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 2. ADMINISTRATION

CHAPTER 10. DEPARTMENT OF ADMINISTRATION
RISK MANAGEMENT DIVISION

[R17-224]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) — **Rulemaking Action**

R2-10-101	Amend
R2-10-106	Amend
R2-10-107	Amend
R2-10-108	Amend
R2-10-201	Amend
R2-10-202	Amend
R2-10-207	Amend

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

Authorizing statute: A.R.S. § 41-703(3)

Implementing statute: A.R.S. § 41-621

3. The effective date of the rule:

January 8, 2018

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

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

Not applicable

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

Notice of Rulemaking Docket Opening: 23 A.A.R. 873, April 21, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1407, May 26, 2017

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

Name:	Ray DiCiccio, Risk Manager Risk Management Division
Address:	Arizona Department of Administration 100 N. 15th Ave., 3rd Floor, Suite 301 Phoenix, AZ 85007
Telephone:	(602) 542-1791
Fax:	(602) 382-2300
E-mail:	ray.diciccio@azdoa.gov
Web site:	www.staterisk.az.gov
Or	
Name:	Julie Cruse, Administrative Manager Risk Management Division
Address:	Arizona Department of Administration 100 N. 15th Ave., 3rd Floor, Suite 301

Phoenix, AZ 85007
Telephone: (602) 542-1492
Fax: (602) 382-2300
E-mail: Julie.cruse@azdoa.gov
Web site: www.staterisk.az.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:

Staff is proposing amendments to Articles 1 – Coverage and Claims Procedure and 2 – Loss Prevention. The amendments will incorporate changes to definitions, ensure clarity, concise and understandable language on other rules that are being amended and will renumber appropriate sections that are being amended.

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

The agency did not utilize a study for evaluating or justifying the rulemaking.

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

Not applicable

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

This proposed rulemaking is an update to Title 2, Chapter 10, Article 1, "Coverage and Claims Procedure" and Article 2, "Loss Prevention". The subject matter of R2-10-101 is to define specific terms relating to Risk Management. The proposed rulemaking will update the definitions to add "Occurrence" and renumber in the sequence and will meet the requirements of the Executive's budget. The subject matter of R2-10-106 establishes the valuation basis for property coverage and a deductible for reported property claims. The proposed rulemaking is to increase the deductible from $100 disappearing deductible to a $2,500 per occurrence deductible. The subject matter of R2-10-107 removes an unnecessary action for state agencies and renumbers the sequence. The subject matter of R2-10-108 makes a clarification to the deductible language relating to settlements. The subject matter of R2-10-201 updates the language to reflect when agencies must submit building plans for review. The subject matter for R2-10-202 updates language to reflect when an agency must contact Risk Management when purchasing specialized safety or security equipment. The subject matter of R2-10-207 updates, clarifies and repeals agency tracking requirements.

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

None

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

The agency held an oral proceeding on July 18, 2017. Two entities attended the meeting, ASU and UofA. There were no questions relating to proposed amendments nor comments.

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

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

Not applicable

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

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

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

None

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

Not applicable

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 10. DEPARTMENT OF ADMINISTRATION
RISK MANAGEMENT DIVISION

ARTICLE 1. COVERAGE AND CLAIMS PROCEDURE

Section
R2-10-101. Definitions
R2-10-106. State-owned Property Coverage and Limitations
R2-10-107. Liability Coverage and Limitations
R2-10-108. Deductibles and Waivers

ARTICLE 2. LOSS PREVENTION

Section
R2-10-201. Submission of Building Plans
R2-10-202. Purchase of Specialized Hazard Control Equipment
R2-10-207. Agency Loss Prevention Program Elements

ARTICLE 1. COVERAGE AND CLAIMS PROCEDURE

R2-10-101. Definitions

The following definitions apply in this Chapter unless the context otherwise requires:

1. "Agency" means a state department, board, or commission.
2. "Agency loss prevention committee" means a panel of individuals established by the head of an agency to develop and oversee the agency's loss prevention program.
3. "Agency loss prevention coordinator" means an individual chosen by the head of an agency to implement the agency's loss prevention program and who is the agency's liaison with Risk Management.
4. "Attorney General's Office" means the Liability Management Section of the Attorney General's Office assigned to defend claims covered by A.R.S. § 41-621.
5. "Client" means an individual in custodial care of a provider through contract or court order with a state agency through programs listed in A.R.S. § 41-621(B).
6. "Confined space" has the meaning of 29 CFR 1910.146(b) Occupational Safety and Health Standards for General Industry, The Industrial Commission of Arizona, Division of Occupational Safety and Health, February 1, 1998, which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporation by reference are available for inspection at the Industrial Commission of Arizona, 800 West Washington, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.
7. "Contaminant" means a substance that is radioactive, infectious, carcinogenic, toxic, irritant, corrosive, sensitizer or an agent that damages the lungs, skin, eyes, mucous membranes, and other body organs.
8. "Deductible" means the amount of a loss that the agency will pay before Risk Management is obligated to pay anything.
9. "Department" means the Department of Administration, an agency of the State of Arizona.
10. "Emergency" means an immediate health threat.
11. "Environment" means navigable waters, surface waters, groundwater, drinking water supply, land surface or subsurface strata, and ambient air, within or bordering on this state.
12. "Environmental Contractor" means a company hired by the state to conduct environmental site investigations and remediation work.
13. "Environmental property claim" means a demand or payment resulting from chemical or biological damage to the environment.
14. "Ergonomics" means a science of the relationship between human capability and the work environment, which the Department uses to design a job, task, equipment, or tool to conform comfortably within the limits of human capability.
15. "Feasibility study" means a remediation plan based upon a site investigation to clean up a contaminated site by an environmental contractor.
16. "Geophysical survey" means a radar, magnetic, electric, gravity, thermal, or seismic survey.
17. "Groundwater" means water beneath the ground in sediments or permeable bedrock.
18. "Hazardous substance or waste" means hazardous waste as defined in A.R.S. § 49-921(5).
19. "Health threat" means evidence that exposure to a specific type and concentration of contaminant is harmful to human health. This evidence shall be based on at least 1 study conducted by the National Institute of Occupational Safety and Health or the Environmental Protection Agency in accordance with established scientific principles.
20. "Incident" means an event involving an agency employee, facility, or equipment that results in an occupational injury or illness, personal injury, or loss of or damage to state property, or an event involving the public that exposes the state to a liability loss.
21. "Loss prevention" means any action or plan intended to reduce the frequency and severity of property, liability, or workers' compensation losses.
22. "Occurrence" means an accident, incident or a series of accidents or incidents arising out of a single event or originating cause and includes all resultant or concomitant insured losses.

~~22.~~23. "Passenger van" means any motor vehicle designed, modified, or otherwise capable of being configured to carry not less than 8 passengers and no more than 15 passengers.

~~23.~~24. "Personal protective equipment" means any clothing, material, device, or equipment worn to protect a person from exposure to, or contact with, any harmful material or force.

~~24.~~25. "Provider" means an individual or entity licensed to provide services to state clients as outlined in A.R.S. § 41-621(B) that is not contractually required to indemnify and hold the state harmless.

~~25.~~26. "Remedial action" or "remediation" means the process of cleaning up a hazardous substance or waste site by an environmental contractor.

~~26.~~27. "Risk Manager" means the Administrator for the State Risk Management Program.

~~27.~~28."Risk Management" or "RM" means the State Risk Management Program.
~~28.~~29."Self-insurance" means state provided loss protection for an agency or employee funded through RM's revolving fund.
~~29.~~30."Site assessment" means the process of completing and assessing a site investigation and a feasibility study.
~~30.~~31."Site investigation" means a detailed examination by an environmental contractor of an area of a building or ground suspected of being contaminated with a hazardous substance or waste.

R2-10-106. State-owned Property Coverage and Limitations

A. The Department provides property loss coverage for state-owned buildings on a replacement-cost basis for items actually replaced or repaired. Property loss coverage for state-owned personal property is replacement cost less depreciation. For agencies with a total appropriated and non-appropriated budget of less than $1 million ~~Personal~~ Property claims ~~less than $100 are not covered~~ will be subject to a $100 per occurrence deductible. A property deductible of $2,500 per occurrence shall apply to all other agencies.
   a. Subrogation collections shall reimburse the fund from which a deductible was paid up to the amount of the deductible and on a primary basis.
   b. No deductible shall apply to property loss coverage afforded in accordance with A.R.S § 41-621(B).

B. RM shall not include the cost of labor in property loss reimbursement if state employee labor cost for repair or replacement is allocated from appropriated funds. RM shall determine whether to use state employees or contractors for repair work based upon availability.

C. Property loss coverage includes all state-owned property except: roads, bridges, tunnels, dams, dikes, and retaining walls.

R2-10-107. Liability Coverage and Limitations

A. The following coverage and limitations apply in this Chapter:
   1. The Department provides liability coverage within the limitations of A.R.S. § 41-621 for an officer, agent, or employee while driving a state-owned or other vehicle in the course and scope of employment.
      ~~a. Each agency shall ensure that an individual operating a vehicle on state business has a valid driver's license.~~
      ~~b~~a. Coverage shall be on a primary basis for a state-owned, leased, or rented vehicle and on an excess basis for any other vehicle.
      ~~c.~~b. The state shall not provide coverage for damage or loss of a personal vehicle.
   2. An officer, agent, or employee operates a state-owned vehicle within the course and scope of employment if driving:
      a. On authorized state business,
      b. To and from work,
      c. To and from lunch on a working day,
      d. To and from meals while on out-of-town travel.
   3. An officer, agent, or employee does not operate a personal vehicle within the course and scope of employment when driving:
      a. To and from work,
      b. To and from lunch in the area of employment and not on authorized state business,
      c. On other than state-authorized business.

B. No change
C. No change
D. No change
   1. No change
   2. No change
   3. No change
   4. No change
   5. No change
   6. No change
   7. No change
      a. No change
      b. No change
      c. No change
      d. No change
      e. No change
   8. No change
   9. No change
   10. No change
   11. No change

R2-10-108. Deductibles and Waivers

A. Agency Claim Settlement or Judgment More Than $150,000.
   1. The Department shall charge each agency a deductible of not more than $10,000 on each claim settlement or judgment approved for payment of ~~$150,000.00.~~more than $150,000.
   2. RM shall waive the deductible if the agency provides a response to RM containing an agency action plan to be taken to eliminate or limit similar future risk to the state, and:
      a. The agency action plan is submitted to RM within 60 days of the agency's notification of claim approval or payment. The agency action plan shall include the following;
         i. Findings outlining the cause or causes of the claim;
         ii. Actions that will be implemented to prevent recurrence of similar losses or claims;
         iii. Development of action items and time lines for completion; and

iv. Appointment of an agency contact to act as a liaison for all matters relating to the plan.
b. RM approves the agency action plan as reasonable and effective; and
c. The agency implements the plan within 30 days of RM approval, and provides periodic status reports as outlined in the approved Agency Action Plan.

3. If the agency fails to comply with all the conditions outlined in subsection (A)(2), RM shall charge a deductible of $10,000 on the subject judgment or claim payment as well as each subsequent claim resulting from that cause or exposure until the agency fully complies with subsection (A)(2).

B. RM may waive any deductible to any agency for just cause. Just cause may exist when the application of a deductible is not warranted due to the circumstances of the claim, or is in the best interest of the state.

C. If a dispute arises between RM and the agency pertaining to this Section, one or more meetings shall be held at progressively upward, incremental Department of Administration management levels until the agency and RM reach a solution.

ARTICLE 2. LOSS PREVENTION

R2-10-201. Submission of Building Plans

If an agency anticipates the cost to construct, alter, or repair a state-owned or leased building to exceed ~~$25,000~~$100,000, the agency shall submit building plans to RM prior to a pre-planning conference with an architect to allow RM to offer recommendations for loss prevention measures.

R2-10-202. Purchase of Specialized Hazard Control Equipment

A. An agency shall notify the RM Loss Prevention Manager prior to starting the procurement process for any specialized safety or security equipment or system exceeding ~~$10,000~~$50,000. RM shall assist each agency to determine whether the equipment or system will adequately perform its specialized function and is in compliance with applicable codes.

B. No change

R2-10-207. Agency Loss Prevention Program Elements

Each agency loss prevention committee or individuals designated by the agency head shall develop, implement, and monitor the following loss prevention program elements of an occupational health and safety program (as applicable to their agency):

~~1. The agency loss prevention policy statement;~~

~~2.~~1. New employee and continuous in-service training programs that include:
a. Safety and loss prevention education regarding property protection, liability exposure, and workplace safety;
b. Agency-specific safety training regarding emergency plans, actions, and first-aid; and
c. Job-specific safety training to employees performing tasks where:
i. Frequent or severe accidents have occurred; or
ii. There is a potential for frequent or severe accidents.

~~3.~~2. Documentation and recordkeeping of employee training;

~~4.~~3. An emergency plan for each agency location that establishes procedures to follow in the event of serious injury, fire, or other emergency that can be reasonably foreseen at the specific agency location. The emergency plan shall:
a. Designate an employee responsible for formulating, implementing, testing, and maintaining the emergency plan;
b. Contain procedures for notification of emergency response personnel and safe evacuation of personnel from the location, including an evacuation diagram that shall be visibly posted throughout each location;
c. Contain procedures for obtaining first-aid, medical treatment, and emergency transportation in the event of serious injury; and
d. Require that the plan be periodically tested and evaluated and identified deficiencies corrected;

~~5.~~4. Procedures for scheduled safety inspections of buildings, grounds, equipment, and machinery. An agency shall document the results of each inspection and forward notice of any deficiencies to the loss prevention coordinator for corrective action. The agency loss prevention committee or coordinator shall follow-up on inspection recommendations to ensure action is taken to remedy a noted deficiency. The agency loss prevention committee or coordinator shall bring an uncorrected deficiency to the attention of the agency head;

~~6.~~5. Procedures for accident and incident investigations:
a. An agency shall develop procedures for reporting an accident or incident involving personnel, property, automobile, liability, industrial injury, environmental damage, and a mishap or near miss to the agency's loss prevention coordinator or loss prevention committee. The loss prevention coordinator and loss prevention committee shall review the accident and incident reports and identify the corrective action necessary to prevent recurrence;
b. Procedures for reporting, investigating, and recording maintenance of a work-related accident or incident shall include:
i. Timely and accurate reporting of each work-related accident or incident;
ii. Investigation of each accident or incident to gather pertinent information, determine cause, and recommend a solution to prevent recurrence of a similar accident or incident;
iii. Compiling, analyzing, and evaluating all data derived from the investigation to determine the frequency, severity, and location of an accident or incident and communicating the information to appropriate agency personnel; and
iv. Maintaining records of employee injury under A.A.C. R20-5-629;

~~7.~~6. A maintenance program for state-owned vehicles, equipment, and grounds under the control of that agency that includes:
a. A preventive maintenance program with a written schedule of routine inspection, adjustment, cleaning, lubrication, and testing of equipment including boilers and machinery, fire protection, security and emergency equipment, and motor vehicles;
b. Safety procedures such as "lock-out-tagout" and "buddy procedures" for jobs subject to a serious accident such as those involving working in a confined space, operating dangerous equipment and machinery, and working on electrical equipment; and

c. Personal protective equipment for a specific job or area including training on proper fit, use, care, maintenance, inspection, cleaning, and storage;

~~8.~~7. A fire protection program that complies with the Arizona State Fire Code, located in A.A.C. Title 4, Chapter 36. This program shall incorporate best practices and standards that protect state of Arizona employees, the general public, and resources entrusted to the agency.

~~9.~~8. Systems and procedures to protect the personal security of each employee and prevent loss of or damage to state property, including:
a. Security escorts, exterior lighting, identification badges, and electronic access systems;
b. Labeling systems, inventory control procedures, property removal procedures, and key control systems; and
c. Building and ground security systems, alarms systems, electronic surveillance, perimeter fencing, and security patrol services.

~~10.~~9.A land, facility, equipment, or process environmental protection program that includes:
a. Procedures to ensure compliance with all applicable local, state, and federal environmental laws;
b. Identification of equipment, processes, and practices that may cause water pollution, air pollution, or land and property contamination;
c. Procedures to prevent or control emissions and discharges in excess of local, state, and federal laws and rules; and
d. Procedures to investigate, report, and remediate any discharge or contamination in excess of local, state, or federal laws and rules;

~~11.~~10.An industrial hygiene program that encompasses an existing or potential health hazard within an agency, or that agency personnel may be exposed to during the course of work. The program shall include a documented survey of agency facilities and work practices to identify areas of concern such as noise, air contamination, ergonomic factors, lighting and confined spaces. The program shall include procedures to notify employees of health hazards, medical monitoring when applicable, and personal protective equipment requirements including training, fit testing, and care. The industrial hygiene program shall include the following program elements as applicable:
a. Hazard communication;
b. Laboratory safety (Chemical Hygiene Plan);
c. Hearing conservation;
d. Confined space entry;
e. Handling and disposing of hazardous waste;
f. Back protection;
g. Ergonomics;
h. Asbestos management;
i. Building air quality;
j. Chemical exposure assessment;
k. Personal protective equipment;
l. Respiratory protection;
m. Bloodborne pathogen protection; and
n. Tuberculosis protection;

~~12.~~11.Motor vehicle safety program. For the purpose of this Section, an authorized driver is an employee whose job position description questionnaire or similar document requires the use of a vehicle; an employee who operates a state vehicle; or an employee who operates a leased, rented or personal vehicle where the state provides 100% of that vehicle lease, rental or operational costs.
a. Standards: Each agency shall develop standards to ensure that an authorized driver who drives on state business is capable of operating a motor vehicle in a safe manner. At a minimum, the program shall include the following standards:
i. An authorized driver shall use and ensure use of seat belts by all occupants, as required by law.
ii. An authorized driver shall possess a valid driver's license of the appropriate class with any required endorsements.
iii. An authorized driver who operates a personally owned vehicle on state business shall maintain the statutorily required liability insurance.
b. Defensive driver training: The agency shall develop and implement programs and procedures to ensure that authorized drivers attend defensive driver training no later than three months from initial hire date or appointment to a position requiring the operation of a motor vehicle. All other authorized drivers who have not attended defensive driver training within the 36 months prior to August 5, 2007 shall attend defensive driver training within 12 months of this date. Defensive driver training and defensive driver refresher training shall cover, at a minimum, the following topics:
i. Defensive driving techniques,
ii. Traffic and vehicle regulations,
iii. Driver and passenger restraints,
iv. Inclement weather and night-vision driving hazards,
v. Dealing with emergencies,
vi. Alcohol and drug use hazards and laws,
vii. Vehicle insurance and financial responsibility, and
viii. Motor Vehicle Record (MVR) Check.
RM may provide Defensive Driver/Van Safety training assistance or coordination upon request of the agency or the agency may elect to develop and implement agency-specific training.
~~c. Defensive driver refresher training: The agency shall have a designated responsible party to ensure that authorized drivers attend defensive driver refresher training at a minimum every four years.~~

~~d.~~c. Records: The agency shall ensure records are maintained regarding training under subsections (b), (c) and (e) that reflect topics, date of training, instructor name and qualifications of instructor, length of training, location of training, participant's name, and job title.

~~e.~~d. Passenger van and specialty vehicle training: In addition to subsection (b), the agency shall include a training element for drivers of passenger or cargo vans that are designed, modified, or could otherwise be configured for an occupancy of nine to 15 persons (including the driver). The training component for vans shall include: classroom instruction, behind-the-wheel instruction (on the road, on a closed course or using a driving simulator) and a certificate or card of completion. For a motorized specialty vehicle or specialty mobile equipment, the agency shall ensure that instruction is conducted before initial operation of the vehicle or equipment. The instruction shall be based on nationally recognized industry standards and training time lines or manufacturer's operator instructions. For the purpose of this subsection, a motorized "specialty vehicle" or "specialty mobile equipment" means a conveyance designed for the transport of people or cargo that is not licensed or intended for use on public roadways.

~~f. Vehicle maintenance and inspections: The agency shall develop and implement a preventive maintenance and inspection element for vehicles. At a minimum, the agency shall ensure that maintenance and inspection staff use preventive maintenance schedules and repair records. Vehicle inspections shall comply with all state and federal inspection standards for the vehicles being inspected. The agency shall ensure that all state-owned motor vehicles utilized for state business are inspected and maintained in a safe operating condition.~~

~~g.~~e. Vehicle incident review: An agency shall ensure that the motor fleet safety program includes a vehicle incident review element. A Vehicle Incident Review Committee shall conduct a review of each incident that involves collision or damage to determine the cause and preventability of the incident, and recommend any corrective action to prevent recurrence. If the committee determines the incident was preventable, the driver shall attend defensive driver refresher training within three months of committee determination. Based on the circumstances, the agency head may direct additional corrective action. An authorized driver involved in any motor vehicle collision on state business shall promptly notify the authorized driver's immediate supervisor.

~~h.~~f. Driving record review: An agency shall develop and implement procedures for the review of an authorized driver's record maintained by the Motor Vehicle Division (MVD) of the Arizona Department of Transportation (ADOT). The agency shall establish a schedule for reviewing driving records based on agency-specific exposures and RM claims history data. The agency shall ensure that the driving record of each authorized driver is reviewed at least annually. The review shall cover the most recent 39-month period. For driving record reviews, each authorized driver shall, upon request, provide name, driver license number, expiration date and date of birth. A copy of a driving record release form is available upon request from RM. An authorized driver shall promptly notify the authorized driver's immediate supervisor of any license suspension, revocation, or restriction placed on the driver's license or privilege to drive a motor vehicle. If the license of an authorized driver is suspended or revoked, authorization to drive on state business is suspended on the date of driver's license suspension or revocation and remains suspended until the date of driver's license reinstatement. If a review of a driving record reveals one or more convictions totaling six or more points for the 39-month period, the appropriate agency management shall be notified. The driver shall attend defensive driver training or similar action designed to improve the person's driving skills. For the purpose of this Section, RM considers similar action to be successful completion of the MVD Traffic Survival School within 12 months of the record review.

~~i.~~g. Driving record review guidelines and criteria: Agencies may develop criteria that meet or exceed the requirements of this Section relating to accumulated MVD points or driving behavior. At a minimum, the following criteria are to be followed when evaluating a 39-month driving record and recommending agency action:

i. 5 or fewer points = Acceptable record: Continue annual driving record and driver insurance status checks.
ii. 6 to 7 points = Conditional record: Conduct driving record and driver insurance status checks at least twice a year. Driver attends defensive driver training or similar action designed to improve driving skill.
iii. 8 or more points = High-risk record: Request that the agency head limit driving on state business. If an agency head allows the authorized driver to drive on state business, the agency head shall provide to the driver, in writing, the limitations and the duration of the authorization to drive. An agency head shall not circumvent an order or action of the Motor Vehicle Division or any court.

~~13.~~12. A safety and security standard for a construction site where state employees work, that includes:

a. Site-specific safety rules and procedures for the type of risks expected to be encountered on the site;
b. Routine inspection of construction sites to ensure compliance with local, state, and federal safety laws and rules;
c. Training of each employee in safe practices and procedures;
d. Availability of first-aid, medical, and emergency equipment and services at the construction site, including arrangements for emergency transportation;
e. Procedures to prevent theft, vandalism, and other losses at the construction site; and
f. Periodic testing and evaluation of the plan and correction of identified deficiencies.

NOTICE OF FINAL RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 1. BOARD OF ACCOUNTANCY

[R17-225]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) | **Rulemaking Action**

R4-1-101	Amend
R4-1-341	Amend
R4-1-345	Amend
R4-1-453	Amend
R4-1-454	Amend
R4-1-455	Amend
R4-1-455.01	Amend
R4-1-455.02	Amend
R4-1-455.03	Amend
R4-1-455.04	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. § 32-703(B)(7)

Implementing statute: A.R.S. § 32-703(B)(8) and (13)

3. The effective date of the rule:

January 1, 2018

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. 41-§ 1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provide in A.R.S. § 41-1032(A)(1) through (5):

An immediate effective date is not being requested. However, an effective date a few days earlier than the general effective date is being requested. Given the Governor's Regulatory Review Council deadlines for 2017, this Notice of Final Rulemaking is expected to be heard at the November 7, 2017 council meeting. If filed with the Secretary of State on the same day, the 60-day effective date would be January 6, 2018. The Board is asking that GRRC consider a specific effective date of January 1, 2018 which is just a few days earlier than the normal 60-day general effective date under the provision of A.R.S. §41-1032(A)(4) to provide a benefit to the public and a penalty is not associated with a violation of the rule. R4-1-454, as proposed, requires that each firm that performs attest services or compilation services shall have a peer review performed and reported on within the three years immediately preceding the firm's registration date. In current rule, peer review is required for attest services and full-disclosure compilations but not non-disclosure compilations. This proposed rule will now subject firms that perform non-disclosure compilations to peer review. The Board would like to ensure that any firms that performed non-disclosure compilations for financial statements with a period ending before January 1, 2018 not be subject to this proposed rule. The January 1, 2018 effective date will be an easy date for Board staff and firms to remember when communicating and operationalizing the impacts of the rule change.

Board staff consulted with Chris Kleminich, GRRC Attorney, on the best way to create a carve-out for firms to ensure that they are not adversely impacted by this rulemaking due to the three-year look back of the rule. Board staff was advised that this section of the preamble of the rulemaking was the appropriate place to communicate the Board's desire to ensure that any firms that performed non-disclosure compilations for financial statements with a period ending before January 1, 2018 not be subject to this proposed rule. Mr. Kleminich noted that drafting such an exclusion is not desirable in the rule itself since it is not language that belongs in the rule permanently.

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

Not applicable

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

Notice of Rulemaking Docket Opening: 23 A.A.R. 137, January 13, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 97, January 13, 2017

Notice of Supplemental Proposed Rulemaking: 23 A.A.R. 955, April 28, 2017

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:

R4-1-101 and R4-1-454. The peer review rule, R4-1-454, and related definitions in R4-1-101, are amended to make them consistent with the American Institute of Certified Public Accountants' (AICPA) peer review program. Such consistency will help to reduce confusion among practitioners about what are now differing peer review requirements. The AICPA peer review program subjects non-disclosure compilations to peer review, whereas, the Board's rule does not. Rather, the Board's current rule subjects non-disclosure compilations to an Educational Enhancement Review (EER). By amending the rules to delete the EER provisions, the Board's rules will be consistent with the AICPA peer review program. It will also be consistent with 47 of the 54 states of the United States and its territories that require peer review. A peer review is necessary to protect the public because it ensures that practitioners take any corrective action needed while the peer review program is still educational in nature. Lastly, the amendment requires firms to provide peer review results to the AICPA Facilitated State Board Access (FSBA), which will reduce the need for firms to provide results via hard copy to the Board, since Board staff will be able to obtain results electronically from FSBA, making this aspect of Board operations more efficient.

R4-1-341. This rule is amended to conform to statutory changes as a result of Laws 2015, Chapter 207 (HB 2218) which allows the International Qualification Examination (IQEX) in addition to the Uniform CPA Examination as an acceptable examination to qualify for certification by reciprocity.

R4-1-345. This rule is amended to reduce regulatory burden by no longer requiring registrants who are suspended for nonregistration for more than six months to return their actual paper certificates to the Board.

R4-1-453. This rule is amended to clarify continuing professional education records requirements.

R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 and R4-1-455.04. These rules are amended to incorporate AICPA's Code of Conduct and Professional Standards. AICPA is the world's largest member association representing the accounting profession, with more than 412,000 members in 144 countries, and a history of serving the public interest since 1887. AICPA sets ethical standards for the profession and U.S. auditing standards for private companies, nonprofit organizations, federal, state and local governments. It is not efficient nor effective for the Board to promulgate its own standards, as these may be redundant or contradictory to the AICPA. The incorporation by reference of the AICPA standards reduces the regulatory burden while achieving the same objective by ensuring that the accounting community only has one set of standards by which it is regulated. The standard setting process involves many practitioners with a variety of expertise as well as the incorporation of a thoughtful and very public process that provide the opportunity for public input from all state Boards of Accountancy, CPA Societies, the National Association of State Boards of Accountancy (NASBA), practitioners, and the public at large. Well-thought-out standards help provide clear guidance to practitioners and regulators. Practitioners who make the effort to stay abreast of standards that affect the accounting services that they provide are better positioned to provide quality service to their clients; and, when practitioners fall short, the Board, its advisory committees, and its investigators will have clear guidance for enforcement, which serves to protect the public and closes existing loopholes that create legal ambiguity.

Technical and conforming changes are also made to the rules.

An exemption from Executive Orders 2015-01 and 2016-03 was provided for this rulemaking by Rene Guillen, Policy Advisor for Government and Transportation in the Governor's Office, in an email dated April 21, 2016.

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:

Firms that are already members of the AICPA must follow its peer review program requirements, which include peer reviews for non-disclosure compilations. However, firms that are not members of the AICPA and which perform non-disclosure compilations are currently not subject to peer review, but rather the Board's Educational Enhancement Review requirement. By conforming the Board's rules to be consistent with the AICPA's peer review program, non-AICPA member firms who do non-disclosure compilations will now be subject to peer review. It will also be consistent with 47 of the 54 states of the United States and its territories that require peer review. The pros of doing peer reviews of firms issuing non-disclosure compilations are expected to significantly outweigh the con of increased costs for non-AICPA member firms, since greater scrutiny in the process will likely benefit consumers by identifying issues that the reviewed firms need to address in order to provide quality services, thereby protecting the public.

Adopting the AICPA's codes of conduct is not expected to have any economic, small business or consumer impact.

The other amendments are not anticipated to have a fiscal impact.

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

As a result of oral comments received from the public and Board members at the February 13, 2017 oral proceeding regarding the Notice of Proposed Rulemaking, and following additional discussion by the Board and by members of the Board's Peer Review Advisory Committee at the Board's March 27, 2017 meeting, the Board decided to further amend the peer review rules through a

Supplemental Notice of Proposed Rulemaking by choosing not to add to its current rules a new regulation which would have made engagements to prepare financial statements subject to Educational Enhancement Review requirements. At the Board's March 27, 2017 meeting, the Board also decided to further amend R4-1-455.03 by clarifying the due date for filing a written response to Board communications.

The Notice of Supplemental Proposed Rulemaking to the Notice of Final Rulemaking, included a technical change to properly reference paragraph J instead of K in R4-1-101(B)(6) regarding the definition of peer review as well as updating the Professional Code of Conduct incorporation by reference from the May 1, 2016 publication to the June 1, 2017 publication in R4-1-101(B)(1), R4-1-454(J) and R4-1-455(A). Additionally, the amendment of R4-1-455.03, which requires the deletion of (D)(1) was already the subject of a separate, Notice of Final Rulemaking rulemaking that was effective June 15, 2017 and published 23 A.A.R. 1807, July 7, 2017 and therefore was eliminated from this rulemaking.

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 Notice of Supplemental Proposed Rulemaking. No one presented oral or written comments at the oral proceeding held on June 12, 2017. The record closed at 5:00 p.m. on June 12, 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:

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

The rules do not require a permit.

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

There is no federal law regarding CPAs, peer review or the other subjects of the rules.

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

R4-1-101(B)(1) – Definition of Compilation Services
http://www.aicpa.org/Research/Standards/CompilationReview/DownloadableDocuments/AR-C-00080.pdf

R4-1-454(J) – Standards for Performing and Reporting on Peer Reviews
http://www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandards.pdf

R4-1-455(A) – Code of Professional Conduct
http://pub.aicpa.org/codeofconduct/ethicsresources/et-cod.pdf

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

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 1. GENERAL

Section
R4-1-101. Definitions

ARTICLE 3. CERTIFICATION AND REGISTRATION

Section
R4-1-341. CPA Certificates; Reinstatement
R4-1-345. Registration; Fees

ARTICLE 4. REGULATION

Section
R4-1-453. Continuing Professional Education
R4-1-454. Peer Review
R4-1-455. Professional Conduct~~: Independence, Integrity, and Objectivity~~ and Standards
R4-1-455.01. Professional Conduct: ~~Competence and Technical Standards~~Definitions; Interpretations
R4-1-455.02. Professional Conduct: ~~Confidentiality; Records Disposition~~Competence and Technical Standards
R4-1-455.03. Professional Conduct: ~~Other~~ Specific Responsibilities and Practices
R4-1-455.04. Professional Conduct: ~~Interpretations~~Records Disposition

ARTICLE 1. GENERAL

R4-1-101. Definitions

A. The definitions in A.R.S. § 32-701 apply to this chapter.

B. In this chapter, unless the context otherwise requires:

1. "Compilation services" ~~has the same meaning as~~ means services, the objective of which is defined in Section ~~60.05~~ 80.04 of the ~~Statements~~ Statement on Standards for Accounting and Review Services No. ~~19~~ 21, issued ~~December 2009~~October 2014 and published ~~June 1, 2013~~June 1, 2017 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036-8775, which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
2. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
3. "CPE" or "continuing professional education" means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
4. ~~"Educational Enhancement Review" means an assessment by the PROAC of one or more aspects of the professional work of a firm that performs only nondisclosure compilation services.~~
5. ~~"Full-disclosure compilation services" means a compilation of financial statements that does not omit substantially all disclosures.~~
6. ~~"Nondisclosure compilation services" means a compilation of financial statements that omits substantially all disclosures.~~
~~6~~4. "Facilitated State Board Access (FSBA)" means the sponsoring organization's process for providing the Board access to peer review results via a secured website.
~~7~~5. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
~~8~~6. "Peer review" means an assessment, conducted according to R4-1-454(J), of one or more aspects of the professional work of a firm ~~that is registered with the Board to practice public accounting and performs attest services or full-disclosure compilation or nondisclosure compilation services conducted according to R4-1-454(K)~~.
~~9~~7. ~~"Person" may include any individual, and any form of corporation, partnership, or professional limited liability company.~~"Peer review program" means the sponsoring organization's entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
~~10~~8."Person" may include any individual, and any form of corporation, partnership, or professional limited liability company.
~~11~~9."Sponsoring organization" means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
10. "Upper ~~division~~ level course" means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principals of accounting or similar introductory accounting courses.

ARTICLE 3. CERTIFICATION AND REGISTRATION

R4-1-341. CPA Certificates; Reinstatement

A. An applicant may apply for a certificate of certified public accountant or for reinstatement by submitting:

1. An application fee of $100; and
2. For an applicant applying for certification under A.R.S. § 32-721(A) and (B), a completed application including:
   a. Verification that the applicant passed the Uniform CPA Examination,
   b. Verification that the applicant meets the education and experience requirements specified in R4-1-343,
   c. One signed and dated letter of recommendation by a CPA,
   d. Proof of a score of at least 90% on the American Institute of Certified Public Accountants (AICPA) examination in professional ethics taken within the two years immediately before the application is submitted,
   e. Evidence of lawful presence in the United States, and
   f. Other information or documents requested by the Board to determine compliance with eligibility requirements.
3. For an applicant applying for certification under A.R.S. § 32-721(A) and (C), a completed application including:
   a. Verification that the applicant passed the Uniform CPA Examination~~,~~ or the International Qualification Examination (IQEX),
   b. License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant of which at least one must be an active certification from a jurisdiction with requirements determined by the Board to be substantially equivalent to the requirements in A.R.S. § 32-721(B) or verification that the applicant meets the education and experience requirements specified in R4-1-343,
   c. Evidence of lawful presence in the United States, and
   d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
4. For an applicant applying for certification under A.R.S. § 32-721(A) and (D) for mutual recognition agreements adopted by the Board a completed application including:
   a. Verification that the applicant has passed the International Qualification Examination (IQEX),
   b. License verification from the applicant's country which ~~that~~ has a mutual recognition agreement with the National Association of State Boards of Accountancy that has been adopted by the Board,
   c. Evidence of lawful presence in the United States, and
   d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
5. For an applicant applying for reinstatement from cancelled or expired status under A.R.S. §§ 32-730.02 or 32-730.03 respectively a completed application including:
   a. CPE that meets the requirements of R4-1-453(C)(6) and (E), and
   b. Evidence of lawful presence in the United States.

6. For an applicant applying for reinstatement from revoked or relinquished status under A.R.S. §§ 32-741.03 or 32-741.04 respectively a completed application including:
   a. CPE that meets the requirements of R4-1-453(C)(6) and (E),
   b. Evidence of lawful presence in the United States,
   c. If not waived by the Board as part of a disciplinary order, evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows:
      i. At least 36 semester hours are accounting courses of which at least 30 semester hours are upper level courses.
      ii. At least 30 semester hours are related courses.
   d. If prescribed by the Board as part of a disciplinary order, evidence that the individual has retaken and passed the Uniform Certified Public Accountant Examination.

B. Within 30 days of receiving an application, the Board shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
1. The Board shall make service of written notice regarding an incomplete application in accordance with R4-1-117(E)(1) or (2). The applicant has 30 days from the date of the notice to respond in writing to the Board's notice or the Board may administratively close the file. An applicant whose file is administratively closed and who later wishes to become certified~~,~~ shall reapply under subsection (A).
2. Within 60 days of receipt of all the missing information, the Board shall notify the applicant that the application is complete.
3. The Board shall issue a certification decision no later than 150 days after receipt of a completed application.
4. If the Board finds deficiencies during the substantive review of the application, the Board may issue a written request to the applicant for additional information.
5. The 150-day time-frame in subsection (B)(3) for a substantive review for the issuance of a certificate is suspended from the date of the written request for additional information made under subsection (B)(4) until the date that all information is received. The Board shall serve a written request under subsection (B)(4) in accordance with R4-1-117(E)(1) or (2). The applicant has 30 days to respond to the Board's request for additional information. If the applicant fails to timely respond to the Board's request, the Board shall finish its substantive review based upon the information the applicant has presented.
6. When the applicant and the Board mutually agree in writing, the substantive review time frame specified in subsection (B)(3) may be extended in accordance with A.R.S. § 41-1075.

C. If the Board denies an applicant's request for certification, the Board shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time periods for appealing the denial.

D. The Board establishes the following licensing time-frames for the purpose of A.R.S. § 41-1073:
1. Administrative completeness review time-frame: 30 days;
2. Substantive review time-frame: 150 days; and
3. Overall time-frame: 180 days.

R4-1-345. Registration; Fees

A. Initial registration: After the Board approves an applicant's request for certification or firm registration, the applicant shall file an application for initial registration in a format prescribed by the Board and pay a registration fee under subsection (C).

B. Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
1. Individual registrant: An individual registrant shall renew registration at the following times:
   a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
   b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.
2. Firm registrant: A firm shall renew registration at the following times:
   a. A firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.
   b. A firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.

C. Registration fees: The biennial registration fee is:
1. $300 and, if applicable, a late fee of $50 for each certified public accountant and, each public accountant. For a certified public accountant or public accountant, the registration fee shall be prorated by month for an initial registration period of less than two years.
2. $300 and, if applicable, a late fee of $50 for a firm. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.

~~**D.** If a registrant's certificate is suspended for nonregistration under A.R.S. § 32-741.01 and remains in a suspended status for more than six months, the registrant must return their certificate to the Board.~~

ARTICLE 4. REGULATION

R4-1-453. Continuing Professional Education

A. Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.

1. A class hour shall consist of a minimum of 50 continuous minutes of instruction and a half class hour shall consist of a minimum of 25 continuous minutes of instruction. CPE credit shall be given in half-hour increments for periods of not less than one class hour. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.
2. Courses taken at colleges and universities apply toward the CPE requirement as follows:
   a. Each semester - system credit hour is worth 15 CPE credit hours,
   b. Each quarter - system credit hour is worth 10 CPE credit hours, and
   c. Each noncredit class hour is worth one CPE credit hour.
3. Each correspondence program hour is worth one CPE credit hour.
4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.
5. Writing and publishing articles or books that contribute to the accounting profession may be counted for a maximum of 20 hours of CPE credit during each renewal period.
   a. Credit may be earned for writing accounting material not used in conjunction with a seminar if the material addresses an audience of certified public accountants, is at least 3,000 words in length, and is published by a recognized third-party publisher of accounting material or a sponsor.
   b. For each 3,000 words of original material written, the author may earn two credit hours. Multiple authors may share credit for material written.
6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) above during each renewal period.
7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).

B. Programs that Qualify. CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. The Board shall accept a CPE course as qualified if it:
   a. Is developed by persons knowledgeable and experienced in the subject matter,
   b. Provides written outlines or full text,
   c. Is administered by an instructor or organization knowledgeable in the program, and
   d. Uses teaching methods consistent with the study program.
2. The Board shall accept a correspondence program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).

C. Hour Requirement. As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-730.01, a registrant shall complete the CPE requirements during the two-year period immediately before registration as specified under subsections (C)(1) through (C)(5). For registration periods of less than two years CPE may be prorated, with the exception of ethics.
1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
2. A registrant shall complete a minimum of 50 percent of the required hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
3. A registrant shall complete a minimum of 16 of the required hours:
   a. In a classroom setting,
   b. Through an interactive live webinar, or
   c. By acting as a lecturer or discussion leader in a CPE program, including college courses.
4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
   a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
   b. Board statutes and administrative rules.
5. A registrant shall report total CPE hours completed for the registration period. Hours that exceed the number required for the current registration period may not be carried forward to a subsequent registration period. Any CPE hours completed to vacate a suspension for nonregistration or for noncompliance with CPE requirements may not be used to meet CPE requirements for the registration period.
6. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated, with the exception of ethics.
   a. An applicant shall complete a minimum of 50 percent of the required hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
   b. An applicant shall complete a minimum of 32 hours of the required hours:
      i. In a classroom setting,
      ii. Through an interactive live webinar, or

iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.

c. An applicant shall complete eight hours of CPE in the subject area of ethics. The eight hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:

i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and

ii. Board statutes and administrative rules.

D. Reporting: An applicant for reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:

1. Sponsoring organization;
2. Number of CPE credit hours;
3. Title of program or description of content; and
4. Dates attended.

E. In addition to the information required under subsection (D), an applicant for reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide ~~evidence of completed CPE as required to be maintained by subsection (F).~~ the Board the following documents at its request: copies of course outlines and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.

F. CPE Record Retention: A registrant shall maintain for three years from the date their registration application was dated as received by the Board ~~and provide the Board upon request~~ the following documents: course outlines and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.

G. CPE audits: The Board, at its discretion, may conduct audits of a registrant's CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.

H. The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.

R4-1-454. Peer Review

A. Each firm~~, as defined in A.R.S. § 32-701(14),~~ that performs attest services or ~~full disclosure~~ compilation services shall have a peer review performed and reported on within the three years immediately preceding the firm's registration date.

1. ~~A firm shall submit to the Peer Review Oversight Advisory Committee (PROAC) a peer review report and any additional, related documentation requested by the PROAC. The PROAC shall not require the submission of working papers related to the peer review process.~~Firms shall submit a copy of the results of their most recently accepted peer review pursuant to R4-1-345 or by a Board approved extension date to the Board which includes the following documents:
   a. Peer review report which has been accepted by the sponsoring organization,
   b. Firm's letter of response accepted by the sponsoring organization, if applicable,
   c. Completion letter from the sponsoring organization,
   d. Letter or letters accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and
   e. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.
2. ~~The Board may grant, upon a written request and demonstration of good cause, excluding financial hardship pursuant to A.R.S. § 32-701(15)(e), an extension of time for completing the peer review or submitting the peer review report to the Board.~~ For firms whose peer reviews are scheduled before January 1, 2018, the firm shall submit the peer review documents pursuant to R4-1-454(A)(1) to the Board prior to its next firm registration renewal via mail, electronic transmission or, if available, the AICPA Facilitated State Board Access (FSBA).
3. For firms whose peer reviews are scheduled after January 1, 2018, the firm must allow the sponsoring organization to make the documents pursuant to R4-1-454(A)(1) accessible to the Board via the FSBA process.
4. The Board may grant, upon written request and demonstration of good cause, excluding financial hardship pursuant to A.R.S. § 32-701(15)(E), an extension of time for completing the peer review or submitting the peer review documents to the Board.

~~**B.** If the only services performed by a firm involving financial statements are nondisclosure compilation services, the Board shall request, on a random basis, as a condition for initial or renewal registration, that the firm provide a peer review report and any additional, related documentation, completed within the three years immediately preceding the firm's registration date.~~

~~1. If a firm did not complete a peer review within the three years immediately preceding the firm's registration date, PROAC shall request that the firm provide reports and financial statements from two separate nondisclosure compilation engagements, performed within the two years immediately preceding the firm's registration date, for an Educational Enhancement Review by PROAC;~~

~~2. If the results of the Educational Enhancement Review indicate deficient work by a firm, the Board may do any of the following:~~
   ~~a. Educate the firm by informing it of or referencing it to the current and appropriate reporting requirements;~~
   ~~b. Educate the firm by informing it how to enhance its reporting and financial presentation; or~~
   ~~c. Require the firm to undergo a peer review before its next renewal registration.~~

~~3. If the results of the Educational Enhancement Review do not indicate deficient work, the PROAC shall recommend to the Board that it accepts the firm's Educational Enhancement Review and that the firm be notified of its compliance with this Section.~~

~~**C.**~~**B.** Only a peer reviewer or a review team approved by the sponsoring organization~~Board or its authorized agent~~ may conduct a peer review. In approving a peer reviewer or a review team, the sponsoring organization~~Board or its authorized agent~~ shall ensure that each peer reviewer or member of a review team holds a certificate or license in good standing to practice public accounting, and is not affiliated with the firm under review.

~~D. A firm may obtain a peer review and the corresponding report from a national organization approved by the Board or its authorized agent. In approving a national organization, the Board shall determine whether the organization performs peer reviews that comply with this Section.~~

~~E~~C. The Peer Review Oversight Advisory Committee (PROAC) shall review the peer review ~~report~~ results ~~submitted by a firm~~ to determine whether the firm is complying with the standards in subsection (~~K~~J). If the results of peer review indicate that a firm is complying with the standards in subsection (~~K~~J), ~~the~~ PROAC shall recommend to the Board that it accept the firm's peer review and that the firm be notified of its compliance with this Section.

~~F~~D. If the results of the peer review indicate that a firm is not complying with the standards in subsection (~~K~~J)~~:~~

1. ~~The Board shall direct the PROAC to obtain relevant reports, and perform any follow-up action required as a consequence of the identified deficiencies. The PROAC shall retain all documents obtained until the firm completes and the Board accepts the firm's next peer review.~~
2. ~~If additional information is needed to determine whether a firm is correcting identified deficiencies, the Board shall make a written request that the firm provide the needed information. If the PROAC determines that the firm has not corrected the identified deficiencies, it shall refer the matter to the Board.~~
3. ~~Based upon review of the PROAC's recommendation~~, the Board may take disciplinary action.~~ as defined in A.R.S. § 32-701(10).~~

E. If the results of the peer review suggest one or more violations of A.R.S. Title 32 Chapter 6 or Board rules, the Board may conduct or direct an authorized committee to conduct an initial analysis and take other action as authorized by A.R.S § 32-742.01.

~~G~~F. Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.

~~H~~G. Failure of a firm to complete a peer review under this Section may c~~onstitutes~~ constitute grounds for disciplinary action. ~~revocation or suspension of a firm's registration, after notice and opportunity for a hearing, unless the Board determines that there is good cause for the failure.~~

~~I~~H. ~~Exemptions:~~ A firm is exempt from the requirements of this Section if the firm submits to the Board a written statement that it meets at least one of the following grounds for exemption:

1. The firm has not previously practiced public accounting in this state, any other state, or a foreign country and the firm shall ~~have a peer review issued by a qualified peer reviewer and dated within~~ enroll in a Board approved peer review program with a peer review due date, in compliance with the peer review standards referenced in R4-1-454(J) of 18 months ~~of initial registration~~ from the year end of the first engagement performed.
2. The firm submits to the Board an affidavit, on a form prescribed by the Board, that states that all of the following apply:
   a. Within the previous three years, the firm did not ~~undertake~~ perform any ~~engagement that resulted in the firm issuing a~~ attest services or~~, full-disclosure, or non-disclosure~~ compilation services; and
   b. The firm agrees to notify the Board within 90 days after accepting an attest services~~,~~ or ~~full-disclosure~~ compilation services engagement and shall ~~have a peer review issued by a qualified peer reviewer and dated within~~ enroll in a Board approved peer review program with a due date, in compliance with the peer review standards referenced in R4-1-454(J) of 18 months from the year-end of the initial engagement accepted~~; and~~
   ~~c. The firm agrees to notify the Board within 90 days after accepting a nondisclosure compilation an engagement to prepare financial statements~~.

~~J~~I. Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

~~K~~J. Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued January 2009 and published ~~June 1, 2013~~June 1, 2017 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036-8775 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.

~~L~~K. Peer review record retention. A firm shall maintain for five years, and provide the Board upon request, the ~~following~~ documents referenced in R4-1-454(A)(1), if applicable and however denominated, for the peer reviews required by this Section~~: peer review report, final acceptance letter, letter of comment, corrective action, and letter of response~~.

R4-1-455. Professional Conduct~~: Independence, Integrity, and Objectivity~~ and Standards

~~A. Independence: A certified public accountant, public accountant, or firm of which the certified public accountant or public accountant is a partner or shareholder shall not express an opinion on a financial statement of an enterprise unless the certified public accountant or public accountant and the firm are independent with respect to the enterprise. Independence is considered to be impaired if, for example:~~

~~1. During the period of professional engagement or at the time of expressing an opinion, the certified public accountant or public accountant or the firm:~~
   ~~a. Had or was committed to acquire any direct or material indirect financial interest in the enterprise;~~
   ~~b. Had any joint closely held business investment with the enterprise or any officer, director, or principal stockholder of the enterprise that was material in relation to the certified public accountant, public accountant, or the firm's net worth; or~~
   ~~c. Had any loan to or from the enterprise or any officer, director, or principal stockholder of the enterprise. This latter proscription does not apply to the following loans from a financial institution if the loans are made under normal lending procedures, terms, and requirements:~~
      ~~i. Loans obtained by a certified public accountant or public accountant or the firm that are not material in relation to the net worth of the borrower;~~
      ~~ii. Home mortgages; and~~

~~ii. Other secured loans, except loans that would be unsecured if not guaranteed by a certified public accountant's or public accountant's firm.~~

~~2. During the period covered by the financial statement, during the period of the professional engagement, or when expressing an opinion, the certified public accountant, public accountant or firm:~~

~~a. Was connected with the enterprise as a promoter, underwriter, or voting trustee, director, or officer, or in any capacity equivalent to that of a member of management or of an employee; or~~

~~b. Was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or was a trustee for any pension or profit-sharing trust of the enterprise.~~

~~3. The above examples are not intended to be all-inclusive.~~

~~**B.** Integrity and objectivity: A certified public accountant, public accountant, or firm shall not knowingly or recklessly misrepresent facts when engaged in the practice of public accounting, including rendering tax and management advisory services. In tax practices, a certified public accountant or public accountant may resolve doubt in favor of a client as long as there is reasonable support for the position.~~

~~1. Contingent fees: A contingent fee is a fee established for the performance of any service under an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is dependent upon the finding or result of the service. For purposes of this Section, fees are not regarded as contingent if fixed by courts or other public authorities, or in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.~~

~~a. A certified public accountant, public accountant, or firm engaged in the practice of public accounting shall not for a contingent fee for any client:~~

~~i. Perform an audit or review of a financial statement;~~

~~ii. Prepare a compilation of a financial statement when the certified public accountant, public accountant, or firm expects, or reasonably should expect that a third party will use the financial statement and the certified public accountant's, public accountant's, or firm's compilation report does not disclose a lack of independence;~~

~~iii. Perform an examination of prospective financial information; or~~

~~iv. Prepare an original or amended tax return or a claim for a tax refund.~~

~~b. The prohibitions in subsection (B)(1)(a) apply during the period in which the certified public accountant, public accountant, or firm is engaged to perform any of the services listed in subsection (B)(1)(a) and the period covered by any historical financial statements involved in the listed services.~~

~~2. Commissions and referral fees:~~

~~a. A commission is a fee calculated as a percentage of the total sale or service.~~

~~b. A referral fee is a fee paid in exchange for producing a purchase of goods or services.~~

~~c. Prohibited commissions: A certified public accountant, public accountant, or firm engaged in the practice of public accounting shall not for a commission recommend or refer to a client any product or service, recommend or refer any product or service to be supplied by a client, or receive a commission when the certified public accountant, public accountant, or firm also performs any of the following for that client:~~

~~i. An audit or review of a financial statement;~~

~~ii. A compilation of a financial statement when the certified public accountant, public accountant, or firm expects, or reasonably should expect that a third party will use the financial statement and the certified public accountant, public accountant, or firm's compilation report does not disclose a lack of independence; or~~

~~iii. An examination of prospective financial information.~~

~~d. The prohibitions in subsection (B)(2)(c) apply during the period in which the certified public accountant, public accountant, or firm is engaged to perform any of the services listed in subsection (B)(2)(c) and the period covered by any historical financial statements involved in the listed services.~~

~~e. Disclosure of permitted commissions: A certified public accountant, public accountant, or firm engaged in the practice of public accounting that is not prohibited by this Section from performing services or receiving a commission and is paid or expects to be paid a commission shall make a written disclosure in advance of accepting the engagement. The certified public accountant, public accountant, or firm shall ensure that the written disclosure is made to any person or entity to which the certified public accountant, public accountant, or firm recommends or refers a product or service to which the commission relates and shall include the dollar amount or percentage to be received.~~

~~f. Disclosure of referral fees: A certified public accountant, public accountant, or firm that accepts a referral fee for recommending or referring a product or service to any person or entity or that pays a referral fee to obtain a client shall disclose to the client, in writing, the acceptance or payment of the referral fee and its amount.~~

~~3. Incompatible occupations: A certified public accountant or public accountant who is engaged in the practice of public accounting shall not concurrently engage in any business or occupation that impairs the objectivity of the certified public accountant or public accountant in rendering professional services.~~

A. It is the Board's policy that the rules governing registrants be consistent with the rules governing the accounting profession generally. Except as otherwise set forth in these regulations, registrants shall conform their conduct to the Code of Professional Conduct, published June 1, 2017 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036-8775 (www.aicpa.org), available from the AICPA.

B. The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

R4-1-455.01. Professional Conduct: ~~Competence and Technical Standards~~Definitions; Interpretations

~~**A.** Competence: A registrant shall not undertake an engagement to perform professional services that the registrant cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subsections (B) and (C).~~

~~**B.** Auditing standards: A registrant shall not permit the registrant's name to be associated with a financial statement in a manner that implies that the registrant is acting with independence with respect to the financial statement unless the registrant has complied with applicable generally accepted auditing standards.~~

~~**C.** Accounting principles: A registrant shall not express an opinion that a financial statement is presented in conformity with generally accepted accounting principles if the financial statement contains any departure from an accounting principle that has a material effect on the financial statement taken as a whole, unless the registrant can demonstrate that by reason of unusual circumstances that the financial statement would otherwise be misleading. In this case, the registrant's report shall describe the departure from an accounting principle, the approximate effects of the departure, if practicable, and the reasons why compliance with the principle would result in a misleading statement.~~

~~**D.** Accounting and review standards: A certified public accountant, public accountant, or firm shall not permit the certified public accountant, public account, or firm's name to be associated with an unaudited financial statement or other unaudited financial information of a non-public entity in a manner that implies the certified public accountant, public accountant, or firm is acting as an independent accountant unless the certified public accountant, public accountant, or firm has complied with all applicable standards for accounting and review services.~~

~~**E.** Forecasts and projections: A certified public accountant, public accountant, or firm shall not permit the certified public accountant's, public accountant's, or firm's name to be used in conjunction with any forecast of future transactions in a manner that may lead to the belief that the certified public accountant, public accountant, or firm vouches for the achievability of the forecast or projection.~~

~~**F.** In expressing an opinion on representations in a financial statement that the certified public accountant, public accountant, or firm has examined, a certified public accountant, public accountant, or firm violates A.R.S. § 32-741(A)(4) if the certified public accountant, public accountant, or firm:~~

~~1. Fails to disclose a known material fact that makes the financial statement misleading;~~
~~2. Fails to report a known material misstatement that appears in the financial statement;~~
~~3. Is materially negligent in the conduct of the examination or in making a report on the examination;~~
~~4. Fails to acquire sufficient information to warrant expression of an opinion, or the exceptions are sufficiently material to negate the expression of an opinion; or~~
~~5. Fails to direct attention to any material departure from a generally accepted accounting principle or disclose any material omission of a generally accepted auditing procedure applicable under the circumstances.~~
~~6. The provisions of subsection (F) are not intended to be all-inclusive or to limit the application of A.R.S. § 32-741(A)(4).~~

~~**G.** Tax practice standards: A certified public accountant, public accountant, or firm shall exercise due diligence in the conduct of tax practices. The Board shall view the current standards in the American Institute of Certified Public Accountants Statements on Responsibilities in Tax Practice to presumptively represent due diligence.~~

~~**H.** Standards: The application of standards such as "generally accepted accounting principles," "generally accepted auditing standards," and "applicable standards for accounting and review services" by a certified public accountant, public accountant, or firm is to be made to the specific engagement or problem at hand by the exercise of professional judgment in the context of the literature of the accounting profession. The Board considers official statements of the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other specialized bodies dealing with accounting and auditing matters to be persuasive sources for interpretation of the standards. Persons who take positions that depart from the official statements shall be prepared to justify them.~~

Interpretation of definitions: All terms defined in A.R.S. § 32-701 et seq. shall be construed, to the extent possible, to be consistent with corresponding definitions in the professional standards adopted in R4-1-455. The foregoing notwithstanding, for purposes of R4-1-455 and the professional standards adopted therein:

1. The term "practice of public accounting" shall be defined as set forth in A.R.S. § 32-701; and
2. References to "member" shall be to "registrant" as defined in A.R.S. § 32-701.

R4-1-455.02. Professional Conduct: ~~Confidentiality; Records Disposition~~Competence and Technical Standards

~~**A.** Confidential client information: A certified public accountant, public accountant, or firm shall not disclose confidential information obtained in the course of a professional engagement except with the consent of the client. This requirement shall not be construed to:~~

~~1. Relieve a certified public accountant, public accountant, or firm of the obligations under R4-1-455.01(B) and (C);~~
~~2. Affect the certified public accountant's, public accountant's, or firm's compliance with a validly issued subpoena or summons enforceable by order of a court;~~
~~3. Prohibit review of a certified public accountant's, public accountant's, or firm's professional practices as a part of a peer or quality review conducted under Board decision or authority; or~~
~~4. Preclude a certified public accountant, public accountant, or firm from responding to an inquiry made by the Board under state statutes.~~

~~**B.** Records disposition responsibility: A certified public accountant, public accountant, or firm shall furnish to a client, or former client, upon request, within a reasonable time after original issuance:~~

~~1. A copy of any tax returns prepared for the client;~~
~~2. A copy of any reports, or other documents, that were previously issued to the client; and~~
~~3. Any accounting or other records belonging to the client that the certified public accountant, public accountant, or firm may have removed from the client's premises, or received for the client's account. The certified public accountant, public accountant, or firm may make a copy of the documents if the documents form the basis for work done by the certified public accountant, public accountant, or firm.~~

A. In reporting on financial statements for which a registrant has performed attest services (as defined in A.R.S. § 32-701) any of the following will constitute a violation of A.R.S. § 32-741(A)(4):

1. In an audit engagement, failing to:
   a. Prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:

i. The nature, timing, and extent of the audit procedures performed;
ii. The results of the audit procedures performed, and the audit evidence obtained; and
iii. Significant findings or issues arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions;

b. Obtain sufficient appropriate evidence to conclude that the financial statements taken as a whole are free from material misstatement; or

c. Modify the opinion in the auditor's report when:
i. The financial statements as a whole are materially misstated; or
ii. Sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement has not been obtained.

2. In a review engagement, failing to:
a. Accumulate sufficient review evidence to provide a reasonable basis for obtaining limited assurance that there are no material modifications that should be made to the financial statements in order to be in conformity with the applicable financial reporting framework; or
b. Modify the accountant's review report for a departure from the applicable financial reporting framework, including inadequate disclosure, that is material to the financial statements.

3. In an examination of prospective financial statements engagement, failing to:
a. Obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report; or
b. Modify the report when:
i. One or more significant assumptions do not provide a reasonable basis for the prospective financial statements; or
ii. The examination is affected by conditions that preclude application of one or more procedures considered necessary in the circumstances.

B. The provisions of this subsection are not intended to be all inclusive or to limit the application of A.R.S. § 32-741(A)(4).

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

A. Discreditable acts: ~~A certified public accountant, public accountant, or firm~~ In addition to any other acts prohibited by any standards incorporated in these rules, a registrant shall not commit an act that reflects adversely on the ~~certified public accountant's, public accountant's, or firm's~~ registrant's fitness to engage in the practice of public accounting, including and without limitation:
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 and solicitation practices: A ~~certified public accountant, public accountant, or firm~~ registrant 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 or solicitation of ~~public~~ accounting services through any media, if the ~~certified public accountant, public accountant, or firm~~ registrant willfully engages in any of the following conduct:
~~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~~1. Violates A.R.S. § 44-1522 and a court finds the violation willful;
~~5~~2. 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~~3. Engages in fraudulent practices in the advertising of ~~public~~ accounting services that leads to a conviction for a violation of 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**~~**C.** Form of practice and name: A ~~certified public accountant or public accountant~~ registrant 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**~~**D.** Communications: When requested, a ~~certified public accountant or public accountant~~ registrant shall file a written response ~~respond~~ to a ~~communications~~ communication from the Board within 30 days of the date of the mailing of such ~~after the~~ communication ~~is mailed~~ by ~~registered or~~ certified mail. A written response is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the Board's office. The Board shall not accept a postmark as evidence of timely filing.

E. The provisions of R4-1-455.03(A) through (C) are not intended to be all inclusive or to limit the application of any standards incorporated by R4-1-455.

R4-1-455.04. Professional Conduct: ~~Interpretations~~Records Disposition

~~The Board shall find interpretations of the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants persuasive but not conclusive in the Board's interpretations of R4-1-455, R4-1-455.01, R4-1-455.02, or R4-1-455.03.~~
Document retention policies. Except as set forth in A.R.S. § 32-744(D), a registrant may retain and dispose of documents prescribed in A.R.S. § 32-744(C) in compliance with a reasonable document retention policy.

NOTICE OF FINAL RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 23. BOARD OF PHARMACY

[R17-227]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) — **Rulemaking Action**

R4-23-402	Amend
R4-23-1104	Amend
R4-23-1104.01	New Section

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

Authorizing statute: A.R.S. § 32-1904(A)(1)

Implementing statute: A.R.S. § 32-1961(A)

3. The effective date for the rules:

January 8, 2018

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

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

Not applicable

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

Notice of Rulemaking Docket Opening: 22 A.A.R. 3196, November 11, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 1009, May 5, 2017

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

Name:	Kamlesh Gandhi
Address:	Board of Pharmacy 1616 W. Adams St., Suite 120 Phoenix, AZ 85007
Telephone:	(602) 771-2740
Fax:	(602) 771-2749
E-mail:	kgandhi@azpharmacy.gov
Web site:	www.azpharmacy.gov

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

This rulemaking will create efficiencies in a pharmacy by enabling a licensed pharmacy technician, who has completed the training specified under R4-23-1104.01(D) and works under the supervision of a pharmacist, to use technology to verify the accuracy of medications prepared for dispensing. Current law requires a pharmacist or graduate or pharmacy intern to perform product verification. The technology required to verify the accuracy of medications prepared for dispensing exists and is simple to use. It involves scanning a bar code and visually comparing the prepared medication with the result on a computer screen. Under R4-23-402(A)(12), even if technology is used by a licensed pharmacy technician to perform product verification, a pharmacist or graduate or pharmacy intern is required to perform a final accuracy check of a prescription label.

By enabling a licensed pharmacy technician to perform routine technology-assisted verification of product, this rulemaking will remove a regulatory burden and will benefit patients by providing additional time in which the pharmacist is able to perform tasks such as patient counseling, providing immunizations, managing medication therapy, and providing other clinical services that require the pharmacist's skills.

An exemption from Executive Order 2016-03 was provided for this rulemaking by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's office, in an e-mail dated July 14, 2016.

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

The Board did not review or rely on a study in its evaluation of or justification of any rule in this rulemaking.

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

Not applicable

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

The Board expects the economic impact will be positive for pharmacy permittees and pharmacy technicians. There will be cost savings for pharmacy permittees able to have pharmacy technicians perform technology-assisted verification of product. There may be a voluntary cost for pharmacy permittees to obtain equipment necessary to perform technology-assisted verification. Pharmacy technicians will benefit from the opportunity to expand their role. The rulemaking will have little or no economic impact on consumers.

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

R4-23-1104.01(B)(2) was changed as suggested by Banner Pharmacy Services and discussed in the next item.

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

Five comments were received. Comments from Stephanie Bisesti, Pamella Martin, and Stephany Lam, all of whom are licensed pharmacists, opposed the rulemaking and opposed allowing pharmacy technicians to perform technology-assisted verification of product. They argued:

- Only a pharmacist is qualified to perform the final verification of medication;
- There is increased risk to pharmacists who are legally responsible for the final product even if a pharmacy technician performs a technology-assisted verification of product;
- Licensed pharmacy technicians differ in knowledge, capability, judgment, and motivation so six months of experience and some training may be insufficient;
- It is the public that will be harmed by errors in medications dispensed; and
- The rule will benefit only pharmacies able to afford the necessary equipment.

The Board appreciates the commenters' concerns and calls to their attention that the rule does not require a pharmacy permittee who shares their concerns to allow pharmacy technicians to perform technology-assisted verification of product. This is a voluntary program. Additionally, the Board calls their attention to R4-23-402(A)(12) which requires a pharmacist or graduate or pharmacy intern to perform a final accuracy check even if a technology-assisted verification of product has been performed.

Banner Pharmacy Services supported the rulemaking but made two comments:
R4-23-1104-01(B)(1) (sic): It is not possible for a pharmacist in charge (sic) to ensure the accuracy and safety of products dispensed. Rather, the subsection should require the PIC ensure the process designed results in accuracy and safety. The Board concurred with this suggestion and amended R4-23-1104.01(B)(2) to reflect that a pharmacy permittee is required to ensure the process designed results in accuracy and safety.

R4-23-1104.01(F)(2): Requested clarification that "robotically prepared …" includes unit doses packaged by a repackaging facility or pharmacy department. The Board cannot make the requested clarification because only unit doses robotically prepared by the product manufacturer can be verified with technology assistance. It is only the product manufacturer's bar code that can be scanned using technology-assisted verification. A repackaging facility or pharmacy department places a bar code different from that of the manufacturer on a repackaged unit dose.

The Arizona Community Pharmacy Committee supported the rulemaking.

No one attended the oral proceeding on June 12, 2017.

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

None

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

The rules in this rulemaking do not require a permit.

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

There are federal laws relating to selling and dispensing of drugs. However, none is specifically applicable to this rulemaking. No rule in the rulemaking is more stringent than federal law.

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

No analysis was submitted.

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

None

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

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

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

ARTICLE 11. PHARMACY TECHNICIANS

Section
R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees
R4-23-1104.01. Technology-assisted Verification of Product

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

A. No change
1. No change
2. Obtain and record the name of ~~an~~ the individual who communicates an oral prescription order;
3. No change
   a. No change
   b. No change
4. No change
5. No change
   a. ~~A patients'~~ The patient's allergies,
   b. Incompatibilities with medications ~~a patient's~~ the patient currently ~~taken medications~~ takes,
   c. ~~A~~ The patient's use of unusual quantities of dangerous drugs or narcotics,
   d. No change
   e. No change
6. No change
7. No change
8. No change
9. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
10. No change
    a. No change
    b. No change
    c. No change
    d. No change
11. ~~Make~~ Except as provided in subsection (A)(12), make a final accuracy check ~~on~~ of the completed prescription ~~medication~~ label including verification of medication, accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label~~. Manual initialing of a finished label is not required if the pharmacy's computer system complies with the computer documentation requirements of R4-23-408(B)(4)~~;
12. If a technology-assisted verification of product program is used, make a final accuracy check of the completed prescription label including accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label. If a technology-assisted verification of product program is used, verification of product is not required.

~~12.~~13. No change

~~13.~~14. No change
   a. No change
   b. No change
   c. No change

~~14.~~15. No change
   a. ~~Facsimile,~~ Fax

b. ~~Computer modem~~ E-mail, or
c. No change
~~15.~~16. No change
~~16.~~17. No change
~~17.~~18. No change

B. No change
1. No change
2. No change
3. No change

C. No change
1. No change
2. No change
3. No change
4. No change

D. When, in the professional ~~judgement~~ judgment of the pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, or when circumstance precludes it, oral consultation may be omitted if the pharmacist, graduate intern, or pharmacy intern:
1. No change
2. No change
3. No change

E. No change
1. No change
2. No change
3. No change
4. No change

F. No change

G. No change

H. No change
1. No change
2. No change
3. No change
4. No change

I. No change
1. No change
2. No change
3. No change
4. No change
5. No change

J. No change

K. No change

L. No change

ARTICLE 11. PHARMACY TECHNICIANS

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

A. Permissible ~~activities~~ tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist a graduate intern, pharmacy intern, or pharmacist with the following when applicable to the pharmacy practice site:
1. Record on the original prescription order the ~~prescription~~ serial number of the prescription medication and date dispensed;
2. No change
3. No change
4. ~~Type and affix a label for a prescription medication or enter~~ Enter information for a new or refill prescription medication ~~into a computer,~~ as required under A.R.S. § 32-1964;
5. Type and affix a label for the prescription medication. ~~if a~~ A pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist ~~verifies~~ shall verify the accuracy of the label as described under R4-23-402(A)(11) ~~and initials in handwriting or by another method approved by the Board or its designee the finished label prepared by the technician before the prescription medication is dispensed to the patient~~;
~~5.~~6. No change
~~6.~~7. No change
~~7.~~8. No change
~~8.~~9. No change

B. Permissible ~~activities~~ tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:
1. Perform the ~~activities~~ tasks listed in subsection (A); ~~and~~
2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription med-

ications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing~~.~~;

3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R 4-23-1104.01(D); and
4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or graduate or pharmacy intern shall verify the accuracy of the label as described under R4-23-402(A)(12).

C. ~~When performing the activities listed in~~ A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) ~~for which the pharmacy technician or pharmacy technician trainee has been trained, the pharmacy technician or pharmacy technician trainee shall perform those functions~~ shall ensure the task is performed accurately.

D. Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a ~~function~~ professional practice reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402 or R4-23-653.

E. No change

F. Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the ~~same~~ manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee ~~activities as~~ tasks ~~specified in subsection (G)~~.

G. ~~The~~ A pharmacy permittee or pharmacist-in-change shall ensure policies and procedures ~~shall~~ required under subsection (F) include the following:

1. No change
   a. No change
   b. No change
   c. The ~~activities~~ tasks a pharmacy technician or pharmacy technician trainee may perform as specified ~~in R4-23-1104~~ under subsections (A) and (B);
   d. No change
   e. No change
   f. No change
      i. No change
      ii. No change
   g. No change
   h. No change
   i. No change
2. No change
   a. No change
      i. Accepting a new written prescription order,
      ii. No change
      iii. No change
      iv. No change
      v. No change
      vi. Obtaining refill authorization; and
   b. Computer ~~data entry~~ data-entry procedures for:
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. No change
      vi. No change
      vii. No change
      viii. No change
      ix. No change
3. No change
   a. No change
   b. No change
   c. No change
   d. No change

R4-23-1104.01 Technology-assisted Verification of Product

A. By complying with this Section, the permittee of a retail, institutional, or limited-service pharmacy may implement a technology-assisted verification of product program that allows a pharmacy technician licensed under R4-23-1102 and qualified under subsection (D) to perform final product verification.

B. Written program description required. Before implementing a technology-assisted verification of product program the permittee of a retail, institutional, or limited-service pharmacy shall prepare a written program description that includes the following:

1. Responsibility of both the pharmacist in charge and permittee to ensure compliance with this Section;
2. Responsibility of the permittee to design, implement, and monitor a process that ensures the accuracy and safety of the product dispensed;
3. Duties of a verification technician;
4. The training necessary to qualify and remain qualified as a verification technician;
5. The monitoring and evaluation procedures to be used to ensure competency of the verification technician; and
6. Prohibition of a verification technician performing a final accuracy check of a completed prescription label.

C. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall:
1. Post the written program description required under subsection (B) in the pharmacy area;
2. Provide a copy of the written program description to the pharmacist in charge and verification technician;
3. Obtain the signature of the pharmacist in charge and verification technician on a copy of the written program description and place the signed copy in the personnel file of the pharmacist in charge and verification technician;
4. Ensure scanning technology used in the technology-assisted verification program captures both product and patient information; and
5. Update the written program description as needed and repeat subsections (C)(1) through (4) after each update.

D. Verification technician training: The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a pharmacy technician does not perform the duties of a verification technician unless the pharmacy technician has the following qualifications:
1. Is licensed under R4-23-1102;
2. Has at least 1,000 hours of pharmacy technician work experience in the same kind of pharmacy practice site in which the technology-assisted verification of product will be performed;
3. Completes a training program that includes at least the following:
   a. Role of a verification technician in the dispensing process,
   b. Legal requirements of a verification technician,
   c. How to use the technology-assisted verification system,
   d. Primary causes of medication errors, and
   e. Identifying and resolving dispensing errors; and
4. Completes at least four hours of the continuing education required under R4-23-1106 on patient safety.

E. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure the pharmacy practice site has a computer data storage and retrieval system that meets the standards in R4-23-408(B).

F. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician verifies only the following:
1. A product with scanning technology that identifies product, or
2. A robotically prepared unit-dose product.

G. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician does not verify the following:
1. A product that involves a combination of drugs resulting from compounding or mixing two or more ingredients or products,
2. A product that involves or results from an alteration of a drug, or
3. A DEA schedule II controlled substance.

H. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall perform an unannounced evaluation of the competency of a verification technician at least twice a year and take steps to remediate any deficiencies identified including removing verification duties from the technician.

I. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall maintain the following records:
1. Date the pharmacy technician was designated as a verification technician,
2. Date the pharmacy technician completed the training required under subsection (D)(3),
3. Dates and results of the evaluations conducted under subsection (H), and
4. Date and reason for any disciplinary action against the verification technician arising from performing the duties of a verification technician.

J. A verification technician shall wear identification that includes the title "Verification Technician" while on duty.

K. As used in this Section, the term "verification technician" means an individual who:
1. Is qualified under subsection (D),
2. Uses a combination of scanning technology and visual confirmation to verify a product prepared to be dispensed is the product prescribed and indicated on the prescription label, and
3. Performs verification of work performed by other pharmacy technicians before a pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist performs the final accuracy check required under R4-23-402(A).

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES
HEALTH PROGRAMS SERVICES

[R17-228]

PREAMBLE

1. Article, Part, or Section Affected (as applicable)	Rulemaking Action
R9-13-201	Amend
R9-13-203	Amend
R9-13-208	Amend

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

Authorizing statutes: A.R.S. §§ 36-132(A), 36-136(A)(7), and 36-136(G)

Implementing statutes: A.R.S. § 36-694, as amended by Laws 2017, Ch. 339

3. The effective date of the rules:

November 7, 2017

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

The Arizona Department of Health Services (Department) requests an immediate effective date (November 7, 2017) for these rules under A.R.S. § 41-1032 (A)(1) and (4). These rules include a $6.00 fee increase, which will enable the Department to test for severe combined immunodeficiency (SCID). 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, and may die before their first birthday if undiagnosed and untreated. Newborns with abnormal screening test results for SCID will receive follow-up services to facilitate the diagnosis, treatment, and potential cure for these babies. No penalties are assessed for a violation of the rules.

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

Not applicable

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

Notice of Rulemaking Docket Opening: 23 A.A.R. 1810, July 7, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 2159, August 11, 2017

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

Name:	Sonal Bhakta, Office Chief
Address:	Arizona Department of Health Services Office of Newborn Screening 250 N. 17th Ave. Phoenix, AZ 85007
Telephone:	(602) 364-1409
Fax:	(602) 364-1495
E-mail:	Sonal.Bhakta@azdhs.gov
	Or
Name:	Robert Lane, Chief
Address:	Arizona Department of Health Services Office of Administrative Counsel and Rules 150 N. 18th Ave., Suite 200 Phoenix, AZ 85007
Telephone:	(602) 542-1020
Fax:	(602) 364-1150
E-mail:	Robert.Lane@azdhs.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:

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. Current rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 13, Article 2, specify the congenital disorders being tested for, the information required to be submitted when critical congenital heart defect screening is performed or a bloodspot specimen is collected from a newborn or infant, the person responsible for collecting the specimen and when the specimen should be collected, reporting requirements for a bloodspot test, reporting requirements for hearing tests, and fees.

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 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 potentially cured through a bone marrow transplant. Currently, 44 states include SCID in their newborn screening panel for all newborns, one state offers screening for SCID to select populations, two states anticipate including SCID in their newborn screening panels later this year, and three do not offer screening for SCID.

Laws 2017, Ch. 339 increased the fee cap for the first newborn screening test from $30 to $36, which will enable the Department, through rulemaking, to raise the fee for a first specimen to allow for SCID testing 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 specimen from $30 to $36. Through this rulemaking, newborns will be screened for SCID, enabling babies with SCID to be diagnosed and potentially cured. The amendments conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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 Department did not review or rely on any study for this rulemaking.

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

Not applicable

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

Annual cost/revenue changes are designated as minimal when $1,500 or less, moderate when between $1,500 and $15,000, and substantial when $15,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification. The Department anticipates that persons affected by the rulemaking include the Department; health insurance providers, including AHCCCS; hospitals; midwives; and the general public.

The Department will receive a substantial benefit from the fee increase for a first specimen. During fiscal years (FY) 2015 through 2017, the Department, either in-house or by contract, billed an average of $7,298,960 for newborn and infant screening and collected an average of approximately $7,186,500 in specimen fees, which were deposited into the newborn screening fund established by A.R.S. § 36-694.01. During FY 2017, approximately $3,777,650 was collected from first specimen fees, which includes revenue received during FY 2017 from first specimens submitted during FY 2016. In FY 2017, the Department received an appropriation of $7,130,100 from the newborn screening fund to support the Newborn and Infant Screening Program. To adequately provide bloodspot testing for SCID and follow-up for newborns and infants who had an abnormal screening test result for SCID, the Department requires approximately an additional $743,285, averaged over five years, including $693,365 for costs directly related to testing for SCID and $49,920 for increased billing costs associated with the fee increase. SCID-specific costs include an additional $537,978 in costs for the laboratory section, an additional $106,876 in costs for the follow-up section, and the remainder attributed to increased Indirect and ITS Direct charges. The Department received an additional appropriation of $544,800 for FY 2018. If the Department receives approximately 83,200 first specimens annually, the Department anticipates that the fee increase for first specimens will provide approximately $499,200 more in revenue. The Department expects to cover the shortfall through a combination of appropriation increase requests, indirect waivers, and/or cuts to other areas of the Newborn and Infant Screening Program operating budget. The Department expects to add two employees, a Public Health Scientist and Follow-up Specialist, at a cost of $143,789 as a result of this rulemaking. The addition of these employees does not require an increase in the Department's allocated FTEs. Other costs directly associated with adding SCID include $49,332 for immunology consultant contracts, and $451,733 for laboratory reagents and consumables for SCID testing.

AHCCCS is expected to incur as much as a substantial cost increase due to the fee increase for first specimens. According to CY 2016 birth data from the Department's Health Status and Vital Statistics group, AHCCCS covered approximately 51.64% of births. The cost for a first specimen is built into the birth-package fee that AHCCCS negotiates with hospitals. An increase in the fee for a first specimen may cause hospitals to negotiate a higher birth-package fee from AHCCCS. If AHCCCS increases the cost of every birth package to account for the fee increase, the Department would expect AHCCCS to incur approximately between $257,000 and $307,000 in additional costs annually. The Department expects this cost to be offset by savings experienced by detecting the disease at birth, which can save nearly $2 million in treatment costs for each case.

Third-party payors, including private insurance plans, military health care facilities, Indian Health Service, and tribal health care facilities, paid for approximately 41.71% of births in Arizona in CY 2016, based on data from the Department's Health Status and Vital Statistics group. Third-party payors as a whole may incur a substantial cost increase of approximately $208,000 due to the fee increase for first specimens if all hospitals negotiate a higher birth-package fee from all third-party payors. The cost incurred by a specific third-party payor would vary depending on the number of covered births and could range from minimal (for a third-party payor with fewer than 250 covered newborns) to substantial (for a third-party payor with 2,500 or more covered newborns) if the third-party payor increased the amount paid for all birth packages. The Department expects this cost to be offset by the savings of nearly $2 million in treatment costs for each case due to detecting the disease at birth.

In CY 2017, approximately 82,477 first specimens were submitted by hospitals and birthing centers, which were billed the fee in R9-13-208 for a first specimen. The number submitted by a single health care facility ranged from one to 6,943. The Department anticipates that a hospital or birthing center may incur minimal-to-substantial costs due to the fee increase for a first specimen, depending on the number of first specimens submitted and whether the increased cost for a first specimen is offset by a corresponding increase in the birth-package fee paid to the hospital or birthing center by AHCCCS or third-party payors.

Midwives as a whole submit fewer than 300 first specimens per year. The number of first specimens submitted by individual midwives in CY 2016 ranged from one to 28. The additional costs incurred by a midwife for submitting a first specimen will vary with the number of first specimens submitted by the midwife, and may range from none-to-minimal. Most of these additional costs may be reimbursed by parents.

Parents paid for about 6.65% of births (percentage of self-paid births plus births for which the payor was unknown) in Arizona in CY 2016, according to data from the Department's Health Status and Vital Statistics group. The cost to an individual parent for increased fees for first specimens is expected to be minimal. The Department anticipates that a parent of a baby with a third-

party payor may incur none-to-minimal costs associated with an increase in insurance premiums if the third-party payor passes costs associated with the fee increase on to policyholders. The testing and follow-up activities for SCID are expected to provide a significant benefit to the parent of a baby tested through newborn screening. A parent of a baby identified through newborn screening and diagnosed early may receive up to a substantial benefit from targeted diagnostic testing and treatment for the baby made possible through early identification.

Society in general is expected to receive a significant benefit from having a baby grow up into a healthy and productive member of society because of timely identification and treatment of SCID.

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

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

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

The Department received no written comments during the public comment period. The Department held an oral proceeding for the proposed rules on September 14, 2017, which no stakeholders attended and at which no oral comments were provided.

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

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

The rules do not require a permit.

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

Not applicable

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

No business competitiveness analysis was received by the Department.

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

Not applicable

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

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES HEALTH PROGRAMS SERVICES

ARTICLE 2. NEWBORN AND INFANT SCREENING

Section
R9-13-201. Definitions
R9-13-203. Newborn and Infant Bloodspot Tests
R9-13-208. Fees

ARTICLE 2. NEWBORN AND INFANT SCREENING

R9-13-201. Definitions

In this Article, unless otherwise specified:

1. "Abnormal result" means an outcome that deviates from the range of values established by:
   a. The Department for an analysis performed as part of a bloodspot test~~,~~ or for a hearing test, or
   b. A health care facility or health care provider for critical congenital heart defect screening.
2. "Admission" or "admitted" means the same as in A.A.C. R9-10-101.
3. "AHCCCS" means the Arizona Health Care Cost Containment System.
4. "Argininosuccinic acidemia" means a congenital disorder characterized by an inability to metabolize the amino acid argininosuccinic acid due to defective argininosuccinate lyase activity.
5. "Arizona State Laboratory" means the entity operated according to A.R.S. § 36-251.
6. "Audiological equipment" means an instrument used to help determine the presence, type, or degree of hearing loss by:
   a. Providing ear-specific and frequency-specific stimuli to an individual; or
   b. Measuring an individual's physiological response to stimuli.
7. "Audiologist" means the same as in A.R.S. § 36-1901.
8. "Beta-ketothiolase deficiency" means a congenital disorder characterized by an inability to metabolize 2-methyl-acetoacetyl-CoA due to defective mitochondrial acetoacetyl-CoA thiolase activity.

9. "Biotinidase deficiency" means a congenital disorder characterized by defective biotinidase activity that causes abnormal biotin metabolism.
10. "Birth center" means a health care facility that is not a hospital and is organized for the ~~sole~~ purpose of delivering newborns.
11. "Blood sample" means capillary or venous blood, but not cord blood, applied to the filter paper of a specimen collection kit.
12. "Bloodspot test" means multiple laboratory analyses performed on a blood sample to screen for the presence of congenital disorders listed in R9-13-203.
13. "Carnitine uptake defect" means a congenital disorder characterized by a decrease in the amount of free carnitine due to defective sodium ion-dependent carnitine transporter OCTN2 activity.
14. "Citrullinemia" means a congenital disorder characterized by an inability to convert the amino acid citrulline and aspartic acid into argininosuccinic acid due to defective argininosuccinate synthetase activity.
15. "Classic galactosemia" means a congenital disorder characterized by abnormal galactose metabolism due to defective galactose-1-phosphate uridyltranferase activity.
16. "Congenital adrenal hyperplasia" means a congenital disorder characterized by decreased cortisol production and increased androgen production due to defective 21-hydroxylase activity.
17. "Congenital disorder" means an abnormal condition present at birth, as a result of heredity or environmental factors, that impairs normal physiological functioning of a human body.
18. "Congenital hypothyroidism" means a congenital disorder characterized by deficient thyroid hormone production.
19. "Critical congenital heart defect" means a heart abnormality or condition present at birth that places a newborn or infant at significant risk of disability or death if not diagnosed soon after birth.
20. "Cystic fibrosis" means a congenital disorder caused by defective functioning of a transmembrane regulator protein and characterized by damage to and dysfunction of various organs, such as the lungs, pancreas, and reproductive organs.
21. "Department" means the Arizona Department of Health Services.
22. "Diagnostic evaluation" means a hearing test performed by an audiologist or a physician to determine whether hearing loss exists, and, if applicable, determine the type or degree of hearing loss.
23. "Discharge" means the termination of inpatient services to a newborn or an infant.
24. "Disorder" means a disease or medical condition that may be identified by a laboratory analysis.
25. "Document" means to establish and maintain information in written, photographic, electronic, or other permanent form.
26. "Educational materials" means printed or electronic information provided by the Department, explaining newborn and infant screening, any of the congenital disorders listed in R9-13-203, hearing loss, or critical congenital heart defect.
27. "Electronic" means the same as in A.R.S. § 44-7002.
28. "First specimen" means the initial specimen that is collected from a newborn who is less than five days of age and sent to the Arizona State Laboratory for testing and recording of demographic information.
29. "Glutaric acidemia type I" means a congenital disorder characterized by an accumulation of glutaric acid due to defective glutaryl-CoA dehydrogenase activity.
30. "Guardian" means an individual appointed by a court under A.R.S. Title 14, Chapter 5, Article 2.
31. "Health care facility" means a health care institution defined in A.R.S. § 36-401 where obstetrical care or newborn care is provided.
32. "Health care provider" means a physician, physician assistant, registered nurse practitioner, or midwife.
33. "Health-related services" means the same as in A.R.S. § 36-401.
34. "Hearing screening" means a hearing test to determine the likelihood of hearing loss in a newborn or infant.
35. "Hearing test" means an evaluation of each of a newborn's or an infant's ears, using audiological equipment to:
    a. Screen the newborn or infant for a possible hearing loss;
    b. Determine that the newborn or infant does not have a hearing loss; or
    c. Diagnose a hearing loss in the newborn or infant, including~~, if applicable,~~ determining the type or degree of hearing loss.
36. "Hemoglobin S/Beta-thalassemia" means a sickle cell disease in which an individual has one sickle cell gene and one gene for beta thalassemia, another inherited hemoglobinopathy.
37. "Hemoglobin S/C disease" means a sickle cell disease in which an individual has one sickle cell gene and one gene for another inherited hemoglobinopathy called hemoglobin C.
38. "Hemoglobinopathy" means a congenital disorder characterized by abnormal production, structure, or functioning of hemoglobin.
39. "Home birth" means delivery of a newborn, outside a health care facility, when the newborn is not hospitalized within 72 hours of delivery.
40. "Homocystinuria" means a congenital disorder characterized by abnormal methionine and homocysteine metabolism due to defective cystathione-ß-synthase activity.
41. "Hospital" means the same as in A.A.C. R9-10-101.

42. "Hospital services" means the same as in A.A.C. R9-10-201.
43. "3-Hydroxy-3-methylglutaric aciduria" means a congenital disorder characterized by the accumulation of 3-hydroxy-3-methylglutaric acid due to a defective 3-hydroxy-3-methylglutaryl-CoA lyase activity.
44. "Identification code" means a unique set of numbers or letters, or a unique set of both numbers and letters, assigned by the Department to a health care facility, a health care provider, an audiologist, or another person submitting specimen collection kits to the Arizona State Laboratory or hearing test results to the Department.
45. "Infant" means the same as in A.R.S. § 36-694.
46. "Inpatient" means an individual who:
    a. Is admitted to a hospital,
    b. Receives hospital services for 24 consecutive hours, or
    c. Is admitted to a birth center.
47. "Inpatient services" means medical services, nursing services, or other health-related services provided to an inpatient in a health care facility.
48. "Isovaleric acidemia" means a congenital disorder characterized by an accumulation of isovaleric acid due to defective isovaleryl-CoA dehydrogenase activity.
49. "Long-chain 3-hydroxy acyl-CoA dehydrogenase deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 12 to 16 carbon atoms in length due to defective long-chain 3-hydroxy acyl-CoA dehydrogenase activity.
50. "Maple syrup urine disease" means a congenital disorder of branched chain amino acid metabolism due to defective branched chain-keto acid dehydrogenase activity.
51. "Medical services" means the same as in A.R.S. § 36-401.
52. "Medium chain acyl-CoA dehydrogenase deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 6 to 10 carbon atoms in length due to defective medium-chain acyl-CoA dehydrogenase activity.
53. "3-Methylcrotonyl-CoA carboxylase deficiency" means a congenital disorder characterized by an accumulation of 3-methylcrotonyl-glycine due to defective 3-methylcrotonyl-CoA carboxylase activity.
54. "Methylmalonic acidemia (Cbl A,B)" means a congenital disorder characterized by an accumulation of methylmalonic acid due to defective activity of methylmalonyl-CoA racemase or adenosylcobalamin synthetase.
55. "Methylmalonic acidemia (mutase deficiency)" means a congenital disorder characterized by an accumulation of methylmalonic acid due to defective methylmalonyl-CoA mutase activity.
56. "Midwife" means an individual licensed under A.R.S. Title 36, Chapter 6, Article 7, or certified under A.R.S. Title 32, Chapter 15.
57. "Multiple carboxylase deficiency" means a congenital disorder characterized by an inability to transport or metabolize biotin that leads to defective activity of propionyl-CoA carboxylase, beta-methylcrotonyl-CoA carboxylase, and pyruvate carboxylase.
58. "Newborn" means the same as in A.R.S. § 36-694.
59. "Newborn care" means medical services, nursing services, and health-related services provided to a newborn.
60. "Nursing services" means the same as in A.R.S. § 36-401.
61. "Obstetrical care" means medical services, nursing services, and health-related services provided to a woman throughout her pregnancy, labor, delivery, and postpartum.
62. "Organ" means a somewhat independent part of a human body, such as a salivary gland, kidney, or pancreas, which performs a specific function.
63. "Parent" means a natural, adoptive, or custodial mother or father of a newborn or an infant.
64. "Parenteral nutrition" means the feeding of an individual intravenously through the administration of a formula containing glucose, amino acids, lipids, vitamins, and minerals.
65. "Person" means the state, a municipality, district, or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, individual, or other legal entity.
66. "Phenylketonuria" means a congenital disorder characterized by abnormal phenylalanine metabolism due to defective phenylalanine hydroxylase activity.
67. "Physician" means an individual licensed under A.R.S. Title 32, Chapters 13, 14, 17, or 29.
68. "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25.
69. "Propionic acidemia" means a congenital disorder characterized by an accumulation of glycine and 3-hydroxypropionic acid due to defective propionyl-CoA carboxylase activity.
70. "Pulse oximetry" means a non-invasive method of measuring the percentage of hemoglobin in the blood that is saturated with oxygen using a device approved by the U.S. Food and Drug Administration for use with newborns or infants less than six weeks of age.
71. "Registered nurse practitioner" means the same as in A.R.S. § 32-1601.

72. "Second specimen" means a specimen that is sent to the Arizona State Laboratory for testing and recording of demographic information, after being collected:
    a. From a newborn after a first specimen; or
    b. From an individual at least five days and not older than one year of age, regardless of whether a first specimen was collected.
73. "Severe combined immunodeficiency" means a congenital disorder usually characterized by a defect in both the T- and B-lymphocyte systems, which typically results in the onset of one or more serious infections within the first few months of life.
74. "Sickle cell anemia" means a sickle cell disease in which an individual has two sickle cell genes.
75. "Sickle cell disease" means a hemoglobinopathy characterized by an abnormally shaped red blood cell resulting from the abnormal structure of the protein hemoglobin.
76. "Sickle cell gene" means a unit of inheritance that is involved in producing an abnormal type of the protein hemoglobin, in which the amino acid valine is substituted for the amino acid glutamic acid at a specific location in the hemoglobin.
77. "Specimen" means a blood sample obtained from and demographic information about a newborn or an infant.
78. "Specimen collection kit" means a strip of filter paper for collecting a blood sample attached to a form for obtaining the information specified in ~~R9-13-203(C)(3)~~ R9-13-203(B)(3) about a newborn or an infant.
79. "Transfer" means a health care facility or health care provider discharging a newborn and sending the newborn to a hospital for inpatient medical services without the intent that the patient will be returned to the sending health care facility or health care provider.
80. "Transfusion" means the infusion of blood or blood products into the body of an individual.
81. "Trifunctional protein deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 12 to 18 carbon atoms in length due to defective mitochondrial trifunctional protein activity.
82. "Tyrosinemia type I" means a congenital disorder characterized by an accumulation of the amino acid tyrosine due to defective fumarylacetoacetate hydrolase activity.
83. "Verify" means to confirm by obtaining information through a source such as the newborn screening program, a health care provider, a health care facility, or a documented record.
84. "Very long-chain acyl-CoA dehydrogenase deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 14 to 18 carbon atoms in length due to defective very long-chain acyl-CoA dehydrogenase activity.
85. "Working day" means 8:00 a.m. through 5:00 p.m. Monday through Friday, excluding state holidays.

R9-13-203. Newborn and Infant Bloodspot Tests

A. A bloodspot test shall screen for the following congenital disorders:

1. 3-Hydroxy-3-methylglutaric aciduria,
2. 3-Methylcrotonyl-CoA carboxylase deficiency,
3. Argininosuccinic acidemia,
4. Beta-ketothiolase deficiency,
5. Biotinidase deficiency,
6. Carnitine uptake defect,
7. Citrullinemia,
8. Classic galactosemia,
9. Congenital adrenal hyperplasia,
10. Congenital hypothyroidism,
11. Cystic fibrosis,
12. Glutaric acidemia type I,
13. Hemoglobin S/Beta-thalassemia,
14. Hemoglobin S/C disease,
15. Homocystinuria,
16. Isovaleric acidemia,
17. Long-chain 3-hydroxy acyl-CoA dehydrogenase deficiency,
18. Maple syrup urine disease,
19. Medium chain acyl-CoA dehydrogenase deficiency,
20. Methylmalonic acidemia (Cbl A,B),
21. Methylmalonic acidemia (mutase deficiency),
22. Multiple carboxylase deficiency,
23. Phenylketonuria,
24. Propionic acidemia,
25. Severe combined immunodeficiency,

~~25.~~26. Sickle cell anemia,

~~26.~~27. Trifunctional protein deficiency,

~~27.~~28. Tyrosinemia type I, and

~~28.~~29. Very long-chain acyl-CoA dehydrogenase deficiency.

~~**B.** In addition to the congenital disorders listed in subsection (A), a bloodspot test may screen for severe combined immunodeficiency when sufficient funding is available to the Department to cover the cost of the Department's activities related to the screening for severe combined immunodeficiency.~~

~~**C.**~~**B.** When a bloodspot test is ordered for a newborn or an infant, a health care facility's designee, a health care provider, or the health care provider's designee shall:

1. Only use a specimen collection kit supplied by the Department;
2. Collect a blood sample from the newborn or infant on a specimen collection kit;
3. Complete the following information on the specimen collection kit:
   a. The newborn's or infant's name, gender, race, ethnicity, medical record number, and, if applicable, AHCCCS identification number;
   b. The newborn's or infant's type of food or food source;
   c. Whether the newborn or infant is from a single or multiple birth;
   d. If the newborn or infant is from a multiple birth, the birth order of the newborn or infant;
   e. Whether the newborn or infant has a medical condition that may affect the bloodspot test results;
   f. Whether the newborn or infant received a blood transfusion and, if applicable, the date of the last blood transfusion;
   g. The date and time of birth, and the newborn's or infant's weight at birth;
   h. The date and time of blood sample collection, and the newborn's or infant's weight when the blood sample is collected;
   i. The identification code or the name and address of the health care facility or health care provider submitting the specimen collection kit;
   j. The name, address, and telephone number or the identification code of the health care provider responsible for the management of medical services provided to the newborn or infant;
   k. Except as provided in subsection ~~(C)(3)(l)~~ (B)(3)(l), the mother's first and last names, date of birth, name before first marriage, mailing address, telephone number, and if applicable, AHCCCS identification number; and
   l. If the newborn's or infant's mother does not have physical custody of the newborn or infant, the first and last names, mailing address, and telephone number of the person who has physical custody of the newborn or infant; and
4. Submit the specimen collection kit to the Arizona State Laboratory no later than 24 hours or the next working day after the blood sample is collected.

~~**D.**~~**C.** A health care facility or a health care provider submitting a first specimen to the Arizona State Laboratory shall pay the Department the fee in R9-13-208(A).

~~**E.**~~**D.** A person who submits a second specimen to the Arizona State Laboratory shall:

1. Pay the fee in R9-13-208(B) to the Department, or
2. Provide the following information to the Arizona State Laboratory for billing purposes:
   a. The name, mailing address, and telephone number of the newborn's or infant's parent or the individual responsible for paying, if not the parent; and
   b. If the individual responsible for paying has health care insurance for the newborn or infant, information about the health care insurance, including:
      i. The policyholder's name;
      ii. The name and billing address of the health care insurance company;
      iii. The member identification number;
      iv. The group number, if applicable; and
      v. The effective date of the health care insurance; or
   c. That the individual responsible for paying has no health care insurance for the newborn or infant.

~~**F.**~~**E.** When a health care insurance company or an individual responsible for paying is identified as specified in subsection ~~(E)(2)~~ (D)(2), the health care insurance company or the individual responsible for paying shall pay the Department the fee in R9-13-208(B).

~~**G.**~~**F.** When a home birth not attended by a health care provider is reported to a local registrar, a deputy local registrar, or the state registrar under A.R.S. § 36-333:

1. The local registrar, deputy local registrar, or state registrar shall notify the local health department of the county where the birth occurred; and
2. The local health department's designee shall collect a specimen from the newborn or infant according to the requirements in R9-13-204(A)(2) or R9-13-205(C).

~~**H.**~~**G.** A health care facility's designee, a health care provider, or the health care provider's designee shall ensure that:

1. Educational materials are provided to the parent or guardian of a newborn or an infant for whom a bloodspot test is ordered, and
2. The newborn's or infant's parent or guardian is informed of the requirement for a second specimen if the second specimen has not been collected.

~~**I.**~~**H.** For a home birth, a health care provider or the health care provider's designee shall provide educational materials to the parent or guardian of a newborn or an infant for whom a bloodspot test is ordered.

R9-13-208. Fees

A. The fee for a first specimen is ~~$30.00~~ $36.00.

B. The fee for a second specimen is $65.00.