burden on “small employers” by waiving posting requirements pursuant to A.R.S. § 23-364(D) (see proposed amendment to R20-5-1208). The proposed amendments will reduce regulatory burden while achieving the Commission’s regulatory objectives as prescribed by the Act.



**10. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Steven Welker  
 Address: Industrial Commission of Arizona  
 Labor Department  
 800 W. Washington St., Suite 303  
 Phoenix, AZ 85007  
 Telephone: (602) 542-4515  
 Fax: (602) 542-8097  
 E-mail: PublicComments@azica.gov (include "Article 12 Proposed Rulemaking" in the subject line)

**11. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments on this proposed supplemental rulemaking may be submitted to the person referenced in section 10 above. Written comments for the supplemental proposed rulemaking record may be submitted after publication of the Notice of Supplemental Proposed Rulemaking in the *Arizona Administrative Register* and prior to the close of record date on August 8, 2017. An oral proceeding on the proposed supplemental rulemaking is scheduled for August 8, 2017, at 9:00 a.m., in the auditorium of the Industrial Commission of Arizona, 800 West Washington, Phoenix, Arizona 85007.

**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:**

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 proposed amended rules do not require issuance of a regulatory permit or license.

**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:**

Although federal law establishes a baseline for minimum wage, it does not preclude states from adopting a higher minimum wage. Nor does federal law address earned paid sick time. The proposed rule amendments implement Arizona's minimum wage and earned paid sick time provisions and do not implicate 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:**

None

**14. The full text of the proposed rules follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 12. ARIZONA MINIMUM WAGE ACT AND EARNED PAID SICK TIME PRACTICE AND PROCEDURE**

Section

R20-5-1201.	Notice of Rules
R20-5-1202.	Definitions
R20-5-1205.	Determination of Employment Relationship
R20-5-1206.	Payment of Minimum Wage; Commissions; Tips; <u>Front Loading Earned Paid Sick Time; Limitation on Carry Over of Unused Earned Paid Sick Time</u>
R20-5-1208.	Posting Requirements; <u>Small Employer Exemption</u>
R20-5-1209.	Records Availability
R20-5-1210.	General Recordkeeping Requirements
R20-5-1211.	Administrative Complaints
R20-5-1213.	Findings and Order Issued by the Department
R20-5-1218.	Collection of Wages, <u>Earned Paid Sick Time, Equivalent Paid Time Off, or Penalty Payments Owed</u>

**ARTICLE 12. ARIZONA MINIMUM WAGE ACT AND EARNED PAID SICK TIME PRACTICE AND PROCEDURE**

**R20-5-1201. Notice of Rules**

- A. This Article applies to all actions and proceedings before the Industrial Commission of Arizona arising under ~~the Raise the Arizona Minimum Wage for Working Arizonans Act, as added by 2006 Proposition 202, § 2 A.R.S. Title 23, Articles 8 and 8.1.~~
- B. The Industrial Commission of Arizona shall provide a copy of this Article upon request to any person free of charge.

**R20-5-1202. Definitions**

In this Article, the definitions of A.R.S. §§ 23-362 (version two), 23-371, and 23-364 apply. In addition, unless the context otherwise requires, the following definitions shall apply to both the Act and this Article:



1. “Act” means the Raise the Arizona Minimum Wage for Working Arizonans Act, as added by 2006 Proposition 202, § 2 A.R.S. Title 23, Chapter 2, Articles 8 and 8.1.
2. “Affected employee” means an employee or employees on whose behalf a complaint may be filed alleging a violation under the Act.
3. “Amount of earned paid sick time available to the employee” means the amount of earned paid sick time or equivalent paid time off that is available to the employee for use in the current year.
4. “Amount of earned paid sick time taken by the employee to date in the year” means the amount of earned paid sick time or equivalent paid time off taken by the employee to date in the current year. Where an employee has used available equivalent paid time off for either the purposes enumerated in A.R.S. § 23-373 or other purposes, the employer may count that usage towards the “amount of earned paid sick time taken by the employee to date in the year.”
5. “Amount of pay the employee has received as earned paid sick time” means the amount of pay the employee has received as earned paid sick time or equivalent paid time off to date in the current year. Where an employee has received pay for equivalent paid time off for the purposes enumerated in A.R.S. § 23-373 or other purposes, the employer may count that pay towards the “amount of pay the employee has received as earned paid sick time.”
- ~~3-6.~~ “Authorized representative” means a person prescribed by law to act on behalf of a party who files with the Department a written instrument advising of the person’s authority to act on behalf of the party.
- ~~4-7.~~ “Casual Basis,” when applied to babysitting services, means employment which is irregular or intermittent.
- ~~5-8.~~ “Commission” means monetary compensation based on:
  - a. A percentage of total sales,
  - b. A percentage of sales in excess of a specified amount,
  - c. A fixed allowance per unit, or
  - d. Some other formula the employer and employee agree to as a measure of accomplishment.
9. “Communicable disease” has the meaning prescribed by A.R.S. § 36-661.
- ~~6-10.~~ “Complainant” means a person or organization filing an administrative complaint under the Act.
- ~~7-11.~~ “Department” means the Labor Department of the Industrial Commission of Arizona or other authorized division of the Industrial Commission as designated by the Industrial Commission.
12. “Earned sick time” under A.R.S. § 23-364(G) means earned paid sick time.
13. “Employee’s regular paycheck” means a regular payroll record that is readily available to employees and contains the information required by A.R.S. § 23-375(C), including physical or electronic paychecks or paystubs.
14. “Equivalent paid time off” means paid time off provided under a paid leave policy, such as a paid time off policy, that makes available an amount of paid leave sufficient to meet the accrual requirements of the Act that may be used for the same purposes and under the same conditions as earned paid sick time.
- ~~8-15.~~ “Filing” means receipt of a report, document, instrument, videotape, audiotape, or other written matter at an office of the Department.
16. The term “health care professional” in A.R.S. § 23-373(G) has the same meaning as “health care professional,” as defined in this Section.
17. “Health care professional” means any of the following:
  - a. A “physician” as defined by A.R.S. § 36-2351;
  - b. A “physician assistant” as defined by A.R.S. § 32-2501;
  - c. A “registered nurse practitioner” as defined by A.R.S. § 32-1601.
  - d. A certified nurse midwife who is a registered nurse practitioner approved by the Arizona State Board of Nursing to provide primary care services during pregnancy, childbirth, and the postpartum period;
  - e. A dentist licensed under A.R.S. Title 32, Chapter 11, Article 2; or
  - f. A behavioral health provider practicing as:
    - i. A psychologist licensed under A.R.S. Title 32, Chapter 19.1;
    - ii. A clinical social worker licensed under A.R.S. § 32-3293;
    - iii. A marriage and family therapist licensed under A.R.S. § 32-3311; or
    - iv. A professional counselor licensed under A.R.S. § 32-3301.
18. “Health care provider” has the meaning prescribed by A.R.S. § 36-661.
- ~~9-19.~~ “Hours worked” means all hours for which an employee covered under the Act is employed and required to give to the employer, including all time during which an employee is on duty or at a prescribed work place and all time the employee is suffered or permitted to work.
- ~~10-20.~~ “Minimum wage” means the lowest rate of monetary compensation required under the Act.
- ~~11-21.~~ “Monetary compensation” means cash or its equivalent due to an employee by reason of employment.
- ~~12-22.~~ “On duty” means time spent working or waiting that the employer controls and that the employee is not permitted to use for the employee’s own purpose.
23. “Public benefits” has the same meaning as “state or local public benefit,” as prescribed by A.R.S. § 1-502(I).
24. “Public health emergency” means a state of emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.
25. “Same hourly rate” means the following:
  - a. For employees paid on the basis of a single hourly rate, “same hourly rate” shall be the hourly rate the employee would have earned for the period of time in which earned paid sick time or equivalent paid time off is used, but shall in no case be less than minimum wage.



- b. For employees who are paid multiple hourly rates of pay, “same hourly rate” shall be determined in the following order of priority, but shall in no case be less than minimum wage:
    - i. The hourly rate the employee would have earned, if known, for each hour of earned paid sick time or equivalent paid time off used.
    - ii. The weighted average of all hourly rates of pay during the previous pay period.
  - c. For employees who are paid a salary, no additional pay is due when the employee’s use of earned paid sick time or equivalent paid time off results in no reduction in the employee’s regular salary during the pay period in which the earned paid sick time or equivalent paid time off is used. “Same hourly rate” for salaried employees shall be determined in the following order of priority, but shall in no case be less than minimum wage:
    - i. The wages an employee earns during each pay period covered by the salary divided by the number of hours agreed to be worked during each pay period, if the number of hours to be worked during each pay period was previously established.
    - ii. The wages an employee earns during each workweek covered by the salary in the current year divided by 40 hours.
  - d. For employees paid on a commission, piece-rate, or fee-for-service basis, “same hourly rate” shall be determined in the following order of priority, but shall in no case be less than minimum wage:
    - i. The hourly rate of pay previously agreed upon by the employer and the employee as: (1) a minimum hourly rate for work performed; or (2) an hourly rate for payment of earned paid sick time or equivalent paid time off.
    - ii. The wages that the employee would have been paid, if known, for the period of time in which earned paid sick time or equivalent paid time off is used, divided by the number of hours of earned paid sick time or equivalent paid time off used.
    - iii. A reasonable estimation of the commission, piece-rate, or fee-for-service compensation that the employee would have been paid for the period of time in which the earned paid sick time or equivalent paid time off is used, divided by the number of hours of earned paid sick time or equivalent paid time off used.
    - iv. The hourly average of all commission, piece-rate, or fee-for-service compensation that the employee earned during the previous 90 days, if the employee worked regularly during the previous 90-day period, based on: (1) hours that the employee actually worked; or (2) a 40-hour workweek.
    - v. The hourly average of all commission, piece-rate, or fee-for-service compensation that the employee earned during the previous 365 days, based on: (1) hours that the employee actually worked; or (2) a 40-hour workweek.
  - e. “Same hourly rate” includes shift differentials and premiums meant to compensate an employee for work performed under differing conditions (such as hazard pay or a shift differential for working at night) if the employee would have been entitled to the shift differential or premium for the period of time in which earned paid sick time or equivalent paid time off is used.
  - f. “Same hourly rate” does not include:
    - i. Additions to an employee’s base rate for overtime or holiday pay;
    - ii. Subject to subsection (e), bonuses or other types of incentive pay; and
    - iii. Tips or gifts.
26. “Smallest increment that the employer’s payroll system uses to account for absences or use of other time” means the smallest increment of time that an employer utilizes, by policy or practice, to account for absences or use of other paid time off.
- ~~13-27.~~ “Tip” means a sum that a customer presents as a gift in recognition of some service performed, and includes gratuities. The sum may be in the form of cash, amounts paid by bank check or other negotiable instrument payable at par, or amounts the employer transfers to the employee under directions from a credit customer who designates an amount to be added to a bill as a tip. Gifts in forms other than cash or its equivalent as described in this definition, including theater such as event tickets, passes, or merchandise, are not tips.
- ~~14-28.~~ “Violation” means a transgression of any statute or rule, or any part of a statute or rule, including both acts and omissions.
- ~~15-29.~~ “Willfully” means acting with actual knowledge of the requirements of the Act or this Article, or acting with reckless disregard of the requirements of the Act or this Article.
- ~~16-30.~~ “Workday” means any fixed period of 24 consecutive hours.
- ~~17-31.~~ “Workweek” means any fixed and regularly recurring period of seven consecutive workdays.

#### **R20-5-1205. Determination of Employment Relationship**

- A. Determination of an employment relationship under the Act, which includes whether an individual is an independent contractor, shall be based upon the economic realities of the relationship. Consideration of whether an individual is economically dependent on the employer for which the individual performs work shall be determined by factors showing dependence, which non-exclusive factors shall include: those factors identified in A.R.S. §§ 23-902(D) and 23-1601(B).
  - ~~1. The degree of control the alleged employer exercises over the individual;~~
  - ~~2. The individual’s opportunity for profit or loss and the individual’s investment in the business;~~
  - ~~3. The degree of skill required to perform the work;~~
  - ~~4. The permanence of the working relationship; and~~
  - ~~5. The extent to which the work performed is an integral part of the alleged employer’s business.~~
- B. An individual ~~that~~ who works for another person without any express or implied compensation agreement is not an employee under the Act. This may include an individual that volunteers to work for civic, charitable, or humanitarian reasons that are offered freely and without direct or implied pressure or coercion from an employer, provided that the volunteer is not otherwise employed by the employer to perform the same type of services as those which the individual proposes to volunteer.



- C. An individual ~~that~~ who works for another individual as a babysitter on a casual basis and whose vocation is not babysitting, is not an employee under the Act even if the individual performs other household work not related to caring for the children, provided the household work does not exceed 20% of the total hours worked on the particular babysitting assignment.

**R20-5-1206. Payment of Minimum Wage; Commissions; Tips; Front Loading Earned Paid Sick Time; Limitation on Carry Over of Unused Earned Paid Sick Time**

- A. Subject to the requirements of the Act and this Article, no less than the minimum wage shall be paid for all hours worked, regardless of the frequency of payment and regardless of whether the wage is paid on an hourly, salaried, commissioned, piece rate, or any other basis.
- B. If the combined wages of an employee are less than the applicable minimum wage for a work week, the employer shall pay monetary compensation already earned, and no less than the difference between the amounts earned and the minimum wage as required under the Act.
- C. The workweek is the basis for determining an employee’s hourly wage. Upon hire, an employer shall advise the employee of the employee’s designated workweek. Once established, an employer shall not change or manipulate an employee’s workweek to evade the requirements of the Act.
- D. In computing the minimum wage, an employer shall consider only monetary compensation and shall count tips and commissions in the workweek in which the tip or commission is earned.
- E. An employer is allowed to:
  1. Require or permit employees to pool, share, or split tips; and
  2. Require an employee to report tips to the employer in order to meet reporting requirements of this Article and federal law.
- F. An employer who hires an employee after the beginning of the employer’s year is not required to provide additional earned paid sick time or equivalent paid time off during that year if the employer provides the employee for immediate use on the employee’s ninetieth calendar day after commencing employment an amount of earned paid sick time or equivalent paid time off that meets or exceeds the employer’s reasonable projection of the amount of earned paid sick time or equivalent paid time off that the employee would have accrued from the date of hire through the end of the employer’s year at a rate of one hour for every 30 hours worked. If the amount of earned paid sick time or equivalent paid time off provided is less than the employee would have accrued based on hours actually worked during the employer’s year, the employer shall immediately provide an amount of earned paid sick time or equivalent paid time off that reflects the difference between the employer’s projection and the amount of earned paid sick time or equivalent paid time off that the employee would have accrued for hours actually worked in the year.
- G. Subject to subsection (F), an employer with 15 or more employees that provides its employees for immediate use at the beginning of each year 40 or more hours of earned paid sick time or 40 or more hours of equivalent paid time off is not required to provide carry-over or additional accrual.
- H. Subject to subsection (F), an employer with fewer than 15 employees that provides its employees for immediate use at the beginning of each year 24 or more hours of earned paid sick time or 24 or more hours of equivalent paid time off is not required to provide carry-over or additional accrual.
- I. Unless an employer: (1) elects to pay an employee for unused earned paid sick time or equivalent paid time off at the end of a year pursuant to A.R.S. § 23-372(D)(4); or (2) meets the requirements of subsections (G) or (H), unused earned paid sick time and equivalent paid time off may be carried over to the next year, as follows:
  1. Subject to an employer’s entitlement to permit greater carry over, an employee of an employer with 15 or more employees may carry over to the following year up to 40 hours of unused earned paid sick time or equivalent paid time off.
  2. Subject to an employer’s entitlement to permit greater carry over, an employee of an employer with fewer than 15 employees may carry over to the following year up to 24 hours of unused earned paid sick time or equivalent paid time off.
  3. Carry over shall not affect accrual, usage rights, or usage limits under the Act.

**R20-5-1208. Posting Requirements; Small Employer Exemption**

- A. ~~Every~~With the exception of small employers, every employer subject to the Act shall place ~~a poster~~ the posters prescribed by the Department informing employees of their rights under the Act in a conspicuous place in every establishment where employees are employed and where notices to employees are customarily placed. The employer shall ensure that the ~~notice is~~ notices are not removed, altered, defaced, or covered by other material.
- B. In this Section, unless context otherwise requires, “small employer” means a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue.

**R20-5-1209. Records Availability**

- A. Each employer shall keep the records required under the Act and this Article safe and accessible at the place or places of employment, or at one or more established central recordkeeping offices where the records are customarily maintained. When the employer maintains the records at a central recordkeeping office other than in the place or places of employment, the employer shall make the records available to the Department within 72 hours following notice from the Department.
- B. Employers ~~who use microfilm or another method for recordkeeping purposes~~ shall make available to the Department any equipment or technology that is necessary to facilitate inspection and copying of the records.
- C. Each employer required to maintain records under the Act shall make enlargement, recomputation, or transcription of the records and shall submit to the Department the records or reports in a readable format upon the Department’s written request.

**R20-5-1210. General Recordkeeping Requirements**

- A. Payroll records required to be kept under the Act include:
  1. All time and earning cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay period basis (for example, units produced) when those amounts determine in whole or in part: (1) those employees’ pay period wages; and (2) those employees’ earned paid sick time or equivalent paid time off of those employees;



2. From their last effective date, all wage-rate tables or schedules of the employer that provide the piece rates or other rates used in computing wages; and
  3. Records of additions to or deductions from wages paid and records that support or corroborate the additions or deductions.
- B.** Subject to A.R.S. § 23-381 and ~~Except~~ except as otherwise provided in this Section, every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom the Act applies:
1. Name in full, and on the same record, the employee's identifying symbol or number if it is used in place of the employee's name on any time, work, or payroll record;
  2. Home address, including zip code;
  3. Date of birth, if under 19;
  4. Occupation in which employed;
  5. Time of day and day of week on which the employee's workweek begins. If the employee is part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, then a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment is permitted;
  6. Regular hourly rate of pay for any workweek and an explanation of the basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis, including the amount and nature of each payment;
  7. Hours worked each workday and total hours worked each workweek;
  8. Total daily or weekly straight-time wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation;
  9. Total premium pay for overtime hours and an explanation of how the premium pay was calculated exclusive of straight-time wages for overtime hours recorded under subsection (B)(8) of this Section;
  10. Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments, including, for individual employee records, the dates, amounts, and nature of the items that make up the total additions and deductions;
  11. Total wages paid each pay period; ~~and~~
  12. Date of payment and the pay period covered by payment;
  13. The amount of earned paid sick time available to the employee;
  14. The amount of earned paid sick time taken by the employee to date in the year;
  15. The amount of pay the employee has received as earned paid sick time; and
  16. The employee's earned paid sick time balance. "The employee's earned paid sick time balance" means the sum of earned paid sick time or equivalent paid time off that is: (1) carried over to the current year; (2) accrued to date in the current year; and (3) provided to date in the current year pursuant to A.R.S. § 23-372(D)(4) or A.A.C. R20-5-1206(F), (G), or (H).
- C.** For an employee who is compensated on a salary basis at a rate that exceeds the minimum wage required under the Act and who, under 29 CFR 541, is an exempt bona fide executive, administrative, or professional employee, including an employee employed in the capacity of academic administrative personnel or teachers in elementary or secondary schools, or in outside sales, an employer shall maintain and preserve:
1. Records containing the information and data required under subsections (B)(1) through (B)(5), ~~(B)(11)~~ and (B)(11) through (B)(16) of this Section; and
  2. Records containing the basis on which wages are paid in sufficient detail to permit a determination or calculation of whether the salary received exceeds the minimum wage required under the Act, including a record of the hours upon which payment of the salary is based, whether full time or part time.
- D.** With respect to employees working on fixed schedules, an employer may maintain records showing instead of the hours worked each day and each workweek as required under this Section, the schedule of daily and weekly hours the employee normally works, provided:
1. In weeks in which an employee adheres to this schedule, the employer indicates by check mark, statement, or other method, that the employee actually worked the hours; and
  2. In weeks in which more or fewer than the scheduled hours are worked, the employer records the number of hours actually worked each day and each week.
- E.** With respect to an employee who customarily and regularly receives tips, the employer shall ensure that the records required under this Article include the following information:
1. A symbol, letter, or other notation placed on the pay records identifying each employee whose wage is determined in part by tips;
  2. Amount of tips the employee reports to the employer;
  3. The hourly wage of each tipped employee after taking into consideration the employee's tips;
  4. Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or week straight-time payment made by the employer for the hours;
  5. Hours worked each workday in occupations in which the employee receives tips and total daily or weekly straight-time wages for the hours; and
  6. Copy of the notice required under R20-5-1207(C).
- F.** An employer who makes retroactive payment of wages, voluntarily or involuntarily, shall record on the pay records, the amount of the payment to each employee, the period covered by the payment, and the date of payment.

**R20-5-1211. Administrative Complaints**

- A.** A person or organization alleging a minimum wage, earned paid sick time, or equivalent paid time off violation shall file a complaint with the Labor Department within one year from the date the wages, earned paid sick time, or equivalent paid time off were due.
- B.** A person or organization alleging retaliation, discrimination, or a violation of A.R.S. § 23-377 shall file a complaint with the Labor Department within one year from the date the alleged violation occurred or when the employee knew or should have known of the alleged violation.



- C. The person or organization filing a complaint with the Labor Department shall sign the complaint.
- D. Any person or organization other than an affected employee who files a complaint shall include the names of affected employees.
- E. ~~For good cause, and upon~~ Upon its own complaint, the Department may investigate violations under the Act.

**R20-5-1213. Findings and Order Issued by the Department**

- A. Except as provided in R20-5-1219, after receipt of a complaint alleging a violation of the ~~minimum wage requirement of the Act, or alleging retaliation under the Act,~~ the Department shall issue a Findings and Order of its determination. The Department shall send its Findings and Order to both the employer and the complainant at their last known addresses served personally or by regular first class mail. If the complaint named affected employees, the Department may send a copy of its Findings and Order to the affected employees.
- B. If the Department determines that an employer has violated the ~~minimum wage, earned paid sick time, or equivalent paid time off requirement requirements,~~ the Department shall order the employer to pay the employee, and if applicable, affected employees, the balance of the wages, earned paid sick time, or equivalent paid time off owed, including interest at the legal rate and an additional amount equal to twice the underpaid wages, earned paid sick time, or equivalent paid time off owed.
- C. If the Department determines that a ~~retaliation, discrimination, confidentiality, or nondisclosure~~ violation has occurred, the Department shall direct the employer or other person to cease and desist from the violation and may take action necessary to remedy the violation, including:
  - 1. Rehiring or reinstatement,
  - 2. Reimbursement of lost wages and interest,
  - 3. Payment of penalty to employees or affected employees as provided for in the Act and this Article, and
  - 4. Posting of notices to employees.
- D. If the Department determines that no ~~retaliation violation of the Act~~ has occurred the Department shall notify the parties and shall dismiss the complaint without prejudice. After notification of the Department’s determination, the complainant may bring a civil action under A.R.S. § 23-364(E).
- E. The Department may assess civil penalties for recordkeeping, posting, and other violations under the Act and this Article as part of a Findings and Order issued under subsection (A) or the civil penalties and other violations may be assessed as a separate Findings and Order. If issued as a separate Findings and Order, the Department shall serve, personally or by regular first class mail, the Findings and Order on the employer and, if a complaint has been filed, the complainant.
- F. The Director of the Department shall sign the written Findings and Order issued by the Department.
- G. If an employer does not comply with a Findings and Order issued by the Department within 10 days following finality of the Findings and Order, the Department may refer the matter to a law enforcement officer.

**R20-5-1218. Collection of Wages, Earned Paid Sick Time, Equivalent Paid Time Off, or Penalty Payments Owed**

- A. Upon determination that wages, earned paid sick time, equivalent paid time off, or penalty payments are due and unpaid to any employee, the employee may, or the Department may on behalf of an employee, obtain judgment and execution, garnishment, attachment, or other available remedies for collection of unpaid wages and penalty payments established by a final Findings and Order of the Department.
- B. If payment cannot be made to the employee, the Department shall receive monetary compensation or penalty payments on behalf of the employee and transmit monies it receives as payment in a special state fund as provided in A.R.S. § 23-356(C).
- C. The Department may amend a Findings and Order to conform to the legal name of the business or the person who is the defendant employer to a complaint under the Act, provided service of the Findings and Order was made on the defendant or the defendant’s agent. If a judgment has been entered on the order, the Department may apply to the clerk of the superior court to amend a judgment that has been issued under a final order, provided service was made on the defendant or the defendant’s agent.



## 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 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 4. PROFESSIONS AND OCCUPATIONS CHAPTER 1. BOARD OF ACCOUNTANCY

[R17-109]

#### PREAMBLE

- |   |  |
|---|--|
| <p><b>1. <u>Articles, Part, or Section Affected (as applicable)</u></b><br/>R4-1-455.03</p> | <p><b><u>Rulemaking Action</u></b><br/>Amend</p> |
|---|--|
- 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. § 32-703(B)(7)  
 Implementing statute: None
- 3. The effective date of the rule:**  
 June 15, 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 proposed rule:**  
 Notice of Rulemaking Docket Opening: 22 A.A.R. 3588, December 23, 2016  
 Notice of Proposed Rulemaking: 22 A.A.R. 3565, December 23, 2016
- 5. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Monica L. Petersen, Executive Director  
 Address: Board of Accountancy  
 100 N. 15th Ave., Suite 165  
 Phoenix, AZ 85007  
 Telephone: (602) 364-0870  
 Fax: (602) 364-0903  
 E-mail: mpetersen@azaccountancy.gov  
 Web site: www.azaccountancy.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 rule is being amended because it is overbroad and inconsistent with A.R.S. § 32-747.01, and to ensure that the rules reflect the Board's current operational practices, as the Board no longer enforces this rule. The current rule is overbroad and inconsistent with the Board's statutory framework because it requires certified public accountants ("CPAs") who provide any type of public accounting to do so only through a firm registered with the Board, whereas A.R.S. § 32-747.01 only requires those CPAs who perform one specific type of public accounting – attest services – to do so only through a registered firm.
- 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 a 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:**  
 Amending the rule will not have a fiscal impact, as under the Board's long-time statutory and regulatory framework, CPAs who have registered firms as sole proprietors are not required pursuant to A.R.S. § 32-729(4) to pay a firm registration fee. Amending the rule will result in a positive impact to small business. CPAs who are sole proprietors of accounting firms who do not do attest services as defined in A.R.S. § 32-701(3) will no longer be required to register their firms with the Board and will no longer be required to file biennial firm renewal paperwork. They will also no longer be subject to peer review requirements pursuant to A.A.C. R4-1-454. [Operationally, since the Board has already ceased enforcement of the rule pending its amendment and has notified sole proprietors that they may cancel their firm registrations if they do not provide attest services, this positive impact has



already commenced.] The Board does not foresee a consumer impact, as amending this rule is unlikely to change the rates CPAs charge for their services. In terms of public protection, the Board will continue to regulate the sole proprietor CPAs through their individual certificates but will lose some regulatory oversight with respect to peer review requirements for non-attest services like compilation services.

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

No 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:**

No comments were received regarding the rulemaking. No one presented oral or written comments at the oral proceeding held on January 23, 2017. The record closed at 5:00 p.m. on January 23, 2017.

**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:**

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 regarding CPAs and firm registration.

**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:**

None

**14. Whether the rule was previous 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:**

No rule 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 1. BOARD OF ACCOUNTANCY**

**ARTICLE 4. REGULATION**

Section

R4-1-455.03. Professional Conduct: Other Responsibilities and Practices

**ARTICLE 4. REGULATION**

**R4-1-455.03. Professional Conduct: Other Responsibilities and Practices**

- A. Discreditable acts: A certified public accountant, public accountant, or firm shall not commit an act that reflects adversely on the certified public accountant's, public accountant's, or firm's fitness to engage in the practice of public accounting, including:
  - 1. Violating a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04;
  - 2. Violating a fiduciary duty or trust relationship with respect to any person; or
  - 3. Violating a provision of A.R.S. Title 32, Chapter 6, Article 3, or this Chapter.
- B. Advertising practices: A certified public accountant, public accountant, or firm has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising of public accounting services through any media, if the certified public accountant, public accountant, or firm willfully engages in any of the following:
  - 1. Employs a device, scheme, or artifice to defraud;
  - 2. Makes an untrue statement of material fact or fails to state a material fact necessary to make the statement not misleading;
  - 3. Engages in any advertising that would operate as a fraud or deceit;
  - 4. Violates A.R.S. § 44-1522 and a court finds the violation willful;
  - 5. Engages in fraudulent or misleading practices in the advertising of public accounting services that leads to a conviction pursuant to A.R.S. § 44-1481; or
  - 6. Engages in fraudulent practices in the advertising of public accounting services that leads to a conviction for a violation or any other state or federal law.
- C. Solicitation Practices: A certified public accountant, public accountant, or firm has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the direct or indirect personal solicitation of public accounting services if the certified public accountant, public accountant, or firm willfully engages in any of the following:
  - 1. Violates a provision of R4-1-455.03(B); or



2. Engages in direct or indirect personal solicitation through the use of coercion, duress, undue influence, compulsion, or intimidation practices.
- D.** Form of practice and name:
1. ~~A certified public accountant or public accountant may practice public accounting, whether as an owner or employee, only in a firm as defined in A.R.S. § 32-701(14).~~
  2. A certified public accountant or public accountant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as “& Company,” “& Associates” or “& Consultants” unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.
- E.** Acting through others: A certified public accountant or public accountant shall not knowingly permit others to carry out on behalf of the certified public accountant or public accountant, either with or without compensation, acts which, if carried out by the certified public accountant or public accountant, would violate a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04.
- F.** Communications: When requested, a certified public accountant or public accountant shall respond to communications from the Board within 30 days after the communication is mailed by registered or certified mail.

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## NOTICES OF RULEMAKING DOCKET OPENING

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This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

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### NOTICE OF RULEMAKING DOCKET OPENING DEPARTMENT OF HEALTH SERVICES HEALTH PROGRAMS SERVICES

[R17-110]

- 1. Title and its heading:** 9, Health Services  
**Chapter and its heading:** 13, Department of Health Services - Health Programs Services  
**Article and its heading:** 2, Newborn and Infant Screening  
**Section numbers:** R9-13-201 through R9-13-208 (*The Department may add, delete, or modify other Sections, as necessary.*)

- 2. The subject matter of the proposed rules:**  
Arizona Revised Statutes (A.R.S.) § 36-694 contains requirements for ordering tests for certain congenital disorders and for reporting congenital disorder test results and hearing test results to the Arizona Department of Health Services (Department), and establishes a newborn screening program, a central database for information about newborns and infants who are tested for hearing loss or congenital disorders, an educational program and follow-up services, and a newborn screening program committee. The Department has implemented this statute in Arizona Administrative Code (A.A.C.) Title 9, Chapter 13, Article 2. As part of a 2015 exempt rulemaking, the Department included in the rules in 9 A.A.C. 13, Article 2, notice that the Department may include screening for severe combined immunodeficiency (SCID) as part of a newborn bloodspot test when the Department has funding available to cover the Department’s costs for activities related to screening for SCID. SCID is the most serious of a group of genetic disorders known as “Primary Immunodeficiency.” Babies born with SCID fail to develop a functioning immune system, leaving them with no defense against the multitude of disease-causing germs an individual encounters every day. Although these babies appear healthy at birth, they cannot fight off infections, are repeatedly hospitalized for these life-threatening infections, and may die before their first birthday if undiagnosed and untreated. With newborn screening, SCID can be identified, and a baby diagnosed and cured through a bone marrow transplant. Laws 2017, Ch. 339 increases the fee cap for the first newborn screening test from \$30.00 to \$36.00, which will allow the Department to test for SCID as part of newborn screening. After obtaining an exception from the rulemaking moratorium established by Executive Order 2017-02, the Department is amending the rules in 9 A.A.C. 13, Article 2 to add SCID to the newborn screening panel of conditions and raise the fee for a first screen from \$30.00 to \$36.00.

- 3. A citation to all published notices relating to the proceeding:**  
None

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

Name: Ward Jacox, Office Chief  
Address: Arizona Department of Health Services  
Office of Newborn Screening  
250 N. 17th Avenue  
Phoenix, AZ 85007  
Telephone: (602) 364-1410  
Fax: (602) 364-1495  
E-mail: Ward.Jacox@azdhs.gov  
or  
Name: Robert Lane, Chief  
Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Avenue, Suite 200  
Phoenix, AZ 85007  
Telephone: (602) 542-1020  
Fax: (602) 364-1150  
E-mail: Robert.Lane@azdhs.gov



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

Written comments will be accepted at the addresses listed in item #4 until the close of record, which has not yet been determined. No oral proceedings have been scheduled at this time.

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

To be announced in the Notice of Proposed Rulemaking

**NOTICE OF RULEMAKING DOCKET OPENING  
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

[R17-112]

1. **Title and its heading:** 9, Health Services  
**Chapter and its heading:** 22, Arizona Health Care Cost Containment System - Administration  
**Article and its heading:** 7, Standards for Payment  
**Section numbers:** R9-22-712.60; R9-22-712.61; R9-22-712.62; R9-22-712.63; R9-22-712.64; R9-22-712.65; R9-22-712.66; R9-22-712.68; R9-22-712.71; R9-22-712.72; R9-22-712.74; R9-22-712.80; (Sections may be added, deleted, or modified as necessary.)
2. **The subject matter of the proposed rule:**  
 Amendments to rules relating to payment for inpatient hospital services reimbursed using the Diagnostic Related Group methodology.
3. **A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Rulemaking: 23 A.A.R. 1791, July 7, 2017 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Gina Relkin  
 Address: AHCCCS  
 Office of Administrative Legal Services  
 701 E. Jefferson, Mail Drop 6200  
 Phoenix, AZ 85034  
 Telephone: (602) 417-4232  
 Fax: (602) 253-9115  
 E-mail: AHCCCSrules@azahcccs.gov
5. **The time which the agency will accept written comments and the time and place where oral comments may be made:**  
 The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 The Notice of Proposed Rulemaking is published along with this notice. Per the Notice of Proposed Rulemaking, a public hearing will be held on the last day of the comment period, August 8, 2017. The agency anticipates that this rule package will be on the agenda of the Governor’s Regulatory Review Council in October 3, 2017. The agency further anticipates the filing of a Notice of Final Rulemaking with the Arizona Secretary of State with a requested effective date of January 1, 2018.



NOTICES OF PROPOSED DELEGATION AGREEMENTS

This section of the Arizona Administrative Register contains Notices of Proposed Delegation Agreements.

The Administrative Procedure Act requires the publication of notices of proposed delegation agreements in the Register. A delegation agreement is an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers, or duties conferred on the delegating agency by a provision of law.

Delegation agreements are not intergovernmental agreements pursuant to A.R.S. Title 11, Chapter 7, Article 3. For at least 30 days after publication of the Notice of Proposed Delegation Agreement in the Register, the agency shall provide persons the opportunity to submit in writing statements, arguments, data, and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient interest. The delegating agency shall follow the procedures for delegation agreements specified in A.R.S. Title 41, Chapter 6, Article 8.

NOTICE OF PROPOSED DELEGATION AGREEMENT
DEPARTMENT OF ENVIRONMENTAL QUALITY

[M17-126]

1. Name of the agency proposing the delegation agreement:

Arizona Department of Environmental Quality

2. The name of the political subdivision to which functions, powers and duties of the agency are proposed to be delegated:

City of Phoenix

3. The name, address, and telephone number of agency personnel to whom persons may direct questions or comments:

Approvals of Sewage Collection Systems and Public Water Systems

Name: Luke Peterson
Title: Manager, Aquifer Protection Permits Unit
Address: Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Email: lp4@azdeq.gov

Groundwater, Compliance and Enforcement

Name: David Lelsz, Ph.D.
Title: Manager, Inspections & Compliance Unit
Address: Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Email: dl2@azdeq.gov

4. A summary of the delegation agreement and the subjects and issues involved:

Under A.R.S. § 49-107, the Arizona Department of Environmental Quality proposes to delegate to the City of Phoenix, acting by and through the Phoenix Department of Water Services and Department of Planning and Development [the Local Agency (LA)], the water quality management program elements listed below, subject to certain conditions and limitations described in the delegation agreement. The proposed delegated program elements include:

- General functions and duties pertaining to the administration of Type 4 General Aquifer Protection Permits
• Application review, inspection, issuance or denial of Construction and Discharge Authorizations, compliance and enforcement for the 4.01 General Aquifer Protection Permit for Sewage Collection Systems
• Public Water System: Approval to Construct (ATC) and Approval of Construction (AOC) for stand-alone water line replacement and/or extension projects (with related appurtenances – e.g., booster pumps) and related compliance and enforcement

5. Copies of the proposed delegation agreement may be obtained from the agency as follows:

Contact: Sherri Zendri, Administrative Counsel
Department of Environmental Quality
Office of Administrative Counsel
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-2242
E-mail: slz@azdeq.gov

6. The schedule of public hearings on the proposed delegation agreement:

Where there is sufficient public interest, ADEQ will hold a public hearing to receive public comments, in accordance with A.R.S. § 41-1081. The time, place, and location of the hearings will be provided in the corresponding Notice of Public Hearing pursuant to A.A.C. R18-1-401 and R18-1-402.

ADEQ accepts written statements, arguments, data, and views on the proposed delegation agreement that are received within 30



days after the date of the publication of this notice in the *Register* by 5:00 p.m. or postmarked not later than that date.

After the conclusion of the public comment period and hearing, if any, the agency shall prepare a written summary responding to the comments received, whether oral or written. The agency shall consider the comments received from the public in determining whether to enter into the proposed delegation agreement. The agency shall give written notice to those persons who submitted comments of the agency's decision on whether to enter into the proposed delegation agreement.

ADEQ will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 7-1-1 for TDD; (602) 771-2215 for Disability Accessibility; or Ian Bingham, Title VI Nondiscrimination Coordinator at (602) 771-4322 or [idb@azdeq.gov](mailto:idb@azdeq.gov)

ADEQ tomará medidas razonables para proveer acceso a los servicios del departamento para personas con capacidad limitada para hablar, escribir o entender Inglés y / o para las personas con discapacidad. Las solicitudes de servicios de interpretación del lenguaje o de alojamiento de discapacidad deben hacerse por lo menos 48 horas de antelación poniéndose en contacto con Ian Bingham, Title VI Nondiscrimination Coordinator al (602) 771-4322 o [idb@azdeq.gov](mailto:idb@azdeq.gov)



**NOTICES OF PUBLIC INFORMATION**

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

**NOTICE OF PUBLIC INFORMATION**

**DEPARTMENT OF REAL ESTATE**

[M17-127]

**1. Title of the substantive policy statement and the substantive policy statement number by which the document is referenced:**

No. 2017.01 Short Title: Unlicensed Assistants

**2. The public information relating to the substantive policy statement:**

The Arizona Department of Real Estate (Department) is revising and renumbering the substantive policy statement specified in paragraph 1, effective June 9, 2017. This policy statement provides an update to SPS 2005.04, and clarifies what activities the unlicensed assistant will perform and how the individual is paid. Additionally, SPS 2017.01 Unlicensed Assistants provides general guidance of the activities an unlicensed assistant may and may not perform. The SPS provides references to Arizona Revised Statutes for consideration when hiring and compensating an unlicensed assistant.

**3. The name and address of agency personnel with whom persons may communicate regarding this notice of public information:**

Name: Louis Dettorre  
Address: Arizona Department of Real Estate  
2910 N. 44th St., Suite 100  
Phoenix, AZ 85018  
Telephone: (602) 771-7760  
Fax: (602) 468-2562  
E-mail: ldettorre@azre.gov




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## NOTICES OF SUBSTANTIVE POLICY STATEMENT

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The Administrative Procedure Act (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(14)).

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

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal

procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

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### NOTICE OF SUBSTANTIVE POLICY STATEMENT DEPARTMENT OF REAL ESTATE

[M17-128]

1. **Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:**  
Unlicensed Assistants: No. 2017.01
2. **Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**  
June 9, 2017
3. **Summary of the contents of the substantive policy statement:**  
The Arizona Department of Real Estate (Department) is revising and renumbering SPS 2005.04 Unlicensed Assistants, effective June 9, 2017. This policy statement provides an update, and clarifies what activities the unlicensed assistant will perform and how the individual is paid. Additionally, SPS 2017.01 Unlicensed Assistants provides general guidance of the activities an unlicensed assistant may and may not perform. The SPS provides references to Arizona Revised Statutes for consideration when hiring and compensating an unlicensed assistant.
4. **Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**  
A.R.S §§ 32-2101(46), 32-2122, 32-2121, 32-2151.01(B), 32-2174(C) and A.A.C. R4-28-1103
5. **A statement as to whether the substantive policy statement is a new statement or a revision:**  
This is a revision of an existing policy statement on the same subject (SPS 2005.04 Unlicensed Assistants). The SPS is renumbered to SPS 2017.01 Unlicensed Assistants.
6. **The agency contact person who can answer questions about the substantive policy statement:**  
Name: Louis Dettorre  
Address: Department of Real Estate  
2910 N. 44th St., Suite 101  
Phoenix, AZ 85018  
Telephone: (602) 771-7760  
Fax: (602) 468-0562  
E-mail: ldettorre@azre.gov  
Web site: www.azre.gov
7. **Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**  
Copies of this policy statement may be obtained at no cost via e-mail to the person listed above or on the Department web site: www.azre.gov. Hard copies may be obtained by contacting the person listed above for \$0.25 per page.

### NOTICE OF SUBSTANTIVE POLICY STATEMENT DEPARTMENT OF INSURANCE

[M17-129]

1. **Title of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:**  
Property & Casualty Commercial Insurance Notices (Regulatory Bulletin 2017-01).
2. **Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**  
The Department issued the substantive policy statement on May 17, 2017.
3. **Summary of the contents of the substantive policy statement:**  
The Regulatory Bulletin advises all commercial lines property and casualty insurers, producers, insurance support organizations, insurance trade organizations and other interested parties that Regulatory Bulletins 2002-03 and 2002-03A are superseded and



withdrawn by the current bulletin.

The Regulatory Bulletin notes the change in A.R.S. § 20-1677(A) pertaining to the timeliness of notices from at least 60 days to at least 30 days. It also notes the addition of subsection (C) which states that notice shall be considered given if an insurer delivers new policy terms and conditions 30 days before the expiration of the policy.

The Regulatory Bulletin also reiterates the Department’s position from the bulletins being withdrawn on what constitutes sufficient notice.

**4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**

A.R.S. § 20-1677

**5. A statement as to whether the substantive policy statement is a new statement or a revision:**

This is a new statement that supersedes and withdraws two prior substantive policy statements of the Department (Regulatory Bulletins 2002-03 and 2002-03A).

**6. The name, address, and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:**

Name: Mary Kosinski  
Address: Department of Insurance  
2910 N. 44th St., Suite 210  
Phoenix, AZ 85018-7269  
Email: mkosinski@azinsurance.gov  
Telephone: (602) 364-3471

**7. Information about where a person may obtain a copy of the substantive policy statement:**

Copies of this policy are available via the internet at <http://insurance.az.gov> or from the person listed in question #6 for 25 cents per page.




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## GOVERNOR EXECUTIVE ORDERS

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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.

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### EXECUTIVE ORDER 2017-02

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

[M17-23]

*Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.*

**WHEREAS**, burdensome regulations inhibit job growth and economic development;

**WHEREAS**, job creators and entrepreneurs are especially hurt by red tape and regulations;

**WHEREAS**, all government agencies 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 of 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 comply with a state statutory requirement.
  - g. 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.
  - h. 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.
  - i. 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.
  - j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. 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.



6. This Executive Order expires on December 31, 2017.

**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**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**



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**GOVERNOR PROCLAMATIONS**

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The Administrative Procedure Act (APA) requires the publication of Governor proclamations of general applicability, and ceremonial dedications issued by the Governor.

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**COUNTY GOVERNMENT MONTH**

[M17-161]

**WHEREAS**, counties play an essential role in keeping Arizona's communities safe and secure by preserving public health and well-being, ensuring public safety, and promoting local economies and resiliency; and

**WHEREAS**, counties take seriously their leadership role in protecting and enhancing the health, welfare and safety of citizens in its community and provide the tools to deliver more effective and higher quality services while containing costs with the efficient use of local tax dollars, with the goal to strengthen Arizona's economies; and

**WHEREAS**, in order to remain healthy, vibrant, safe, and economically competitive, counties provide public health, justice, safety, infrastructure, transportation, technology, emergency management, and economic services that play a key role in every aspect from residents' daily health to disaster response; and

**WHEREAS**, there are 15 counties in the State of Arizona collectively responsible for and serving the needs of every resident of the State; and

**WHEREAS**, Arizona counties reflect the wide diversity of people, culture, and landscape in our State; and

**WHEREAS**, in recognition of the leadership, innovation and valuable service provided by the State's counties.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 2017 as

**COUNTY GOVERNMENT MONTH**

in recognition of the leadership, innovation and invaluable service provided by all Arizona counties.

**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**

**GOVERNOR**

**DONE** at the Capitol in Phoenix on this twenty-eighth day of February in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**

**SECRETARY OF STATE**

**GRAND CANYON SKYWALK DAY**

[M17-162]

**WHEREAS**, the State of Arizona and the Hualapai Tribe have for decades enjoyed a mutually beneficial relationship encompassing key issues that impact Arizonans and members of the Tribe; and

**WHEREAS**, the Hualapai Tribe, also known as "The People of the Tall Pines," has for many years worked to positively impact Arizona's tourism industry and to provide jobs and support to thousands of state residents and Tribe members who live and work in the Mohave County region; and

**WHEREAS**, the Tribe's Grand Canyon Resort Corporation and its Grand Canyon West tourism experiences have made the West Rim a popular international tourism destination for more than 1 million visitors who come from around the world to vacation annually; and

**WHEREAS**, the Corporation's signature tourism experience, the Grand Canyon Skywalk, established in 2007, has for the past decade played a mission critical role in increasing tourism at the West Rim and in northwestern Arizona; and

**WHEREAS**, today, the 8<sup>th</sup> day of April 2017, is the date the Tribe and the Corporation have chosen to mark the 10<sup>th</sup> anniversary of the Grand Canyon Skywalk; and

**WHEREAS**, the Tribe, the Corporation and the Skywalk have for the past 10 years played host to travelers who have been able to experience the unparalleled natural beauty, tribal culture and history of Arizona and its Native American people.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 8, 2017 as

**GRAND CANYON SKYWALK DAY**



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
GOVERNOR

DONE at the Capitol in Phoenix on this twenty-eighth day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

HOPI CODE TALKER RECOGNITION DAY

[M17-163]

WHEREAS, on December 7, 1941 the Japanese Empire attacked Pearl Harbor and the United States Congress declared war the following day; and

WHEREAS, the United States government called upon the Hopi Tribe to support the military effort by recruiting and enlisting ten Hopi men to serve as United States Army and United States Army Air Corps radio operators in 1942; and

WHEREAS, the Hopi radio operators became known as "Hopi Code Talkers" and devised an unbreakable code using their native language to communicate military messages, and included a dictionary for military terms that did not exist; and

WHEREAS, these men used this code to assist United States Army and Air Corps intelligence in the Marshall Islands, New Caledonia, and the Philippines during the Second World War; and

WHEREAS, the Hopi Code Talkers performed a unique and highly successful communications operation that greatly assisted in saving countless lives and hastened the end of World War II in the Pacific; and

WHEREAS, the State of Arizona stands to recognize Frank Shupla, Warren Koiyaquaptewa, Frank Chapella, Travis Yavia, Charles Lomakema, Percival Navenma, Perry Honani, Sr., Floyd Dann, Sr., Rex Pooyouma, and Orville Wadsworth as honorable and patriotic men who have performed an important service to the preservation of democracy.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 21, 2017 as

HOPI CODE TALKER RECOGNITION DAY

and urge residents to take time this day to reflect and appreciate the sacrifice these men made for the State of Arizona and the United States of America.

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
GOVERNOR

DONE at the Capitol in Phoenix on this nineteenth day of April in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

INFANT IMMUNIZATION WEEK

[M17-164]

WHEREAS, giving babies the recommended immunizations by age two is the best way to protect them from 14 serious childhood diseases; and

WHEREAS, currently, the United States has the safest, most-effective vaccine supply in its history; and

WHEREAS, vaccine-preventable diseases still circulate in the United States and around the world, so continued vaccination is necessary to protect everyone from potential outbreaks; and

WHEREAS, most parents vaccinate their children, resulting in high vaccine coverage rates in the U.S. When people are not vaccinated, outbreaks of diseases like pertussis (whooping cough) and measles can—and do— return; and

WHEREAS, it is important to vaccinate children on time, according to the childhood immunization schedule, to provide the best protection early in life, when babies are vulnerable and before they are likely to be exposed to diseases; and

WHEREAS, since 1994, National Infant Immunization Week has encouraged parents, caregivers, and health care professionals to participate in educational, recognition, and media events to increase the awareness of the importance of immunizing children before their second birthday; and



**WHEREAS**, The Arizona Partnership for Infant Immunization (TAPI) was formed as a public-private partnership in 1992, its continued efforts to protect Arizonans from vaccine preventable disease has resulted in a dramatic reduction in illness in Arizona; and

**WHEREAS**, TAPI continues to improve health outcomes for all Arizonans through guidance offered by public and private health leadership, effective collaboration of medical and health plan partners, and committed engagement by volunteers; and

**WHEREAS**, the week of April 22 – 29, 2017 represents National Infant Immunization Week and April 19, 2017 celebrates the Annual Big Shots Arizona Awards Program.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, acknowledges the 25 years of dedicated work toward a healthy Arizona by The Arizona Partnership for Immunization, and do hereby proclaim April 22 - 29, 2017 as

**INFANT IMMUNIZATION WEEK**

**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**

**GOVERNOR**

**DONE** at the Capitol in Phoenix on this fifth day of April in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**

**SECRETARY OF STATE**

**JEWISH SPORTS HERITAGE MONTH**

[M17-165]

**WHEREAS**, throughout our nation's history, sports have served as a forum for combating prejudice and racism while weaving minority and immigrant groups into the American tapestry; and

**WHEREAS**, participation in sports develops and improves our mental alertness, enthusiasm, energy, self-esteem and sense of self-esteem and camaraderie; and

**WHEREAS**, with individuals excelling in virtually all sports, as well as in the owner's office, on the manager's bench and in the media, Jews have a significant impact on the world of sports; and

**WHEREAS**, Arizona is proud that many of our Jewish residents have made and continue to make their mark in sports through their commitment to athletic excellence.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 2017 as

**JEWISH SPORTS HERITAGE MONTH**

throughout the state and encourage all citizens to recognize Jewish athletes, coaches, broadcasters, and executives who have distinguished themselves in the world of sports.

**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**

**GOVERNOR**

**DONE** at the Capitol in Phoenix on this twenty-second day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**

**SECRETARY OF STATE**

**MEDICAL LABORATORY PROFESSIONALS DAY**

[M17-166]

**WHEREAS**, as a critical component of one of the nation's largest industries, the dedicate efforts of laboratory professionals often go unnoticed by the general public, as well as by the very institutions employing their services; and

**WHEREAS**, the practice of modern medicine at the exacting standards we now enjoy would be impossible without the scientific tests performed daily in the medical laboratory; and

**WHEREAS**, maintenance of these standards and progress toward improvement in the quality of laboratory services depends on the dedicated efforts of professional clinical laboratory science practitioners; and

**WHEREAS**, through this dedication the medical laboratories of Arizona have made a vital contribution to the quality of health care; and



WHEREAS, with the theme, "Laboratory Professionals Get Results," the 2017 observance of Medical Laboratory Professionals Day emphasizes the essential role of these practitioners who, as members of the health care team, use state-of-the-art technology to provide answers and guide cures.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 28, 2017 as

MEDICAL LABORATORY PROFESSIONALS DAY

and urge all citizens to recognize and support the vital service provided by the laboratory practitioner for the benefit of all citizens.

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
GOVERNOR

DONE at the Capitol in Phoenix on this eighth day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

MENINGITIS AWARENESS DAY

[M17-167]

WHEREAS, meningitis is an inflammation of the brain and spinal cord that can be the result of infection by bacteria, viruses, and fungi, and is the most serious type of meningitis, often associated with a potentially life-threatening blood infection which affects as many as 3,000 Americans every year; and

WHEREAS, meningitis can develop rapidly and its symptoms often resemble the flu (fever, fatigue, and headache), which makes it difficult for doctors to diagnose, and even with early and appropriate treatment, the rates of death and serious long-term effects of the disease can be high; and

WHEREAS, survivors often suffer serious long-term consequences, such as deafness, seizures, brain damage, and limb loss, and while the disease can affect people of all ages, those under the age of 18 are at an increased risk of infection; and

WHEREAS, thousands of children and adults around the world have died or experienced terrible after-effects from meningitis and although a number of life-saving vaccines are available, only a fraction of the world's people have access to them; and

WHEREAS, the issue of protection for our children against harm from meningococcal disease, which can cause meningitis and kill or permanently disable an otherwise healthy child in just a single day, shows the importance of making these vaccines readily available.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 24, 2017 as

MENINGITIS AWARENESS DAY

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
GOVERNOR

DONE at the Capitol in Phoenix on this twelfth day of April in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

PRIMARY IMMUNODEFICIENCY AWARENESS MONTH

[M17-168]

WHEREAS, primary immunodeficiency diseases are disorders in which part of the body's immune system is missing or does not function properly; and

WHEREAS, these disorders are caused by intrinsic or genetic defects in the immune system, many of which require chronic replacement therapy consisting of immune globulin administration, gamma interferon, antibiotic therapy, bone marrow/stem cell transplantation, or gene therapy to protect individuals from frequent life-threatening infections and debilitating illnesses; and

WHEREAS, there is an average 12.4-year delay between the onset of symptoms to diagnosis resulting in permanent functional impairments; and

WHEREAS, the World Health Organization recognizes more than 200 primary immunodeficiency diseases; and



**WHEREAS**, there is not widespread awareness and knowledge about primary immunodeficiency diseases which may affect as many as 250,000 people in the United States; and

**WHEREAS**, those who suffer from primary immunodeficiency diseases and their families can rely on the Immune Deficiency Foundation to provide advocacy, education and research to improve the diagnosis and treatment of primary immunodeficiency diseases; and

**WHEREAS**, public support is needed to understand primary immune deficiency diseases, find cures, and improve access to available life-saving therapies.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 2017 as

**PRIMARY IMMUNODEFICIENCY AWARENESS MONTH**

**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**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this seventh day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**  
**Michele Reagan**  
**SECRETARY OF STATE**

**PUBLIC SAFETY TELECOMMUNICATORS WEEK**

[M17-169]

**WHEREAS**, emergencies can occur at any time that require fire or emergency medical services; and

**WHEREAS**, when an emergency occurs, the prompt response of firefighters and paramedics is critical to the protection of life and preservation of property; and

**WHEREAS**, the safety of our firefighters and paramedics is dependent upon the quality and accuracy of information obtained from citizens who telephone emergency communication centers like the Tucson Fire Departments (TFD) Regional Communications Center; and

**WHEREAS**, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and

**WHEREAS**, we are grateful to 9-1-1 Operators, Public Safety Dispatchers, Telecommunications Technicians statewide that maintain our radio and emergency phone system, and other Public Safety Telecommunication staff who work tirelessly, often behind the scenes, to help during emergencies; and

**WHEREAS**, Public Safety Telecommunicators of the TFD Communications Center have contributed substantially to the suppression of fires, treatment of patients, and other emergency incidents while exhibiting compassion, understanding, and professionalism during the performance of their job in the past year.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 9 – 15, 2017 as

**PUBLIC SAFETY TELECOMMUNICATORS WEEK**

**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**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this thirteenth day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**  
**Michele Reagan**  
**SECRETARY OF STATE**

**SEXUAL ASSAULT AWARENESS MONTH**

[M17-170]

**WHEREAS**, rape, sexual assault, and sexual harassment harm our community, and statistics show one in five women and one in 71 men will be raped at some point in their lives; and

**WHEREAS**, young people experience heightened rates of sexual violence, and youth ages 12-17 were 2.5 times as likely to be victims of rape or sexual assault; and

**WHEREAS**, the Arizona Department of Public Safety indicates that in 2015, 2,731 rapes were reported to police, or one every three hours and 12 minutes; and



**WHEREAS**, in Arizona universities the Annual and Security and Fire Safety Report indicates 120 students reported sexual assault, and 90 percent are believed to go unreported; and

**WHEREAS**, nationally on campus, one in five women and one in 16 men are sexually assaulted during their time in college; and

**WHEREAS**, in 2015, the Arizona Department of Education reports that among Arizona youth in 9<sup>th</sup> through 12<sup>th</sup> grades, 2,445 of youth reported they were physically forced to have sexual intercourse; and

**WHEREAS**, annually, at 127 billion dollars, rape costs the U.S. more than any crime; and

**WHEREAS**, in addition to the immediate physical and emotional costs to victims, sexual assault may also have associated consequences of post-traumatic stress disorder, substance abuse, depression, homelessness, eating disorders and suicide; and

**WHEREAS**, prevention is possible when everyone gets involved. The first step is increasing education, awareness, and community involvement. It's time for all of us to take action to create a safer environment for all; and

**WHEREAS**, through collaborative efforts, individuals, agencies, organizations and communities can work together to prevent sexual assault and support victims and survivors.

**NOW, THEREFORE, I**, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim April 2017 as

**SEXUAL ASSAULT AWARENESS MONTH**

and I further urge all citizens and communities to join me in this observance in order to create awareness and strive to achieve a state where sexual assault victims have a clear path to justice, and where citizens take personal responsibility to eliminate all forms of sexual violence.

**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**

**GOVERNOR**

**DONE** at the Capitol in Phoenix on this seventh day of March in the year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**

**SECRETARY OF STATE**



## REGISTER INDEXES

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

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  
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 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  
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### **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 RULEMAKING**

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 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**

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 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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**RULES 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.

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1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
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1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



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>
March 3, 2017	March 24, 2017	April 24, 2017
March 10, 2017	March 31, 2017	May 1, 2017
March 17, 2017	April 7, 2017	May 8, 2017
March 24, 2017	April 14, 2017	May 15, 2017
March 31, 2017	April 21, 2017	May 22, 2017
April 7, 2017	April 28, 2017	May 30, 2017
April 14, 2017	May 5, 2017	June 5, 2017
April 21, 2017	May 12, 2017	June 12, 2017
April 28, 2017	May 19, 2017	June 19, 2017
May 5, 2017	May 26, 2017	June 26, 2017
May 12, 2017	June 2, 2017	July 3, 2017
May 19, 2017	June 9, 2017	July 10, 2017
May 26, 2017	June 16, 2017	July 17, 2017
June 2, 2017	June 23, 2017	July 24, 2017
June 9, 2017	June 30, 2017	July 31, 2017
June 16, 2017	July 7, 2017	August 7, 2017
June 23, 2017	July 14, 2014	August 14, 2017
June 30, 2017	July 21, 2017	August 21, 2017
July 7, 2017	July 28, 2017	August 28 2017
July 14, 2014	August 4, 2017	September 5, 2017
July 21, 2017	August 11, 2017	September 11, 2017
July 28, 2017	August 18, 2017	September 18, 2017
August 4, 2017	August 25, 2017	September 25, 2017
August 11, 2017	September 1, 2017	October 2, 2017
August 18, 2017	September 8, 2017	October 10, 2017
August 25, 2017	September 15, 2017	October 16, 2017
September 1, 2017	September 22, 2017	October 23, 2017
September 8, 2017	September 29, 2017	October 30, 2017
September 15, 2017	October 6, 2017	November 6, 2017
September 22, 2017	October 13, 2017	November 13, 2017



## 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 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).

### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

\*Materials must be submitted by **5 P.M.** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.



**GOVERNOR'S REGULATORY REVIEW COUNCIL**

**NOTICE OF ACTION TAKEN AT THE  
JUNE 6, 2017 MEETING**

[M17-145]

**RULES:**

**BOARD OF ACCOUNTANCY (R-17-0601)**

Title 4, Chapter 1, Article 4, Regulation

**Amend:** R4-1-455.03

COUNCIL ACTION: **APPROVED**

**GAME AND FISH COMMISSION (R-17-0603)**

Title 12, Chapter 4, Article 5, Boating and Water Sports

**Amend:** R12-4-501; R12-4-502; R12-4-503; R12-4-504; R12-4-505; R12-4-506;  
R12-4-507; R12-4-509; R12-4-510; R12-4-511; R12-4-513; R12-4-514;  
R12-4-515; R12-4-517; R12-4-520; R12-4-524; R12-4-526; R12-4-527;  
R12-4-529

**New Section:** R12-4-530

**Repeal:** R12-4-521; R12-4-522

COUNCIL ACTION: **APPROVED**

**DEPARTMENT OF HEALTH SERVICES (R-17-0605)**

Title 9, Chapter 25, Article 6, Stroke Care

**Amend:** R9-25-601; R9-25-602

COUNCIL ACTION: **APPROVED**

**BOARD OF PHARMACY (R-17-0502)**

Title 4, Chapter 23, Article 7, Non-Pharmacy Licensed Outlets - General Provisions

**Amend:** R4-23-703

COUNCIL ACTION: **TABLED TO JULY MEETING**

**DEPARTMENT OF ADMINISTRATION (R-17-0602)**

Title 2, Chapter 6, Article 1, General Provisions; Article 2, Insurance Plans; Article 3, Eligibility Criteria

**Amend:** R2-6-101; R2-6-105; R2-6-106; R2-6-107; R2-6-108; R2-6-204; R2-6-301;  
R2-6-302; R2-6-303

COUNCIL ACTION: **APPROVED**

**CONSIDERATION AND DISCUSSION OF THE REVIEW OF RULES OUTSIDE OF THE FIVE-YEAR-REVIEW PROCESS:**

**DEPARTMENT OF ADMINISTRATION**

- R2-11-112: Smoking;
- R2-11-206: Penalties;
- R2-11-207: Hearings;
- R2-11-208: Rehearings

COUNCIL ACTION: **REQUIRED TO SUBMIT REPORT BY JUNE 13, 2017**



**FIVE-YEAR-REVIEW REPORTS:**

**DEPARTMENT OF ECONOMIC SECURITY (F-17-0505)**

Title 6, Chapter 8, Article 1, Grievances and Hearings; Article 2, Adult Protective Services

COUNCIL ACTION:           **APPROVED**

**DEPARTMENT OF ECONOMIC SECURITY (F-17-0402)**

Title 6, Chapter 3, Article 13, Definitions; Article 14, Administration and Enforcement; Article 15, Decisions, Hearings, and Orders; Article 16, Funds; Article 17, Contributions; Article 18, Benefits; Article 50, Voluntary Leaving Benefit Policy; Article 51, Discharge Benefit Policy; Article 52, Able and Available Benefit Policy; Article 53, Refusal of Work Benefit Policy; Article 54, Benefit Claims, Computation, Extension, and Overpayment; Article 55, Total and Partial Unemployment Benefit Policy; Article 56, Labor Dispute Benefit Policy

COUNCIL ACTION:           **APPROVED**

**DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0503)**

Title 18, Chapter 4, Article 1, Primary Drinking Water Regulations; Article 2, State Drinking Water Regulations; Article 3, Monitoring Assistance Program; Article 6, Capacity Development Requirements for a New Public Drinking Water System; Article 8, Technical Assistance

COUNCIL ACTION:           **APPROVED**

**OFFICE OF TOURISM (F-17-0604)**

Title 20, Chapter 3, Article 1, Joint Ventures

COUNCIL ACTION:           **APPROVED**

**GAME AND FISH COMMISSION (F-17-0509)**

Title 12, Chapter 4, Article 3, Taking and Handling Wildlife

COUNCIL ACTION:           **APPROVED**

**DEPARTMENT OF HEALTH SERVICES (F-17-0508)**

Title 9, Chapter 8, Article 5, Trailer Coach Parks

COUNCIL ACTION:           **APPROVED**

**DEPARTMENT OF ADMINISTRATION (F-17-0501)**

Title 2, Chapter 10, Article 1, Coverage and Claims Procedure; Article 2, Loss Prevention; Article 4, Provider Indemnity Program (PIP); Article 5, Environmental Losses; Article 6, Computation of Interest of Appealed Judgments

COUNCIL ACTION:           **APPROVED**

**FIVE-YEAR-REVIEW REPORT 180-DAY EXTENSION REQUESTS:**

**DEPARTMENT OF HEALTH SERVICES**

Title 9, Chapter 25, Articles 13 and 14

COUNCIL ACTION:           **APPROVED**

**CONSIDERATION AND DISCUSSION OF MATTERS RELATED TO THE FIVE-YEAR-REVIEW REPORT OF THE CITIZENS CLEAN ELECTIONS COMMISSION**

COUNCIL ACTION:           **REPORT RETURNED**