



# Arizona Administrative REGISTER

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# From the Publisher

## ABOUT THIS PUBLICATION

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

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

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

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

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

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

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

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

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

## LEGAL CITATIONS AND FILING NUMBERS

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

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

# Arizona Administrative REGISTER

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A price list for the *Arizona  
Administrative Code* is available  
online. You may also request a paper  
price list by mail. To purchase a paper  
Chapter, contact us at  
(602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the  
back of the *Register*. These dates  
include file submittal dates with a  
three-week turnaround from filing to  
published document.

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# Participate in the Process

## Look for the Agency Notice

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

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

## Attend a public hearing/meeting

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

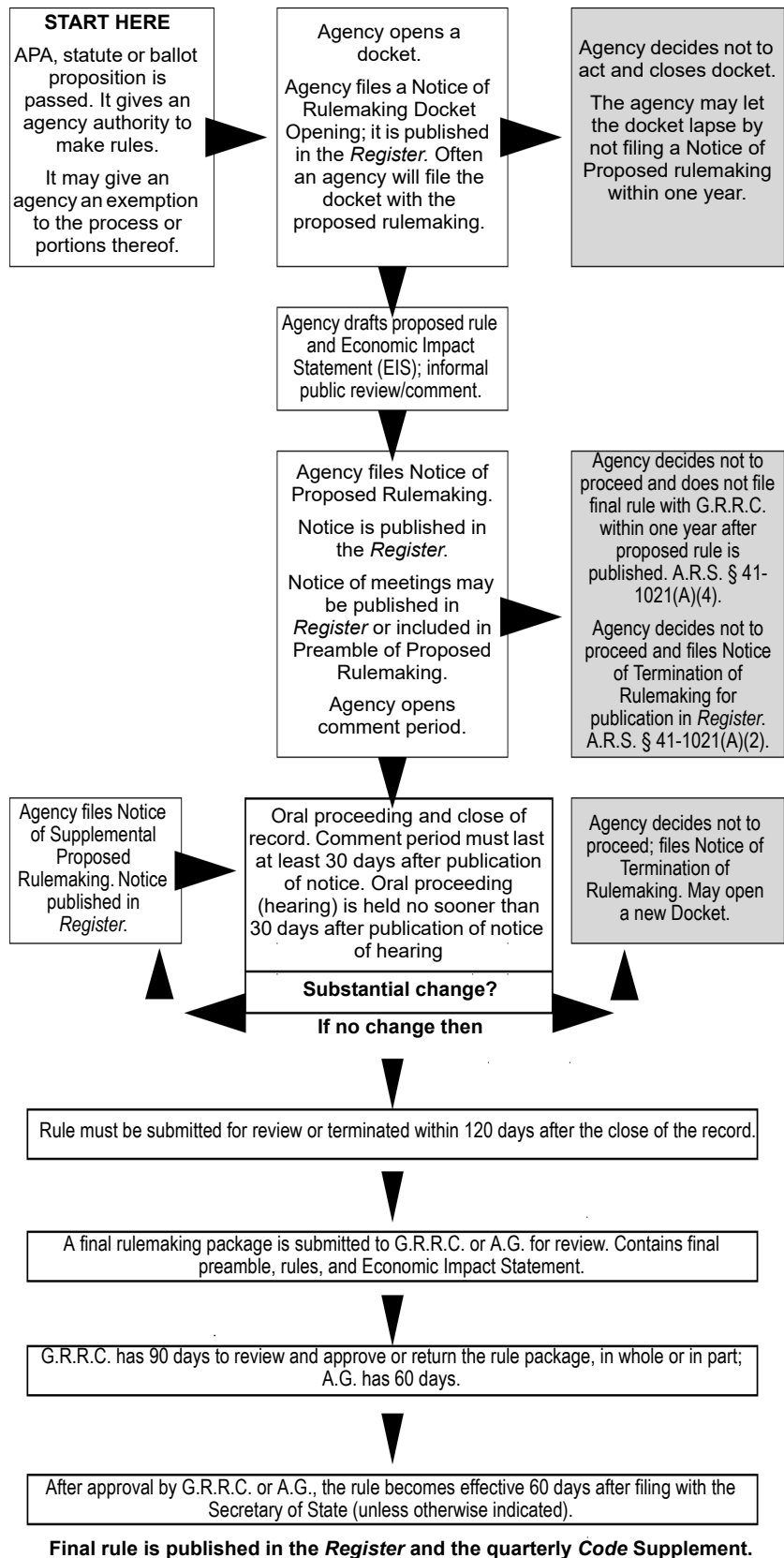
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

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

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

# Arizona Regular Rulemaking Process



## Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

## About Preambles

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

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

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



**NOTICES OF PROPOSED RULEMAKING**

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

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

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

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

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

**NOTICE OF PROPOSED RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 19. BOARD OF NURSING**

[R18-270]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R4-19-101	Amend
R4-19-201	Amend
R4-19-202	Repeal
R4-19-203	Amend
R4-19-204	Repeal
R4-19-205	Amend
R4-19-206	Amend
R4-19-207	Amend
R4-19-209	Amend
R4-19-210	Amend
R4-19-211	Amend
R4-19-212	Repeal
R4-19-213	Amend
R4-19-214	Amend
R4-19-215	Amend
R4-19-216	Amend
R4-19-217	Amend
R4-19-307	Repeal
R4-19-309	Amend
R4-19-403	Amend
R4-19-505	Amend
R4-19-506	Amend
R4-19-507	Amend
R4-19-511	Amend
R4-19-801	Amend
R4-19-802	Amend
R4-19-809	Amend
R4-19-810	Amend
R4-19-811	Repeal
R4-19-815	Amend

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

Authorizing statutes: A.R.S. §§ 32-1605.01 (B)(3); 32-1606 (A)(1), (A)(9), (B)(1), (B)(2), (B)(3), (B)(8), (B)(9), (B)(10), (B)(12), (B)(13), (B)(14), (B)(17), (B)(20), (21), (22), (C); 32-1633(C), 32-1644(A), (B), (C)(2), 32-1650.01 (A), (B)(1), (B)(2), (B)(9), (C), 32-1650.02(A), 32-1650.06(A)(3), 32-1660 Art. II Section O, 32-1663(F)(2); 32-1664(A), (O).

Implementing statutes: A.R.S. §§ 32-1601 (5), (9), (22), (26), 32-1668, and 41-1002.01.



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

Notice of Rulemaking Docket Opening: 24 A.A.R. 3603, December 28, 2018 (*in this issue*)

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

Name: Joey Ridenour RN, MS, FAAN  
Executive Director  
Address: Board of Nursing  
1740 W. Adams Ave., Suite 2000  
Phoenix, AZ 85007  
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Fax: (602) 771-7888  
E-mail: [jridenour@azbn.gov](mailto:jridenour@azbn.gov)  
Website: [www.azbn.gov](http://www.azbn.gov)

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

**R4-19-101. Definitions**

The Board approved amending this Section to include an updated definition of “dispensing” that reflects current practices in the community.

**R-19-201. Organization and Administration**

The Board seeks to amend this section and others in Article 2 to streamline the rules and reduce regulatory burdens on schools related to overall requirements and administrative structure, reduce barriers to market entry, and to clarify the remaining requirements. The Board focus is on protecting the public, including students, and some unnecessary requirements were eliminated, including the need for programs to submit clinical contracts to the Board. In order to reorganize for increased simplicity and ease of access to these rules, the Board proposes to move some necessary content from R4-19-202, and then repeal R4-19-202.

**R4-19-202. Resources, Facilities, Services, and Records**

As described, above, the Board seeks to repeal this rule. Some necessary content will be moved from this section into R4-19-201 for simplification and improved accessibility, while the unnecessary regulatory burdens are being removed.

**R4-19-203. Administrator; Qualifications and Duties**

Changes include simplifying and clarifying requirements, and providing more flexibility in management by permitting a designated nurse to perform evaluations of nursing program faculty, and requiring a “pattern of conduct” by faculty that is not compliant, but is not directly harmful to a patient or student, before additional evaluation of faculty is required.

**R4-19-204. Faculty; Personnel Policies; Qualifications and Duties**

The Board seeks to combine necessary requirements into R4-19-203 and eliminate unnecessary regulatory burdens by repealing this section.

**R4-19-205. Students; Policies and Admissions**

Changes include eliminating redundancies, clarifying requirements, and organizing content for clarity.

**R4-19-206. Curriculum**

Changes include streamlining and clarifying requirements, and eliminating an unnecessary process, the notice of deficiencies.

**R4-19-207. New Programs, Proposal Approval; Provisional Approval**

Changes include reducing barriers to entry into market, protecting competitiveness in the market, eliminating comparisons between the programs and instead focusing on public safety, streamlining, clarifying, and eliminating unnecessary requirements.

**R4-19-209. Nursing Program Change**

Minimal changes include clarifying and streamlining the regulations.

**R4-19-210. Renewal of Approval of Nursing Programs Not Accredited by a National Nursing Accrediting Agency**

Minimal changes include clarifying and streamlining the regulations.

**R4-19-211. Unprofessional Conduct in a Nursing Program; Reinstatement or Reissuance**

Proposed changes include reducing regulatory burden by requiring a “pattern” of conduct to rise to the level of a violation, unless public safety is directly impacted. The reinstatement or reissuance addition is consistent with existing requirements and processes for other regulated persons, such as in R4-19-404, and the proposed changes to R4-19-815.

**R4-19-212. Notice of Deficiency**

The Board seeks to repeal this rule as the Notice of Deficiency process entirely is inefficient and not required by A.R.S. § 32-1644(D). Instead, the Board has determined that it will resolve complaints either through non-disciplinary resolutions or disciplinary action, with the appropriate due process provided.

**R4-19-213. Nursing Programs Holding National Program Accreditation**

The Board seeks to clarify and streamline the requirements and due process provided to programs associated with this section.

**R4-19-214. Pilot Programs for Innovative Approaches in Nursing Education**

The Board seeks to clarify and streamline the requirements and due process provided to programs associated with this section.

**R4-19-215. Voluntary Termination of a Nursing Program or a Refresher Program**

Minor clarification proposed to clarify that the last “enrolled” student must complete the program prior to closure.

**R4-19-216. Approval of a Refresher Program**



Proposed changes include clarification, reorganization for clarity, removing redundancies, and eliminating specific hours requirements. The changes also include eliminating fire inspection report requirements, as fire safety is within the jurisdiction of the Arizona State Fire Marshall.

**R4-19-217. Distance Learning Nursing Programs; Out-of-State Nursing Programs**

The Board seeks to streamline and clarify requirements and process, and eliminate the notice of deficiencies process.

**R4-19-307. Application for Duplicate License**

The Board seeks to repeal this rule regarding printing of paper duplicate licenses as the Board moves towards a paperless system.

**R4-19-309. School Nurse Certification Requirements**

The Board seeks to amend this section, consistent with A.R.S. §32-1606(B)(13), to reduce additional requirements to match those for a registered nurse.

**R4-19-403. Unprofessional Conduct**

The Board seeks to clarify that it is unprofessional conduct for a nurse practitioner to practice without current national certification, if required.

**R4-19-505. Requirements for Initial APRN Certification**

To be consistent with requirements for nurses, the Board seeks to add that an advanced practice nurse registered nurse (APRN) may not be a participant in an alternative to discipline program while first seeking APRN certification. This is based upon a public safety analysis related to increased stressors with a new, higher level of practice, which places both the nurse and the public at risk while the nurse is obtaining treatment in a diversion program.

**R4-19-506. Expiration of APRN Certificate; Practice Requirement; Renewal**

Clarifies that when national certification expires, the APRN certificate expires, as national certification remains an existing requirement for the Arizona APRN certificate in R4-19-505.

**R4-19-507. Temporary Advanced Practice Certificate; Temporary Prescribing and Dispensing Authority**

Again, this change clarifies that failing to maintain certification, as required in R4-19-505.

**R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts**

The Board amended this Section through emergency rulemaking, consistent with the Governor's 2018 Opioid Epidemic Act requirements, including a prohibition on nurse practitioners dispensing opioids and clarifying that it is unprofessional conduct for a nurse practitioner to prescribe opioids in a manner inconsistent with state or federal law. Changes also include clarification of titles, as only registered nurse practitioners may prescribe and dispense drugs and devices, but the RNPs had been referred to as "nurses", which would include RNs and LPNs, who are not so authorized.

**R4-19-801. Common Standards for Certified Nursing Assistant (CNA) and Certified Medication Assistant (CMA) Training Programs**

Correction to title only to reflect that the programs are for nursing assistants, including CNAs and also LNAs.

**R4-19-802. CNA Program Requirements**

Again, title change only to accurately reflect the content of the rule by including LNAs along with CNAs.

**R4-19-809. Nursing Assistant Licensure and Medication Assistant Certificate Renewal**

Proposed technical, non-substantive changes to accurately reflect the two types of nursing assistants (LNAs and CNAs), and other minor edits for clarity.

**R4-19-810. Certified Nursing Assistant Register; Licensed Nursing Assistant Register**

Clarification of requirements, elimination of requirement to list pending investigation on LNA Registry, elimination of the outdated Arizona Department of Health Services (ADHS) findings, as ADHS no longer conducts these investigations nor makes findings.

**R4-19-811. Application for Duplicate License or Certificate**

The Board seeks to repeal this rule regarding printing of paper duplicate licenses as the Board moves towards a paperless system, consistent with the proposed repeal of R4-19-307.

**R4-19-815. Reissuance or Subsequent Issuance of a Nursing Assistant License or Medication Assistant Certificate**

Proposed changes are similar to existing requirements, but clarify the process for reissuance or subsequent issuance of licensure and certification, to be consistent with process used for nurses, as reflected in R4-19-404. This change is similar to that proposed for nursing programs, in R4-19-211. In addition, this rule will now reference the statute, A.R.S. § 32-1664(F). The intent is to increase consistency within the Nurse Practice Act.

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

There are no studies that the Board either relied on or did not rely on in its evaluation or justification for the rules.

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state;**

Not applicable

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

The Board does not anticipate a substantial economic impact from the majority of the amendments in this rulemaking. The Board regulates approximately 85,500 Registered Nurses ("RNs"), 8,000 Registered Nurse Practitioners, 10,000 Licensed Practical Nurses ("LPNs"), 7,500 Licensed Nursing Assistants ("LNAs"), 22,500 Certified Nursing Assistants ("CNAs"), 174 Clinical Nurse Specialists, 276 Certified Nurse Midwives, 885 Certified Registered Nurse Anesthetists, and 34 Certified Medical Assistants ("CMAs"). The Board regulates four LPN programs, 39 RN programs, 109 NA programs, 1 CMA programs, 21 APRN, and



10 refresher programs. The Board, regulated parties and the public are all expected to benefit from the clarity and reduced regulatory burden of this rulemaking.

The following amendments are not expected to have a substantial economic impact on the Board, regulated parties, or the general public:

- R4-19-101 was amended to provide a definition of “dispense” and is not expected to have an economic impact.
- R4-19-201 amendments, along with the repeal of R4-19-202 may produce a modest economic benefit for programs by decreasing costs for the parent programs. These amendments may also decrease administrative burdens on program and Board staff by eliminating some unnecessary requirements.
- Similarly, the R4-19-203 amendments, along with the repeal of R4-19-204, may produce a modest economic benefit by reducing some regulatory requirements, and streamlining and simplifying remaining requirements. In particular, the requirements in R4-19-203(C)(5)(b)(i) and (ii) will now require “a pattern of conduct” that is problematic but not dangerous, rather than an isolated incident, to trigger a requirement for the program administrator to evaluate faculty. The proposed changes continue to require administrator evaluation of faculty for a single incident when faculty’s conduct is or may be harmful to a patient or student.
- R4-19-205 – amendments are not expected to have an economic impact as the requirements are streamlined for clarity, but not substantively changed.
- R4-19-206 – most of these changes are for clarity, but the elimination of the notice of deficiencies process may produce an economic benefit in reduction of a regulatory process.
- R4-19-207 – the elimination of possible barriers to entry into the market, and the elimination of direct comparisons with similar programs may produce an economic benefit to the state by allowing additional programs to enter the market.
- R4-19-209 – the minimal changes proposed may produce a minimal benefit by eliminating unnecessary requirements.
- R4-19-210 – as with R4-19-209, the minimal changes are anticipated to have either no economic effect, or a minimal benefit by streamlining and clarifying requirements.
- R4-19-211 – the requirement for a “pattern of conduct” to trigger potential unprofessional conduct, unless public safety is directly at risk, may produce an economic benefit by eliminating regulatory investigations or citations for more minor infractions. The addition of section (A)(13) is not anticipated to create any significant additional economic cost, as this simply clarifies the legal authority of the Board over what would otherwise be public safety concerns. Section (B) is new, but is simply a codification of the process that would be utilized by the Board in the rare instance that a program’s approval had been previously surrendered, rescinded, or denied, and is not expected to increase any costs.
- R4-19-212 – the elimination of the Notice of Deficiency process is expected to have an economic benefit to the state by eliminating a regulatory process for situations that are better suited to either a non-disciplinary process, or, if serious or repetitive, a disciplinary process. The elimination of the extra Notice of Deficiency process is anticipated to reduce a regulatory burden on nursing programs operating in Arizona, and reduce administrative costs for the state in its regulation of programs.
- R4-19-213 – minimal changes to this section may have a minimal economic benefit by reducing and clarifying the requirements.
- R4-19-214 – these changes slightly decrease regulatory burdens to pilot programs and may have a minimal economic benefit.
- R4-19-215 – the one word change to this regulation (adding “enrolled” student) is meant solely to clarify existing requirements and should have no economic impact.
- R4-19-216 – by eliminating a specific hours requirement and allowing the programs to determine sufficient instruction, and reducing or clarifying other requirements, these changes may result in a modest economic benefit. Additionally, in section (D)(2), the Board seeks to eliminate redundant requirements that are already regulated by other state agencies, the State Board of Private Postsecondary Education; and the Arizona State Fire Marshall. These eliminations of redundancies may create a reduced regulatory burden for the programs and Board staff by eliminating the administrative costs associated with compliance.
- R4-19-217 – these changes may result in minimal economic benefit by streamlining requirements and eliminating the notice of deficiencies process.
- R4-19-307 – elimination of a paper duplicate license is expected to have no economic impact.
- R4-19-309 – elimination of additional requirements for school nurses is an elimination of regulation of a specialty area of practice based upon an analysis of the requirements for safe practice and the burden on the nurse. This may create a modest economic benefit by allowing more nurses to practice in schools without additional regulatory burdens.
- R4-19-403 – the clarification, in section (24), that a nurse practitioner practicing without current national certification, was already a requirement and is a public safety concern. This change is not anticipated to have a significant economic impact on the state, as individuals who violate this section are anticipated to have other practice concerns.
- R4-19-505 – the change in this section is a codification and clarification of a public safety concern that was already being addressed by the Board pursuant to other laws, and is not expected to create an economic impact.
- R4-19-506 – advanced practice nurses were already required to hold national certification, and thus this clarification regarding expiration is not expected to create an economic impact.
- R4-19-507 – similar to R4-19-506, this change is merely a clarification of existing requirements and is not expected to create an economic impact.
- R4-19-511 – the technical changes to this section are not expected to create any economic impact. Section (6) is merely a clarification of existing laws. The changes proposed in section (E), pursuant to the Opioid Epidemic Act of 2018 may have a modest economic impact in that they may require patients to obtain controlled substances from other providers, but the public safety





benefits outweigh any possible increased costs. In addition, there may be hidden benefits to increased regulation of controlled substances in that it may reduce addiction and overdoses, for which there are significant costs to the economy, and to individuals and families.

- R4-19-801 and 802 – minor changes to title only for clarity, no economic impact anticipated.
- R4-19-809 – the proposed minor and technical edits are not substantive and not anticipated to have any economic impact.
- R4-19-810 – the elimination of non-essential regulatory requirements may have a minor economic benefit by reducing administrative costs for Board staff.
- R4-19-811 – eliminating paper duplicate licenses is not expected to create any economic impact.
- R4-19-815 – this section is not expected to create any economic impact, as existing statute enables the Board to conduct the process as explained in the amended rule.

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

Name: Joey Ridenour RN, MS, FAAN  
Executive Director  
Address: Board of Nursing  
1740 W. Adams Ave., Suite 2000  
Phoenix, AZ 85007  
Telephone: (602) 771-7801  
Fax: (602) 771-7888  
E-mail: jridenour@azbn.gov  
Website: azbn.gov

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

The Board will hold an oral proceeding on February 4, 2019, at 3:30 p.m., in the Board offices at 1740 West Adams Avenue, Suite 2000, Phoenix, AZ 85007. The Board will accept written comments submitted to Joey Ridenour, Executive Director, 1740 West Adams Avenue, Suite 2000, Phoenix, AZ 85007 until the close of record at 5 p.m., on February 4, 2019.

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

There are no other matters prescribed by statute applicable to the Board or this specific class of rules.

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

This rulemaking does not require a permit however the rules in Articles 2, 3, 5 and 8 relate to issuing licenses, certificates and approvals all of which can be considered a general permit under § 41-1001(10).

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

Federal laws (42 CFR 483.150, 42 CFR 483.151, 42 CFR 483.152, 42 CFR 483.154, 42 CFR 483.156, 42 CFR 483.158.) contain the federal minimum requirements for nursing assistant programs and inclusion on the nursing assistant register. Except for proof of legal presence, as required under A.R.S. §41-1080, the requirements to be listed on the nursing assistant registry are no more stringent than minimal federal requirements.

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

No analysis was submitted

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

There is no material incorporated by reference.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 19. BOARD OF NURSING**

**ARTICLE 1. DEFINITIONS AND TIME-FRAMES**

Section  
R4-19-101. Definitions

**ARTICLE 2. ARIZONA REGISTERED AND PRACTICAL NURSING PROGRAMS; REFRESHER PROGRAMS**

Section  
R4-19-201. Organization and Administration  
R4-19-202. ~~Resources, Facilities, and Records~~ Repealed  
R4-19-203. Administrator; Qualifications and Duties  
R4-19-204. ~~Faculty; Personnel Policies; Qualifications and Duties~~ Repealed



- R4-19-205. Students; Policies and Admissions
- R4-19-206. Curriculum
- R4-19-207. New Programs; Proposal Approval; Provisional Approval
- R4-19-209. Nursing Program Change
- R4-19-210. Renewal of Approval of Nursing Programs Not Accredited by a National Nursing Accrediting Agency
- R4-19-211. Unprofessional Conduct in a Nursing Program; Reinstatement or Reissuance
- R4-19-212. Notice of Deficiency Repealed
- R4-19-213. Nursing Programs Holding National Program Accreditation; Changes in Accreditation
- R4-19-214. Pilot Programs for Innovative Approaches in Nursing Education
- R4-19-215. Voluntary Termination of a Nursing Program or a Refresher Program
- R4-19-216. Approval of a Refresher Program
- R4-19-217. Distance Learning Nursing Programs; Out-of-State Nursing Programs

**ARTICLE 3. LICENSURE**

Section

- R4-19-307. Application for a Duplicate License Repealed
- R4-19-309. School Nurse Certification Requirements

**ARTICLE 4. REGULATION**

Section

- R4-19-403. Unprofessional Conduct

**ARTICLE 5. ADVANCED PRACTICE REGISTERED NURSING**

Section

- R4-19-505. Requirements for Initial APRN Certification
- R4-19-506. Expiration of APRN Certificate; Practice Requirement; Renewal
- R4-19-507. Temporary Advanced Practice Certificate; Temporary Prescribing and Dispensing Authority
- R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts

**ARTICLE 8. CERTIFIED AND LICENSED NURSING ASSISTANTS AND CERTIFIED MEDICATION ASSISTANTS**

Section

- R4-19-801. Common Standards for ~~Certified~~ Nursing Assistant (~~CNA~~) (NA) and Certified Medication Assistant (CMA) Training Programs
- R4-19-802. CNA Nursing Assistant (NA) Program Requirements
- R4-19-809. Nursing Assistant Licensure and Medication Assistant Certificate Renewal
- R4-19-810. Certified Nursing Assistant Register Registry; Licensed Nursing Assistant Register Registry
- R4-19-811. Application for Duplicate License or Certificate Repealed
- R4-19-815. Reissuance or Subsequent Issuance of a Nursing Assistant License or Medication Assistant Certificate

**ARTICLE 1. DEFINITIONS AND TIME-FRAMES**

**R4-19-101. Definitions**

“Abuse” means a misuse of power or betrayal of trust, respect, or intimacy by a nurse, nursing assistant, or applicant that causes or is likely to cause physical, mental, emotional, or financial harm to a client.

“Administer” means the direct application of a medication to the body of a patient by a nurse, whether by injection, inhalation, ingestion, or any other means.

“Admission cohort” means a group of students admitted at the same time to the same curriculum in a regulated nursing, nursing assistant, or advanced practice nursing program or entering the first clinical course in a regulated program at the same time.

“Same time” means on the same date or within a narrow range of dates pre-defined by the program.

“Applicant” means a person seeking licensure, certification, prescribing, or prescribing and dispensing privileges, or an entity seeking approval or re-approval, if applicable, of a:

- CNS or RNP nursing program,
- Credential evaluation service,
- Nursing assistant training program,
- Nursing program,
- Nursing program change, or
- Refresher program.

“Approved national nursing accrediting agency” means an organization recognized by the United States Department of Education as an accrediting agency for a nursing program.

“Assign” means a nurse designates nursing activities to be performed by another nurse that are consistent with the other nurse's scope of practice.

“Certificate or diploma in practical nursing” means the document awarded to a graduate of an educational program in practical nursing.



“Certified medication assistant” means a certified nursing assistant who meets Board qualifications and is additionally certified by the Board to administer medications under A.R.S. § 32-1650 et. seq.

“CES” means credential evaluation service.

“Client” means a recipient of care and may be an individual, family, group, or community.

“Clinical instruction” means the guidance and supervision provided by a nursing, nursing assistant or medication assistant program faculty member while a student is providing client care.

“CMA” means certified medication assistant.

“CNA” means a certified nursing assistant, as defined in A.R.S. § 32-1601(4).

“CNS” means clinical nurse specialist, as defined in A.R.S. § 32-1601(7).

“Collaborate” means to establish a relationship for consultation or referral with one or more licensed physicians on an as-needed basis. Supervision of the activities of a registered nurse practitioner by the collaborating physician is not required.

“Contact hour” means a unit of organized learning, which may be either clinical or didactic and is either 60 minutes in length or is otherwise defined by an accrediting agency recognized by the Board.

“Continuing education activity” means a course of study related to nursing practice that is awarded contact hours by an accrediting agency recognized by the Board, or academic credits in nursing or medicine by a regionally or nationally accredited college or university.

“CRNA” means a certified registered nurse anesthetist as defined in A.R.S. § 32-1601 (6).

“DEA” means the federal Drug Enforcement Administration.

“Dispense” means to ~~package, label, and deliver one or more doses of a prescription only medication in a suitable container for subsequent use by a patient.~~ deliver a controlled substance or legend drug to an ultimate user.

“Dual relationship” means a nurse or CNA simultaneously engages in both a professional and nonprofessional relationship with a patient or resident or a patient’s or resident’s family that is avoidable, non-incident, and results in the patient or resident or the patient’s or resident’s family being exploited financially, emotionally, or sexually.

“Eligibility for graduation” means that the applicant has successfully completed all program and institutional requirements for receiving a degree or diploma but is delayed in receiving the degree or diploma due to the graduation schedule of the institution.

“Endorsement” means the procedure for granting an Arizona nursing license to an applicant who is already licensed as a nurse in another state or territory of the United States and has passed an exam as required by A.R.S. §§ 32-1633 or 32-1638 or an Arizona nursing assistant or medication assistant certificate to an applicant who is already listed on a nurse aide register or certified as a medication assistant in another state or territory of the United States.

“Episodic nursing care” means nursing care at nonspecific intervals that is focused on the current needs of the individual.

“Failure to maintain professional boundaries” means any conduct or behavior of a nurse or CNA that, regardless of the nurse’s or CNA’s intention, is likely to lessen the benefit of care to a patient or resident or a patient’s or resident’s family or places the patient, resident or the patient’s or resident’s family at risk of being exploited financially, emotionally, or sexually;

“Family”, as applied to R4-9-511, means individuals who are related by blood, marriage, adoption, legal guardianship, or domestic partnership, or who are cohabitating or romantically involved.

“Good standing” means the license of a nurse, or the certificate of a nursing assistant, is current, and the nurse or nursing assistant is not presently subject to any disciplinary action, consent order, or settlement agreement.

“Independent nursing activities” means nursing care within an RN’s scope of practice that does not require authorization from another health professional.

“Initial approval” means the permission, granted by the Board, to an entity to establish a nursing assistant training program, after the Board determines that the program meets the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter.

“Licensure by examination” means the granting of permission to practice nursing based on an individual’s passing of a prescribed examination and meeting all other licensure requirements.

“LPN” means licensed practical nurse.

“NCLEX” means the National Council Licensure Examination.

“Nurse” means a licensed practical or registered nurse.

“Nursing diagnosis” means a clinical judgment, based on analysis of comprehensive assessment data, about a client’s response to actual and potential health problems or life processes. Nursing diagnosis statements include the actual or potential problem, etiology or risk factors, and defining characteristics, if any.

“Nursing process” means applying problem-solving techniques that require technical and scientific knowledge, good judgment, and decision-making skills to assess, plan, implement, and evaluate a plan of care.

“Nursing program” means a formal course of instruction designed to prepare its graduates for licensure as registered or practical nurses.

“Nursing program administrator” means a nurse educator who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter and has the administrative responsibility and authority for the direction of a nursing program.

“Nursing program faculty member” means an individual working full or part time within a nursing program who is responsible for either developing, implementing, teaching, evaluating, or updating nursing knowledge, clinical skills, or curricula.



“Nursing-related activities or duties” means client care tasks for which education is provided by a basic nursing assistant training program.

“P & D” means prescribing and dispensing.

“Parent institution” means the educational institution in which a nursing program, ~~or~~ nursing assistant training program or medication assistant program is conducted.

“Patient” means an individual recipient of care.

“Pharmacology” means the science that deals with the study of drugs.

“Physician” means a person licensed under A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 17, or 29, or by a state medical board in the United States.

“Preceptor” means a licensed nurse or other health professional who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter who instructs, supervises and evaluates a licensee, clinical nurse specialist, nurse practitioner or pre-licensure nursing student, for a defined period.

“Preceptorship” means a clinical learning experience by which a learner enrolled in a nursing program, nurse refresher program, clinical nurse specialist, or registered nurse practitioner program or as part of a Board order provides nursing care while assigned to a health professional who holds a license or certificate equivalent to or higher than the level of the learner’s program or in the case of a nurse under Board order, meets the qualifications in the Board order.

“Prescribe” means to order a medication, medical device, or appliance for use by a patient.

“Private business” means any individual or sole proprietorship, partnership, limited liability partnership, limited liability company, corporation or other legal business entity.

“Proposal approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to proceed with an application for provisional approval to establish a pre-licensure nursing program in Arizona.

“Provisional approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to implement a pre-licensure nursing program in Arizona.

“Refresher program” means a formal course of instruction designed to provide a review and update of nursing theory and practice.

“Register” means a listing of Arizona certified nursing assistants maintained by the Board that includes the following about each nursing assistant:

- Identifying demographic information;

- Date placed on the register;

- Date of initial and most recent certification, if applicable; and

- Status of the nursing assistant certificate, including findings of abuse, neglect, or misappropriation of property made by the Arizona Department of Health Services, sanctions imposed by the United States Department of Health and Human Services, and disciplinary actions by the Board.

“Resident” means a patient who receives care in a long-term care facility or other residential setting.

“RN” means registered nurse.

“RNP” means a registered nurse practitioner as defined in A.R.S. § 32-1601(20).

“SBTPE” means the State Board Test Pool Examination.

“School nurse” means a registered nurse who is certified under R4-19-309.

“Secure examination” means a written test given to an examinee that:

- Is administered under conditions designed to prevent cheating;

- Is taken by an individual examinee without access to aides, textbooks, other students or any other material that could influence the examinee’s score; and,

- After opportunity for examinee review, is either never used again or stored such that only designated employees of the educational institution are permitted to access the test.

“Self-study” means a written self-evaluation conducted by a nursing program to assess the compliance of the program with the standards listed in Article 2.

“Standards related to scope of practice” means the expected actions of any nurse who holds the identified level of licensure.

“Substance use disorder” means misuse, dependence or addiction to alcohol, illegal drugs or other substances.

“Supervision” means the direction and periodic consultation provided to an individual to whom a nursing task or patient care activity is delegated.

“Unlicensed assistive personnel” or “UAP” means a CNA or any other unlicensed person, regardless of title, to whom nursing tasks are delegated.

“Verified application” means an affidavit signed by the applicant attesting to the truthfulness and completeness of the application and includes an oath that applicant will conform to ethical professional standards and obey the laws and rules of the Board.

**ARTICLE 2. ARIZONA REGISTERED AND PRACTICAL NURSING PROGRAMS; REFRESHER PROGRAMS****R4-19-201. Organization and Administration**

- A. The parent institution of a nursing program shall:
1. ~~be~~ Be accredited as a post-secondary institution, college, or university, by an accrediting body that is recognized as an accrediting body by the U.S. Department of Education, ~~and shall hold~~
  2. Hold Arizona private Post-secondary board approval status, if applicable.
  3. ~~The parent institution shall submit~~ Submit evidence to the board of continuing accreditation after each reaccreditation review or action.
  4. ~~If the parent institution holds both secondary and post-secondary accreditation, it shall operate~~ Operate any RN or PN program under its post-secondary accreditation ~~if the parent institution holds both secondary and post-secondary accreditation.~~
  5. Notify the Board within 15 days of any change or pending change in institutional accreditation status or reporting requirements.
  6. Provide adequate fiscal, physical, learning resources and adequate human resources to recruit, employ and retain sufficient numbers of qualified faculty members to support program processes and outcomes necessary for compliance with this article.
  7. Center the administrative control of the nursing program in the nursing program administrator and shall provide the support and resources necessary to meet the requirements of R4-19-203 and R4-19-204.
  8. Ensure that the nursing program is an integral part of the parent institution and shall have at a minimum equivalent status with other academic units of the parent institution.
  9. Appoint a sole individual to the position of nursing program administrator, and fill any program administrator vacancies within 15 days.
  10. Notify the Board of any changes in program administrator within 30 days and ensure that the individual appointed meets the requirements of, and fulfills the duties specified in R4-19-203.
  11. Ensure that every registered nursing program faculty member holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15, and that every faculty member meets one of the following:
    - a. If providing didactic instruction:
      - i. At least two years of experience as a registered nurse providing direct patient care; and
      - ii. A graduate degree. The majority of the faculty members of a registered nursing program shall hold a graduate degree with a major in nursing. If the graduate degree is not in nursing, the faculty member shall hold a minimum of a baccalaureate degree in nursing.
    - b. If providing clinical instruction only, as defined in R4-19-101:
      - i. The requirements for didactic faculty, or
      - ii. A baccalaureate degree with a major in nursing and at least three years of experience as a registered nurse providing direct patient care.
  12. Ensure that each practical nursing program faculty member holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S. Title 32, Chapter 15, and that every faculty member meets the following:
    - a. At least two years of experience as a registered nurse providing direct patient care, and
    - b. A minimum of a baccalaureate degree with a major in nursing.
- B. ~~A nursing program shall have a written statement of mission and goals consistent with those of the parent institution and compatible with current concepts in nursing education and practice appropriate for the type of nursing program offered.:~~
1. Maintain an organizational chart that identifies the actual relationships, lines of authority, and channels of communication within the program, between the program, and between the program and the parent institution.
  2. Develop, implement, and enforce written policies and procedures that provide:
    - a. A mechanism for student feedback into the development of academic policies and procedures and allow students to anonymously evaluate faculty, nursing courses, clinical experiences, resources and the overall program.
    - b. Personnel policies for didactic and clinical nursing faculty members including workload policies that facilitate safe and effective nursing education, including clinical experiences.
    - c. For clinical experiences, ensure that:
      - i. At least one nursing faculty member is assigned to no more than ten students while students are directly or indirectly involved in the care of patients, including precepted experiences.
      - ii. Faculty supervises all students in clinical areas in accordance with the acuity of the patient population, clinical objectives, demonstrated competencies of the student, and requirements established by the clinical agency.
      - iii. Either faculty or program-approved preceptors are on site supervising students during all patient care.
  3. Provide the minimum number of qualified faculty members necessary for compliance with the provisions of this Article.
  4. Develop and implement a written plan for the systematic evaluation of the total program that is based on program and student learning outcomes and that incorporates continuous improvement based on the evaluative data. The plan shall include measurable outcome criteria, logical methodology, frequency of evaluation, assignment of responsibility, actual outcomes and actions taken. The following areas shall be evaluated:
    - a. Internal structure of the program, its relationship to the parent institution, and compatibility of program policies and procedures with those of the parent institution;
    - b. Mission and goals consistent with those of the parent institution and compatible with current concepts in nursing education and practice appropriate for the type of nursing program offered;
    - c. Curriculum;
    - d. Education facilities, resources, and student support services;
    - e. Clinical resources;
    - f. Student achievement of program educational outcomes;



- g. Admission and graduation data for each admission cohort, including, at a minimum, the number and percent of students who graduated within 100%, 150% or greater than 150% of time allotted in the curriculum plan.
- h. Graduate performance on the licensing examination;
- i. Protection of patient safety including but not limited to:
  - i. Student and faculty policies regarding supervision of students, practicing within scope and student safe practice;
  - ii. The integration of safety concepts within the curriculum;
  - iii. The application of safety concepts in the clinical setting; and
  - iv. Policies made under R4-19-203(C)(6).
- 5. Maintain current and accurate records of the following:
  - a. Student admission materials, courses taken, grades received, scores in any standardized tests taken, health and performance, and health information submitted to meet program or clinical requirements, for a minimum of three years after the fiscal year of program completion for academic records and one year after program completion for health records;
  - b. Faculty registered nursing license number issued by the board, evidence of fulfilling the requirements in R4-19-204, and performance evaluations for faculty employed by the parent institution. Records shall be kept current during the period of employment and retained for a minimum of three years after termination of employment;
  - c. Minutes of faculty and committee meetings for a minimum of three years;
  - d. Reports from accrediting agencies and the Board for a minimum of 10 years;
  - e. Curricular materials consistent with the requirements of R4-19-206 for the current curriculum and, previous curricula used within the past three years; and
  - f. Formal program complaints and grievances since the last site review with evidence of resolution for a minimum of three years.
- ~~C. A nursing program shall be an integral part of the parent institution and shall have at a minimum equivalent status with other academic units of the parent institution.~~
- ~~D. The parent institution shall center the administrative control of the nursing program in the nursing program administrator and shall provide the support and resources necessary to meet the requirements of R4-19-203 and R4-19-204~~
- ~~E. A nursing program shall provide an organizational chart that identifies the actual relationships, lines of authority, and channels of communication within the program, and between the program and the parent institution.~~
- ~~F. A nursing program shall have a written agreement between the program and each clinical agency where clinical experience is provided to the program's students.~~
- ~~G. A nursing program shall implement written policies and procedures that provide a mechanism for student input into the development of academic policies and procedures and allow students to anonymously evaluate faculty, nursing courses, clinical experiences, resources and the overall program.~~
- ~~H. The parent institution shall appoint a sole individual to the full-time position of nursing program administrator. The parent institution shall ensure that the individual appointed meets or exceeds the requirements of, and fulfills the duties specified in, R4-19-203, whether on an interim or permanent basis.~~
- ~~I. A nursing program shall develop and implement a written plan for the systematic evaluation of the total program that is based on program and student learning outcomes and that incorporates continuous improvement based on the evaluative data. The plan shall include measurable outcome criteria, logical methodology, frequency of evaluation, assignment of responsibility, actual outcomes and actions taken. The following areas shall be evaluated:~~
  - ~~1. Internal structure of the program, its relationship to the parent institution, and compatibility of program policies and procedures with those of the parent institution;~~
  - ~~2. Mission and goals;~~
  - ~~3. Curriculum;~~
  - ~~4. Education facilities, resources, and student support services;~~
  - ~~5. Clinical resources;~~
  - ~~6. Student achievement of program educational outcomes;~~
  - ~~7. Graduation and attrition for each admission cohort including at a minimum:~~
    - ~~a. Number and percent of students who left the program;~~
    - ~~b. Number and percent of students who are out of sequence in the program; and~~
    - ~~c. Number and percent of students who graduated within 100%, 150% or greater than 150% of time allotted in the curriculum plan.~~
  - ~~8. Graduate performance on the licensing examination;~~
  - ~~9. Faculty performance; and~~
  - ~~10. Protection of patient safety including but not limited to:~~
    - ~~a. Student and faculty policies regarding supervision of students, practicing within scope and student safe practice;~~
    - ~~b. The integration of safety concepts within the curriculum;~~
    - ~~c. The application of safety concepts in the clinical setting; and~~
    - ~~d. Policies made under R4-19-203(C)(6).~~
- ~~J. The parent institution shall provide adequate fiscal, human, physical, and learning resources to support program processes and outcomes necessary for compliance with this Article.~~
- ~~K. The parent institution shall provide adequate resources to recruit, employ, and retain sufficient numbers of qualified faculty members to meet program and student learning outcomes and the requirements of this Article.~~
- ~~L. The parent institution shall notify the Board of a vacancy, pending vacancy, or leave of absence greater than 30 days in the position of nursing program administrator within 15 days of the program's awareness of the vacancy, pending vacancy, or leave of absence and do the following:~~



1. Appoint an interim or permanent administrator who meets the requirements of R4-19-203(A) within 15 days of the effective date of the vacancy or absence, and
  2. Notify the Board of the appointment of an interim or permanent administrator within 15 days of appointment and provide a copy of the administrator's credentials to the Board.
- M.** A parent institution shall notify the Board within 15 days of any change or pending change in institutional accreditation status or reporting requirements.
- NC.** Prior to final approval for new nursing programs and by July 31, 2015 for existing programs, all RN nursing programs offering less than a bachelor's degree in nursing shall have a minimum of one articulation agreement with a Board approved and nationally accredited baccalaureate or higher nursing program that includes recognition of prior learning in nursing and recognition of foundational courses.

**R4-19-202. Resources, Facilities, Services, and Records Repealed**

- A.** The parent institution of a nursing program shall consider the size of the program including number of program faculty and number of program students and shall provide and maintain resources, services and facilities for the effective development and implementation of the program that are at a minimum:
1. Equivalent to those provided by approved programs of equivalent size and type, or in the case of no equivalent program, sealed relative to an approved program;
  2. Comparable to those provided to other academic units of the parent institution; and
  3. Include the following:
    - a. A private office for the nursing program administrator;
    - b. Faculty offices that are conveniently located to program classrooms and secretarial support staff;
    - c. If faculty offices are not private, the parent institution shall provide dedicated space for private faculty-student conferences that is:
      - i. Conveniently located to faculty offices, and
      - ii. Available whenever confidential student information is discussed.
    - d. Space for secretarial support and a secure area for records and files, convenient to the nursing program faculty and administrator;
    - e. Classrooms, laboratories, and conference rooms of the size and type needed with furnishings and equipment consistent with the educational purposes for which the facilities are used;
    - f. Acoustics, lighting, ventilation, plumbing, heating and cooling in working order;
    - g. Dedicated secretarial, laboratory and other support personnel available to meet the needs of the program;
    - h. Access to a comprehensive, current, and relevant collection of educational materials and learning resources for faculty members and students;
    - i. Access to supplies and equipment to simulate patient care that are:
      - i. In working order,
      - ii. Organized in a manner so that they are readily available to faculty,
      - iii. Consistent with current clinical practices, and
      - iv. Of sufficient quantity for the number of students enrolled,
    - j. Current technology in working order to support teaching and learning. Institutions offering web enhanced and distance education shall provide ongoing and effective technical, design and production support for faculty members and technical support services for students.
- B.** A nursing program shall maintain current and accurate records of the following:
1. Student records, including admission materials, courses taken, grades received, scores in any standardized tests taken, health and performance records, and health information submitted to meet program or clinical requirements for a minimum of three years after the fiscal year of program completion for academic records and one year after program completion for health records;
  2. Faculty records, including Arizona professional nursing license number, evidence of fulfilling the requirements in R4-19-204, and performance evaluations for faculty employed by the parent institution for one or more years. Records shall be kept current during the period of employment and retained for a minimum of three years after termination of employment;
  3. Minutes of faculty and committee meetings for a minimum of three years;
  4. Reports from accrediting agencies and the Board for a minimum of 10 years;
  5. The statement of mission and goals, and curricular materials consistent with the requirements of R4-19-206 for the current curriculum and, if the current curriculum is less than three years old, the previous curriculum; and
  6. Formal program complaints and grievances since the last site review with evidence of due process and resolution.

**R4-19-203. Administrator; Qualifications and Duties**

- A.** The nursing program administrator shall hold a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15 and:
1. For registered nursing programs:
    - a. A graduate degree with a major in nursing;
    - b. A minimum of three years work experience as a registered nurse providing direct patient care; and
    - c. If appointed to the position of nursing program administrator on or after the effective date of these rules, have a minimum of one academic year full-time experience teaching in or administering a nursing education program leading to licensure; or
    - d. If lacking the requirements of subsection (A)(1)(c), the parent institution may appoint an individual to the position of "Interim Program Administrator" under the following conditions:
      - i. The individual is subject to termination based on performance and any factors determined by the institution;
      - ii. A direct supervisor evaluates performance periodically over the next 12 months to ensure institutional and program goals are being addressed; and



- iii. If evaluations are satisfactory, the individual may be appointed to permanent status after 12 months in the interim position.
- 2. For practical nursing programs:
  - a. If appointed prior to the effective date of these rules, a baccalaureate degree with a major in nursing; and
  - b. If appointed on or after the effective date of these rules, the requirements of subsection (A)(1).
- B. The administrator shall have comparable status with other program administrators in the parent institution and shall report directly to an academic officer of the institution.
- C. The administrator shall have the authority and responsibility to direct the program in all its phases, including:
  - 1. Administering the nursing education program;
  - 2. Directing activities related to ~~academic policies~~, personnel ~~policies~~, curriculum, resources, facilities, services, program policies, and program evaluation;
  - 3. Preparing and administering the budget;
  - 4. ~~Recommending candidates for faculty appointment, retention, and promotion;~~
  - 5. ~~In addition to any other evaluation used by the parent institution, ensuring that~~ Evaluating nursing program faculty members are evaluated at a minimum:
    - a. Annually in the first year of employment and every three years thereafter;
    - b. Upon receipt of information that a faculty member, in conjunction with performance of their duties, may be engaged in intentional, negligent or other behavior conduct that either is or might be:
      - i. Below A pattern of conduct the standards of the program or the parent institution,
      - ii. A pattern of conduct that is inconsistent inconsistent with nursing professional standards, or
      - iii. Any conduct that is Potentially potentially or actually harmful to a patient or a student.
    - e. ~~By the nurse administrator or a nurse educator designated by the nurse administrator, and~~
    - 6. In the areas of teaching ability and application of nursing knowledge and skills relative to the teaching assignment.
  - 6. Together with faculty ~~developing, enforce and evaluate equivalent student and faculty policies necessary for safe patient care and to meet clinical agency requirements regarding:~~
    - a. ~~Physical and mental health, Developing, implementing, consistently enforcing, evaluating, and revising, as necessary:~~
      - i. Equivalent student and faculty policies necessary for safe patient care, including faculty supervision of clinical activities, and to meet clinical agency requirements regarding student and faculty physical and mental health, criminal background checks, substance use screens, and functional abilities.
      - ii. The program of learning including the curriculum and learning outcomes of the program, standards for the admission, progression, and graduation of students, and written policies for faculty orientation, continuous learning and evaluation.
      - iii. Student and faculty policies regarding minimal requisite nursing skills and knowledge necessary to provide safe patient care for the type of unit and patient assignment.
    - b. ~~Criminal background checks, Participate in advisement and guidance of students.~~
    - e. ~~Substance use screens~~
    - d. ~~Functional abilities, and~~
    - e. ~~Supervision of clinical activities.~~
  - 7. Participating in activities that contribute to the governance of the parent institution;
  - 8. ~~Together with faculty develop, enforce and evaluate both student and faculty policies regarding minimal requisite nursing skills and knowledge necessary to provide safe patient care for the type of unit and patient assignment; and~~
  - 9. ~~Enforcing consistent application of all nursing program policies.~~
- D. The administrator of the nursing program shall not carry a teaching load of more than three clock hours per week if required to teach.
- E. The administrator may have administrative responsibilities other than the nursing program, provided that a nursing program faculty member is designated to assist with program management and the administrator is able to fulfill the duties of this Article.

**R4-19-204. Faculty; Personnel Policies; Qualifications and Duties Repealed**

- A. ~~A nursing program shall implement written personnel policies for didactic and clinical nursing faculty members including workload policies that at minimum conform to those for other faculty members of the parent institution and that are in accordance with accepted nursing educational standards or provide a written explanation of any differences not related to the requirements of this Article.~~
- B. ~~A nursing program shall provide at a minimum the number of qualified faculty members necessary for compliance with the provisions of this Article and comparable to that provided by approved programs of equivalent size and program type, or, in the case of no equivalent program, a number scaled relative to an approved program.~~
- C. ~~The parent institution of a nursing program shall ensure that at least one nursing faculty member is assigned to no more than ten students while students are directly or indirectly involved in the care of patients including precepted experiences.~~
- D. ~~The faculty shall supervise all students in clinical areas in accordance with the acuity of the patient population, clinical objectives, demonstrated competencies of the student, and requirements established by the clinical agency.~~
- E. ~~The parent institution of a nursing program shall ensure that every registered nursing program faculty member holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15 and that every faculty member meets one of the following:~~
  - 1. ~~If providing didactic instruction:~~
    - a. ~~At least two years of experience as a registered nurse providing direct patient care; and~~
    - b. ~~A graduate degree. The majority of the faculty members of a registered nursing program shall hold a graduate degree with a major in nursing. If the graduate degree is not in nursing, the faculty member shall hold a minimum of a baccalaureate degree in nursing; or~~
  - 2. ~~If providing clinical instruction, as defined in R4-19-101, only:~~





- a. The requirements for didactic faculty, or
  - b. A baccalaureate degree with a major in nursing and at least three years of experience as a registered nurse providing direct patient care.
- F.** ~~The parent institution of a nursing program shall ensure that each practical nursing program faculty member holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15 and that every faculty member meets the following:~~
- 1. ~~At least two years of experience as a registered nurse providing direct patient care, and~~
  - 2. ~~A minimum of a baccalaureate degree with a major in nursing.~~
- G.** ~~Under the leadership of the nursing program administrator, nursing program faculty members shall:~~
- 1. ~~Develop, implement, evaluate, and revise the program of learning including the curriculum and learning outcomes of the program;~~
  - 2. ~~Develop, implement, evaluate and revise standards for the admission, progression, and graduation of students;~~
  - 3. ~~Participate in advisement and guidance of students.~~
- H.** ~~Together with the nursing program administrator, develop, implement and evaluate written policies for faculty orientation, continuous learning and evaluation.~~

#### R4-19-205. Students; Policies and Admissions

- A.** The number of students admitted to a nursing program shall be determined by the number of qualified faculty, the size, number and availability of educational facilities and resources, and the availability of the appropriate clinical learning experiences for students.
- B.** A nursing program shall implement written student admission and progression requirements that are evidence-based, allow for a variety of clinical experiences and satisfy the licensure criteria of A.R.S. Title 32, Chapter 15 and A.A.C. Title 4 Chapter 19.
- C.** ~~A nursing program shall have and enforce written policies available to students and the public regarding admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, and dismissal.~~
- DC.** A nursing program and parent institution shall: ~~have and enforce written policies that are readily available to students in either the college catalogue or nursing student handbook that address student rights, responsibilities, grievances, health, and safety.~~
- 1. Develop and enforce written policies that are readily available to:
    - a. Students, in either the college catalogue or nursing student handbook, that address student rights, responsibilities, grievance processes, health, safety; and
    - b. Students and the public, for policies regarding, admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, and dismissal.
  - 2. Provide accurate and complete written information that is readily available to all students and the general public about the program, including:
    - a. The nature of the program, including course sequence, prerequisites, co-requisites and academic standards;
    - b. The length of the program;
    - c. Total program costs including tuition, fees and all program related expenses;
    - d. The transferability of credits to other public and private educational institutions in Arizona; and
    - e. A clear statement regarding any technology based instruction and the technical support provided to students.
- E.** ~~A nursing program and parent institution shall provide accurate and complete written information that is readily available to all students and the general public about the program, including~~
- 1. ~~The nature of the program, including course sequence, prerequisites, co-requisites and academic standards;~~
  - 2. ~~The length of the program;~~
  - 3. ~~Total program costs including tuition, fees and all program related expenses;~~
  - 4. ~~The transferability of credits to other public and private educational institutions in Arizona; and~~
  - 5. ~~A clear statement regarding any technology based instruction and the technical support provided to students.~~
- FD.** A nursing program shall communicate changes in policies, procedures and program information clearly to all students, prospective students and the public and provide advance notice ~~similar to the advance notice provided by an approved program of similar size and type~~ in a time-frame that allows those who are or may be affected to comply with the changes.

#### R4-19-206. Curriculum

- A.** ~~A nursing program shall assign students only to those clinical agencies that provide the experience necessary to meet the established clinical objectives of the course.~~
- BA.** A nursing program shall provide a written program curriculum to students that includes;
- 1. Student centered outcomes for the program;
  - 2. A curriculum plan that identifies the prescribed course sequencing and time required;
  - 3. Specific course information that includes:
    - a. A course description and outline including student centered and measurable didactic, clinical, and simulation objectives, if applicable, for each unit of instruction;
    - b. ~~Student centered and measurable didactic objectives;~~
    - c. ~~Student centered and measurable clinical objectives, if applicable;~~
    - d. ~~Student centered and measurable simulation objectives, if applicable;~~
    - e. ~~A course content outline that relates to the course objectives;~~
    - f. ~~Student centered and measurable objectives and a content outline for each unit of instruction.~~
    - g. Graded activities to demonstrate that course objectives have been met.
- CB.** A nursing program administrator and faculty members shall ensure that the curriculum:
- 1. ~~Reflects the nursing program's mission and goals;~~
  - 2. Is designed so that the student is able to achieve program objectives within the curriculum plan;
  - 3. Is logically consistent between and within courses and structured in a manner whereby each course builds on previous learning.



- 43. Incorporates established professional standards, guidelines or competencies; and
  - 54. Is designed so that a student who completes the program will have the knowledge and skills necessary to function in accordance with the definition and scope of practice specified in A.R.S. § 32-1601(17) and R4-19-401 for a practical nurse or A.R.S. § 32-1601(19) and R4-19-402 for a registered nurse Title 32, Chapter 15 and A.A.C. Title 4 Chapter 19, for a registered or practical nurse, as applicable.
- DC.** A nursing program shall provide for progressive sequencing of classroom and clinical instruction sufficient to meet the goals of the program and be organized in such a manner to allow the student to form necessary links of theoretical knowledge, clinical reasoning, and practice.
- 1. A nursing program curriculum shall provide coursework that includes, but is not limited to:
    - a. Content in the biological, physical, social, psychological and behavioral sciences, professional responsibilities, legal and ethical issues, history and trends in nursing and health care, to provide a foundation for safe and effective nursing practice consistent with the level of the nursing program;
    - ~~b. Content regarding professional responsibilities, legal and ethical issues, history and trends in nursing and health care;~~
    - eb. Didactic content and supervised clinical experience in the prevention of illness and the promotion, restoration and maintenance of health in patients across the life span and from diverse cultural, ethnic, social and economic backgrounds to include:
      - i. Patient centered care,
      - ii. Teamwork and collaboration,
      - iii. Evidence-based practice,
      - iv. Quality improvement,
      - v. Safety, and
      - vi. Informatics,
  - 2. A registered nursing program shall provide clinical instruction that includes, at a minimum, selected and guided experiences that develop a student's ability to apply core principles of registered nursing in varied settings when caring for:
    - a. Adult and geriatric patients with acute, chronic, and complex, life-threatening, medical and surgical conditions;
    - b. Peri-natal patients and families;
    - c. Neonates, infants, and children;
    - d. Patients with mental, psychological, or psychiatric conditions; and
    - e. Patients with wellness needs.
  - 23. A practical nursing program shall provide clinical instruction that includes, at minimum, selected and guided experiences that develop a student's ability to apply core principles of practical nursing when caring for:
    - a. Patients with medical and surgical conditions throughout the life span,
    - b. Peri-natal patients, and
    - c. Neonates, infants, and children in varied settings.
  - 4. A nursing program shall assign students only to those clinical agencies that provide the experience necessary to meet the established clinical objectives of the course.
- E.** A nursing program may provide precepted clinical instruction. Programs offering precepted clinical experiences shall:
- 1. Develop and ~~adhere to~~ enforce policies that require preceptors to:
    - a. Be licensed nurses at or above the level of the program either by holding an Arizona license in good standing, holding multi-state privilege to practice in Arizona under A.R.S. Title 32, Chapter 15, or if practicing in a federal facility, meet requirements of A.R.S. § 32-1631(5);
    - b. For LPN preceptors, practice under the ~~general~~ supervision required by A.R.S. Title 32, Chapter 15 of an RN or physician according to A.R.S. § 32-1601(16).
  - 2. Develop and implement policies that require a faculty member of the program to:
    - a. Together with facility personnel, select preceptors that possess clinical expertise sufficient to accomplish the goals of the preceptorship;
    - b. Supervise the clinical instruction ~~according to the provisions of R4-19-204(C) and (D)~~ consistent with requirements of this Article, and
    - c. Maintain accountability for student education and evaluation.
- F.** A nursing program may utilize simulation in accordance with the clinical objectives of the course. Unless approved under R4-19-214, a nursing program shall not utilize simulation for an entire clinical experience with any patient population identified in subsection (D) of this Section.
- G.** A nursing program shall maintain at least a 80% NCLEX® passing rate for graduates taking the NCLEX-PN® or NCLEX-RN® for the first time within 12 months of graduation. ~~The Board shall issue a notice of deficiency to any program that has a NCLEX® passing rate less than 80% for two consecutive calendar years or less than 75% for one calendar year.~~
- H.** At least 45% of students enrolled in the first nursing clinical course shall graduate within 100% of the prescribed period. "Prescribed period" means the time required to complete all courses and to graduate on time according to the nursing program's curriculum plan in place at the time the student entered the program, excluding the time to complete program pre-requisite or pre-clinical courses.

**R4-19-207. New Programs; Proposal Approval; Provisional Approval**

- A. At a minimum of one year before establishing a nursing program, a parent institution shall submit to the Board one electronic copy and one paper copy of an application for proposal approval. The parent institution shall ensure that the proposal application was written by or under the direction of a registered nurse who meets the nursing program administrator requirements of R4-19-203(A) and includes the following information and documentation:
  - 1. Name and address of the parent institution;
  - 2. Statement of intent to establish a nursing program, including the academic and licensure level of the program; and;



- a. Organizational structure of the educational institution documenting the relationship of the nursing program within the institution and the role of the nursing program administrator consistent with R4-19-201 and R4-19-203;
  - b. Evidence of institutional accreditation consistent with R4-19-201 and post-secondary approval, if applicable. The institution shall provide the most recent full reports including findings and recommendations of the applicable accrediting organization or approval agency. The Board may request additional accreditation or approval evidence.
  - c. Curriculum development documentation to include:
    - i. Student-centered outcomes for the program;
    - ii. A plan that identifies the prescribed course sequencing and time required; and
    - iii. Identification of established professional standards, guidelines or competencies upon which the curriculum will be based;
  - d. Name, qualifications, and job description of a nursing program administrator who meets the requirements of R4-19-203 and availability and job description of faculty who meet qualifications of R4-19-204;
  - e. Number of budgeted clinical and didactic faculty positions from the time of the first admission to graduation of the first class;
  - f. Evidence that the program has secured clinical sites for its projected enrollment that meet the requirements of R4-19-206;
  - g. Anticipated student enrollment per session and annually;
  - h. Documentation of planning for adequate academic facilities and secretarial and support staff to support the nursing program consistent with the requirements of R4-19-202;
  - i. Evidence of adequate program financial resources;
  - j. Tentative time schedule for planning and initiating the nursing program including faculty hiring, entry date and size of student cohorts, and obtaining and utilizing clinical placements from the expected date of proposal approval to graduation of the first cohort.
  - k. For a parent institution or owner corporation that has multiple nursing programs in one or more U.S. jurisdictions including Arizona, evidence for each of its nursing programs that includes:
    - i. Program approval in good standing with no conditions, restrictions, ongoing investigations or deficiencies;
    - ii. An NCLEX pass rate of at least 80% for the past two years or since inception; and
    - iii. An on-time graduation rate consistent with the requirements of R4-19-206.
3. Proposal that includes, but is not limited to, the following information:
- a. ~~Documentation of the present and future need for the type and level of program in the state including availability of potential students, need for entry-level nurses at the educational level of the program and availability of clinical placements that meet the requirements of R4-19-206;~~
  - b. ~~Evidence that written notification of intent to establish a new nursing education program has been provided to the nursing program administrators of all existing Arizona approved programs a minimum of 30 days prior to submission of the proposal application, including projected student enrollment and clinical sites;~~
  - c. ~~Organizational structure of the educational institution documenting the relationship of the nursing program within the institution and the role of the nursing program administrator consistent with R4-19-201 and R4-19-203;~~
  - d. ~~Evidence of institutional accreditation consistent with R4-19-201 and post secondary approval, if applicable. The institution shall provide the most recent full reports including findings and recommendations of the applicable accrediting organization or approval agency. The Board may request additional accreditation or approval evidence.~~
  - e. ~~Purpose and mission of the nursing program;~~
  - f. ~~Curriculum development documentation to include:~~
    - i. ~~Student-centered outcomes for the program;~~
    - ii. ~~A plan that identifies the prescribed course sequencing and time required; and~~
    - iii. ~~Identification of established professional standards, guidelines or competencies upon which the curriculum will be based;~~
  - g. ~~Name, qualifications, and job description of a nursing program administrator who meets the requirements of R4-19-203 and availability and job description of faculty who meet qualifications of R4-19-204;~~
  - h. ~~Number of budgeted clinical and didactic faculty positions from the time of the first admission to graduation of the first class;~~
  - i. ~~Evidence that the program has secured clinical sites for its projected enrollment that meet the requirements of R4-19-206;~~
  - j. ~~Anticipated student enrollment per session and annually;~~
  - k. ~~Documentation of planning for adequate academic facilities and secretarial and support staff to support the nursing program consistent with the requirements of R4-19-202;~~
  - l. ~~Evidence of adequate program financial resources comparable to an approved program of similar size and type or, if there is no comparable program, scaled relative to an approved program adequate for the planning, implementation, and continuation of the nursing program; and~~
  - m. ~~Tentative time schedule for planning and initiating the nursing program including faculty hiring, entry date and size of student cohorts, and obtaining and utilizing clinical placements from the expected date of proposal approval to graduation of the first cohort.~~
  - n. ~~A parent institution or owner corporation that has multiple nursing programs in one or more U.S. jurisdictions including Arizona, shall provide the following evidence for each nursing program:~~
    - i. ~~Program approval in good standing with no conditions, restrictions, ongoing investigations or deficiencies;~~
    - ii. ~~An NCLEX pass rate of at least 80% for the past two years or since inception; and~~
    - iii. ~~An on-time graduation rate consistent with the requirements of R4-19-206(H).~~
- B. The Board shall grant proposal approval to any parent institution that meets the requirements of subsection (A) if the Board deems that such approval is in the best interests of the public. Proposal approval expires one year from the date of Board issuance.



- C. A parent institution that is denied proposal approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for proposal approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- D. At a minimum of 180 days before planned enrollment of students, a parent institution that received proposal approval within the previous year may submit to the Board one electronic copy and one paper copy of an application for provisional approval. The parent institution shall ensure that the provisional approval application was written by or under the direction of a registered nurse who meets the program administrator requirements of R4-19-203(A) and includes the following information and documentation:
  - 1. Name and address of parent institution;
  - 2. A self-study that provides evidence supporting compliance with R4-19-201 through R4-19-206, and
  - 3. Names and qualifications of:
    - a. The nursing program administrator;
    - b. Didactic nursing faculty or one or more nurse consultants who are responsible for developing the curriculum and determining nursing program admission, progression and graduation criteria;
  - 4. Plan for recruiting and hiring additional didactic faculty for the first semester or session of operation at least 60 days before classes begin;
  - 5. Plan for recruiting and hiring additional clinical nursing faculty at least 30 days before the clinical rotation begins;
  - 6. Final program implementation plan including dates and number of planned student admissions, recruitment and hire dates for didactic and clinical faculty for the period of provisional approval.
  - 7. Descriptions of available and proposed physical facilities with dates of availability; and
  - 8. Detailed written plan for clinical placements for all planned enrollments until graduation of the first class that is:
    - a. Based on current clinical availability and curriculum needs;
    - b. ~~Accompanied by documentation of commitment~~ Confirms availability and commitment from proposed clinical agencies for the times and units specified, ~~in addition to a signed clinical contract that meets the requirements of R4-19-201(F) from each agency; and~~
    - e. Lists any nursing programs who are currently using the planned clinical units for the times proposed and will be displaced.
- E. Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall grant a two year provisional approval to a parent institution that meets the requirements of R4-19-201 through R4-19-206 if approval is in the best interest of the public. A parent institution that is denied provisional approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- F. The provisional approval of a nursing program expires 12 months from the date of the grant of provisional approval if a class of nursing students is not admitted by the nursing program within that time. ~~The Board may rescind the provisional approval of a nursing program for a violation of any provision of this Article according to R4-19-211.~~
- G. One year after admission of the first nursing class into nursing courses, the program shall provide a report to the Board containing information on:
  - 1. Implementation of the program including any differences from the plans submitted in the applications for proposal and provisional approval and an explanation of those differences; and
  - 2. The outcomes of the evaluation of the program according to the program's systematic evaluation plan under R4-19-201(~~F~~);
- H. Following receipt of the report described in subsection (G), a representative of the Board shall conduct a site survey visit ~~under in accordance with A.R.S. § 41-1009~~ to determine compliance with this Article. A report of the site visit shall be provided to the Board.
- I. ~~If a nursing program with provisional approval fails to comply with requirements of A.R.S. Title 32, Chapter 15, or 4 A.A.C. 19, Article 4, the Board may initiate a disciplinary action. Prior to imposition of discipline against a provisional approval, the apply for full approval within two years of graduating its first class of students, the Board shall rescind its provisional approval. A nursing program whose provisional approval is rescinded may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding the provisional approval. Hearings shall be is entitled to a hearing conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.~~
- ~~J. A nursing program whose provisional approval is rescinded may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding the provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.~~

**R4-19-209. Nursing Program Change**

- A. ~~The program administrator shall ensure that the following changes to a nursing education program are evidence based and supported by rationale.~~ A nursing program administrator shall receive approval from the Board before implementing any of the following nursing program changes:
  - 1. ~~Substantive change in the mission or goals of the program that requires revision of curriculum~~ Curriculum or program delivery method;
  - 2. Increasing or decreasing the academic credits or units of the program excluding pre-requisite credits;
  - 3. Adding a geographical location of the program;
  - 4. Changing the level of educational preparation provided;
  - 5. Transferring the nursing program from one parent institution to another; or
  - 6. Establishing different admission, progression or graduation requirements for specific cohorts of the program.
- B. The administrator shall submit one electronic and one paper copy of the following materials with the request for nursing program changes:
  - 1. The rationale for the proposed change and the anticipated effect on the program administrator, faculty, students, resources, and facilities;
  - 2. A summary of the differences between the current practice and proposed change;
  - 3. A timetable for implementation of the change; and



4. The methods of evaluation to be used to determine the effect of the change.
- C. The Board shall approve a request for a nursing program change if the program ~~demonstrates that it has the resources to implement the change and the change is evidence-based~~ meets the requirements of this Section and consistent with R4-19-201 through R4-19-206. A nursing program that is denied approval of program changes may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for program change full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**R4-19-210. Renewal of Approval of Nursing Programs Not Accredited by a National Nursing Accrediting Agency**

- A. An approved nursing program that is not accredited by an approved national nursing accrediting agency shall submit an application packet to the Board at least four months before the expiration of the current approval that includes the following:
1. Name and address of the parent institution,
  2. Evidence of current institutional accreditation status under R4-19-201,
  3. Evidence that the program has secured clinical sites for its projected enrollment that meet the requirements of R4-19-206.
34. Copy or on-line access to:
- a. A current catalog of the parent institution,
  - b. Current nursing program and institutional student and academic policies, and
  - c. Institutional and nursing program faculty policies and job descriptions for nursing program faculty, and
45. One electronic copy and one paper copy of a self-study report that contains evidence of compliance with R4-19-201 through R4-19-206.
- B. Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall renew program approval for a maximum of five years if the nursing program meets the criteria in R4-19-201 through R4-19-206 and if renewal is in the best interest of the public. The Board shall determine the term of approval that is in the best interest of the public.
- C. If the Board denies renewal of approval, the nursing program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**R4-19-211. Unprofessional Conduct in a Nursing Program; Reinstatement or Reissuance**

- ~~A.~~ A disciplinary action, ~~or denial of approval, or notice of deficiency~~ may be issued against a nursing, ~~or refresher, pilot, or distance learning~~ program for any of the following acts of unprofessional conduct ~~in a nursing program~~:
1. A pattern of Failure failure to maintain minimum standards of acceptable and prevailing educational or nursing practice, ~~or any such failure related to student or patient health, welfare, or safety;~~
  2. A pattern of Deficiencies deficiencies in compliance with the provisions of this Article, ~~or any such deficiency related to student or patient health, welfare, or safety;~~
  3. Utilization or substitution of students to meet staffing needs in health care facilities;
  4. A pattern of Non-compliance non-compliance with the program's or parent institution's mission or goals, program design, objectives, or policies, ~~or any such deficiency related to student or patient health, welfare, or safety;~~
  5. Failure to provide the variety and number of clinical learning opportunities necessary for students to achieve program outcomes or minimal nursing competence;
  6. Student enrollments without necessary faculty, facilities, or clinical experiences to achieve program outcomes or minimal nursing competence;
  7. Ongoing or repetitive employment of unqualified faculty or program administrator;
  8. Failure to comply with Board requirements within designated time-frames;
  9. Fraud or deceit in advertising, promoting or implementing the program;
  10. Material misrepresentation of fact ~~by a nursing or refresher program~~ in any advertisement, application or information submitted to the Board;
  11. Failure to allow Board staff to visit the program or conduct an investigation including failure to supply requested investigative documents; ~~or~~
  12. Any other evidence that ~~gives the Board reasonable cause to believe~~ the program's conduct may be a threat to the safety and well-being of students, faculty, patients or potential patients; ~~or~~
  13. Violation of any other state or federal laws, rules, or regulations that may indicate a threat to the safety or well-being of students, faculty, patients or potential patients.
- ~~B.~~ If a program's approval was surrendered, rescinded, or denied, the program may reapply for reinstatement or reissuance of approval after a period prescribed by the Board, not to exceed five years. The program must comply with all application requirements in this Article, and further provide evidence of remediation of all violations that led to the rescission. The Board shall review the evidence, and reinstate or reissue approval of the program if the program has demonstrated remediation, complies with all program requirements in A.R.S. Title 32, Chapter 15, and A.A.C. Title 4, Chapter 19, and reinstatement is in the best interests of the public. If reinstatement or reissuance is denied, the may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and A.A.C. Title 4, Chapter 19, Article 6.

**R4-19-212. Notice of Deficiency Repealed**

- ~~A.~~ Under A.R.S. § 32-1644(D), when surveying or re-surveying a nursing program, the Board shall, upon initially determining that a nursing program is not in compliance with applicable provisions of this Article provide to the nursing program administrator a written notice of deficiencies that establishes a reasonable time, based upon the number and severity of deficiencies, to correct the deficiencies not to exceed 18 months.
1. ~~The administrator shall, within 30 days from the date of service of the notice of deficiencies, file a plan to correct each of the identified deficiencies after consultation with the Board or designated Board representative.~~



- 2. The administrator may, within 30 days from the date of service of the notice of deficiencies, submit a written request for a hearing before the Board to appeal the Board's determination of deficiencies. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- 3. If the Board's determination is not appealed or is upheld upon appeal, the Board shall conduct periodic evaluations of the program during the time of correction to determine whether the deficiencies have been corrected.
- ~~B.~~ The Board shall, following a determination of continued non-compliance, rescind the approval of, or restrict admissions to a nursing program if the program fails to comply with Article 2 within the time set by the Board in the notice of deficiencies served upon the program.
  - 1. The Board shall serve the administrator with a written notice of proposed rescission of approval or restriction of admissions that states the grounds for the proposed action. The administrator shall have 30 days to submit a written request for a hearing to appeal the Board's proposed action. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
  - 2. Upon the effective date of a decision to rescind program approval, the nursing program shall immediately cease operation and be removed from the official approved status listing. A nursing program that has been ordered to cease operations shall assist currently enrolled students to transfer to an approved nursing program.
- ~~C.~~ In addition to the cause in subsection (B), the Board may, depending on the severity and pattern of violations, issue discipline, rescind approval of or restrict admissions to a nursing program for any of the following causes:
  - 1. For a program that was served with a notice of deficiencies within the preceding three years and timely corrected the noticed deficiencies, subsequent noncompliance with the standards in this Article;
  - 2. Failure to comply with orders of or stipulations with the Board within the time determined by the Board; or
  - 3. Unprofessional program conduct under R4-19-211.
- ~~D.~~ A parent institution that voluntarily terminates a nursing education program while under a Board action, including a Notice of Deficiency, shall not apply to open a new nursing education program for a period of two years and shall provide evidence in any future application that the basis for the Board action has been rectified.

**R4-19-213. Nursing Programs Holding National Program Accreditation; Changes in Accreditation**

- ~~A.~~ An approved nursing program that is accredited by an approved national nursing accrediting agency shall submit to the Board evidence of initial accreditation including a copy of the site visit report and the official notice of accreditation.
- ~~BA.~~ A nationally accredited nursing program or a program seeking national accreditation or re-accreditation shall inform the Board at least 30 days in advance of any pending visit by a nursing program accrediting agency and allow Board staff to attend all portions of the visit.
- ~~CB.~~ Following any visit by the accrediting agency, a nursing program shall submit a complete copy of all site visit reports to the Board within 15 days of receipt by the program and notify the Board within 15 days of any change or known pending change in program accreditation status or reporting requirements.
- ~~DC.~~ The administrator of a nursing program that loses its accreditation status or allows its accreditation status to lapse shall file an application for renewal of approval under R4-19-210 within 30 days of loss of or lapse in accreditation status.
- ~~ED.~~ Under A.R.S. § 32-1644(D) the Board may periodically re-survey a nationally accredited program to determine compliance with this Article and require a self study report. Board site visits may be conducted in conjunction with the national accrediting team.
- ~~FE.~~ Unless otherwise notified by the Board following receipt and review of the documents required by subsections (A) and (B), and (C), a nationally accredited nursing program continues to have retain full-approval status unless the Board rescinds the approval after the program has had an opportunity for a hearing. ~~The administrator of a nursing program that has its continuing approval status rescinded by the Board may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding continuing full approval status. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.~~

**R4-19-214. Pilot Programs for Innovative Approaches in Nursing Education**

- A. Under A.R.S. § 32-1606(A)(9) a nursing education program, refresher program or a certified nursing assistant program may implement a pilot program for an innovative approach by complying with the provisions of this Section. Education programs approved to implement innovative approaches shall comply with all other applicable provisions of A.R.S. Title 32, Chapter 15 and A.A.C. Title 4, Chapter 19.
- B. A program applying for a pilot program shall:
  - 1. Hold full approval in good standing; and
  - 2. Have ~~no substantiated complaints, discipline no discipline or deficiencies~~ in the past two years; and
  - 3. ~~Have been compliant with all Board regulations during the past two years.~~
- C. The following written information shall be provided to the Board at least 90 days prior to a Board meeting to seek approval for a pilot program:
  - 1. Identifying information including name of program, address, responsible party and contact information;
  - 2. A brief description of the current program, including accreditation and Board approval status;
  - 3. Identification of the regulation or regulations that the proposed innovative approach would violate without pilot program board approval;
  - 4. Length of time for which the innovative approach is requested;
  - 5. Description of the innovative approach, including rationale and objectives;
  - 6. ~~Brief explanation of the rationale for the innovative approach at this time;~~
  - 7. Explanation of how the proposed innovation differs from approaches in the current program;
  - 8. Available evidence supporting the innovative approach;
  - 9. Identification of resources that support the proposed innovative approach;



109. Expected impact the innovative approach will have on the program, including administration, students, faculty, and other program resources;
110. Plan for implementation and evaluation of the proposed innovation, including timeline;
12. ~~Plan for evaluation of the proposed innovation, including measurable outcomes, method of evaluation, and frequency of evaluation; and~~
1311. Additional application information as requested by the Board.
- D. The Board shall approve an application for ~~innovation~~ a pilot program that is in the best interests of the public, and meets the following criteria:
1. Eligibility criteria in subsection (B) and application criteria in subsection (C) are met;
  2. The innovative approach will not compromise the quality of education or safe practice of students;
  3. Resources are sufficient to support the innovative approach;
  4. Rationale with available evidence supports the implementation of the innovative approach;
  5. Implementation plan is reasonable to achieve the desired outcomes of the innovative approach;
  6. Timeline provides for a sufficient period to implement and evaluate the innovative approach; and
  7. Plan for periodic evaluation is comprehensive and supported by appropriate methodology.
- E. The Board may:
1. Deny the application or request additional information if the program does not meet the criteria in subsections (B) and (C); or otherwise is not in the best interests of the public. The program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying an application for a pilot program. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.
  2. Rescind the approval of the innovation, after an opportunity for a hearing in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6, or require the program to make modifications if:
    - a. The Board receives substantiated evidence indicating adverse impact on the program, students, faculty, patients, or the public,
    - b. The program fails to implement or evaluate the innovative approach as presented and approved, or
    - c. The program fails to maintain eligibility criteria in subsection (B).
- F. An education program that is granted approval for an innovation shall maintain eligibility criteria in subsection (B) and submit:
1. Progress reports conforming to the evaluation plan annually or as requested by the Board; and
  2. A final evaluation report that conforms to the evaluation plan, detailing and analyzing the outcomes data.
- G. If the innovative approach has achieved the desired outcomes and the final evaluation has been submitted, the program may request that the innovative approach be continued.
- H. The Board may grant the request to continue approval if the innovative approach has achieved desired outcomes and ~~has not compromised public protection~~ is in the best interests of the public.
- I. If the Board denies the request to continue approval of the pilot program, the program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of the pilot program. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.

#### **R4-19-215. Voluntary Termination of a Nursing Program or a Refresher Program**

- A. The administrator of a nursing program or a refresher program shall notify the Board within 15 days of a decision to voluntarily terminate the program. The administrator shall, at the same time, submit a written plan for terminating the nursing program or refresher program. A program is considered voluntarily terminated when it no longer admits or plans to admit students after current students graduate.
- B. The administrator shall ensure that the nursing program or refresher program is maintained, including the nursing faculty, until the last enrolled student is transferred or completes the program. At that time the Board shall remove the program from the current list of approved programs.
- C. Within 15 days after the termination of a nursing program or refresher program, the administrator shall notify the Board of the permanent location and availability of all program records.

#### **R4-19-216. Approval of a Refresher Program**

- A. An applicant for approval of a refresher program for nurses whose licenses have been inactive or expired for five or more years, nurses under Board order to enroll in a refresher program, or nurses who have not met the nursing practice requirements of R4-19-312 shall submit one electronic and one paper copy of a completed application that provides all of the following information and documentation:
1. Applicant's name, address, e-mail address, telephone number, web site address, if applicable, and fax number;
  2. Proposed starting date for the program;
  3. Name and qualifications of all instructors that meet the requirements of subsection (C);
  4. Statement describing the facilities, staff, and resources that the applicant will use to conduct the refresher program;
  5. A program and participant evaluation plan that includes student evaluation of the course, instructor, and clinical experience;
  6. Evidence of a curriculum that meets the requirements of subsection (B);
- B. A refresher program for registered and practice nurses shall provide:
1. ~~A minimum of 40 hours of didactic instruction for a licensed practical nurse program and 80 hours of didactic instruction for a registered nurse program.~~ Didactic instruction shall include sufficient to ensure competent and safe practice to the applicable level of the nursing license, including the following subjects, at a minimum:
    - a. Nursing process and patient centered care;
    - b. Pharmacology, medication calculation, and medication administration;
    - c. Communication and working with inter-professional teams;
    - d. Critical thinking, clinical decision making and evidence-based practice;



- e. Delegation, management, and leadership;
- f. ~~Working with interdisciplinary teams;~~
- gf. Meeting psychosocial and physiological needs of adult clients with medical-surgical conditions. Other populations of care may be added to the content at the program's discretion;
- hg. Ethics; and
- i. ~~Documentation including electronic health records;~~
- jh. Informatics, to include electronic health record documentation;
- k. ~~Quality Improvement; and~~
- 1. ~~At the program's discretion, additional content hours in other populations of care for students who will be engaged in clinical experiences with these populations.~~
- 2. ~~A clinical experience of a type and duration to meet course objectives for each student which consists of a minimum of 112 hours for a practical nurse program and 160 hours for a registered nurse program. Relative to the clinical portion of the program, the program shall~~The program shall provide clinical experiences that, at a minimum:
  - a. Ensure that each qualified student has a verified clinical placement within ~~12~~six months of course enrollment;
  - b. Provide program policies for clinical placement in advance of enrollment that specify both the obligations of the school and the student regarding placement;
  - c. Validate that a student has the necessary didactic and theoretical knowledge to function safely in the specific clinical setting before starting a clinical experience;
  - d. Ensure that clinical placements provide an opportunity to demonstrate safe and competent application of program didactic content through either direct or indirect client care; and experiences are of the type and duration to meet the course objectives.
  - e. Include, at its discretion, up to 32 hours of scheduled clinical time in laboratory experiences including simulation.
- 3. Laboratory practice hours, at the program's discretion, including simulation experiences in accordance with the clinical objectives of the course, but may not replace clinical experiences.
- 34. Curriculum and other materials to students and prospective students that, include:
  - a. An overall program description including ~~goals~~ student learning objectives;
  - b. Objectives, content outline, and hours ~~allotted for each area of instruction for didactic and clinical experience;~~
  - c. ~~Implemented course~~ Course policies that include but are not limited to admission requirements, passing criteria, cause for dismissal, clinical requirements, grievance process and student responsibilities; cost, and length of the program.
  - d. ~~Program costs and length of the program.~~
- C. Refresher program personnel qualifications and responsibilities:
  - 1. An administrator of a refresher program shall:
    - a. Hold a graduate degree in nursing or a bachelor of science in nursing degree and a graduate degree in either education or a health-related field, and
    - b. Be responsible for administering and evaluating the program.
  - 2. A faculty member of a refresher program shall:
    - a. Hold a minimum of a bachelor of science in nursing degree,
    - b. Be responsible for implementing the curriculum and supervising clinical experiences either directly or indirectly through the use of clinical preceptors.
  - 3. Licensure requirements for program administrator and faculty:
    - a. ~~If the program is located in Arizona, the~~The administrator and faculty members shall hold a current Arizona RN license in good standing or a multi-state privilege under A.R.S., Title 32, Chapter 15;
    - b. ~~If the program is located in another state, the administrator and didactic faculty members shall either hold a current RN license in good standing in the state of the program location or meet the requirements of subsection (a).~~
  - 4. If preceptors are used for clinical experiences, the program shall adhere to the preceptorship requirements of R4-19-206(E).
  - 5. ~~Other licensed~~ Licensed health care professionals not regulated by the Board may participate in course instruction consistent with their licensure and scope of practice, and under the direction of the program administrator or faculty.
- D. Program types; bonding
  - 1. A refresher program may be offered by:
    - a. An educational institution licensed by the State Board for Private Postsecondary Education;
    - b. A public post-secondary educational institution;
    - c. A health care institution licensed by the Arizona Department of Health Services or a health care institution authorized by the Centers for Medicare & Medicaid Services; or
    - d. A private business that meets the requirements of this Section and all other legal requirements to operate a business in Arizona;
    - e. A program funded by a local, state or federal governmental agency, such as a program within a technical school or school of nursing.
  - 2. If the refresher program is offered by a private business not licensed by the State Board for Private Postsecondary Education, the program shall meet the following requirements:
    - a. Hold a minimum of \$15,000 of insurance covering any potential or future claims for damages resulting from any aspect of the program or a hold a surety bond from a surety company with a rating of "A minus" or better by either Best's Credit Ratings, Moody's Investor Service, or Standard and Poor's rating service.
    - b. The program shall ensure that:
      - i. Bond or insurance distributions are limited to students or former students with a valid claim for instructional or program deficiencies;





- ii. The amount of the bond or insurance coverage is sufficient to reimburse the full amount of collected tuition and fees for all students during all enrollment periods of the program; and
  - iii. The bond or insurance is maintained for an additional 24 months after program closure.
- b. ~~For programs offering on-ground instruction, provide a fire inspection report of the classroom and building by the Arizona State Fire Marshall or an entity approved by the Arizona State Fire Marshall for each program location.~~
- E. The Board shall approve a refresher program that meets the requirements of this Section, if approval is in the best interest of the public, for a maximum term of five years. An applicant who is denied refresher program approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6
- F. The refresher program sponsor shall apply for renewal of approval in accordance with subsection (A) not later than 90 days before expiration of the current approval. The sponsor of a refresher program that is denied renewal of approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.
- G. The sponsor of an approved refresher program shall provide written notification to the Board within 15 days of a participant's completion of the program of the following:
  1. Name of the participant and whether the participant successfully completed or failed the program,
  2. Participant's license number, and
  3. ~~Date~~ End date of participant's ~~completion~~ participation in of the program.
- H. The Board may ~~accept~~ approve a refresher program application from another U.S. jurisdiction for an individual applicant on a case-by-case basis if the applicant provides verifiable evidence that the refresher program substantially meets the requirements of this Section. The acceptance of the program for an individual applicant does not confer approval status upon the program.
- I. Within 30 days, a refresher program shall report to the Board changes in:
  1. Name, address, email ~~electronic~~ address, web site address or phone number of the program; or
  2. ~~Clinical or didactic hours of the program;~~
  3. ~~Program delivery method; or~~
  4. Ownership including adding or deleting an owner.
- J. The Board may take disciplinary action against the approval of a refresher program ~~under A.R.S. § 32-1606(C) and the provisions of this Article. The administrator of a refresher program whose approval is disciplined or subject to a notice of deficiency may request after offering a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. Title 4, Chapter 19, Article 6.~~

#### R4-19-217. Distance Learning Nursing Programs; Out-of-State Nursing Programs

- A. An out-of-state nursing program that is in good standing in another state in the United States and plans to provide distance-based didactic instruction and on-ground clinical instruction in Arizona shall comply with the application requirements of R4-19-207 and R4-19-208. The program shall employ at least one faculty member who is physically present in this state to coordinate the education and clinical experience.
- B. Any nursing program that delivers didactic instruction in Arizona by distance learning methods, ~~whether in this state or another~~, shall ensure that the methods of instruction are compatible with the program curriculum plan and enable a student to meet the goals, competencies, and objectives of the educational program and standards of the Board, A.R.S. Title 32, Chapter 15, and 4 A.A.C. 19.
  1. A distance learning nursing program shall establish a means for assessing individual student outcomes, and program outcomes including, at minimum, student learning outcomes, student retention, student satisfaction, and faculty satisfaction.
  2. For out-of-state nursing programs, the program shall be within the jurisdiction of and regulated by an equivalent United States nursing regulatory authority in the state from which the program originates, unless also providing clinical experience in Arizona.
  3. Didactic faculty members shall be licensed in the state of origination of a distance learning nursing program and in Arizona or hold a multi-state compact license unless exempt under A.R.S. § 32-1631(8). Clinical supervising faculty shall be licensed in the location of the clinical activity.
  4. A distance learning nursing program shall provide students with supervised clinical and laboratory experiences so that program objectives are met and didactic learning is validated by supervised, ~~and based on-ground~~ clinical and laboratory experiences.
  5. A distance-learning nursing program shall provide students with adequate access to technology, resources, technical support, and the ability to interact with peers, preceptors, and faculty.
- C. A nursing program, located in another state or territory of the United States, that wishes to provide clinical experiences in Arizona under A.R.S. § 32-1631(3), shall obtain Board approval before offering or conducting a clinical session. To obtain approval, the program shall submit a proposal package that contains:
  1. A self study, describing the program's compliance with R4-19-201 through R4-19-206; and
  2. A statement regarding, the number and type of student placements planned, ~~a copy of signed clinical contracts~~ and written commitment by the clinical facilities to provide the necessary clinical experiences, the name and qualifications of faculty licensed in Arizona and physically present in the facility who will supervise the experience and verification of good standing of the program in the jurisdiction of origin.
- D. The Board may require a nursing program approved under this Section to file periodic reports ~~for the purpose of data collection or to determine compliance with the provisions of this Article.~~ A program shall submit a report to the Board within 30 days of the date on a written request from the Board or by the due date stated in the request if the due date is after the normal 30-day period.
- E. The Board shall approve an application to conduct clinical instruction in Arizona that meets the requirements in A.R.S. Title 32, Chapter 15 and ~~this~~ A.A.C. Title 4, Chapter 19, and is in the best interest of the public. An applicant who is denied approval to conduct clinical instruction in Arizona may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. Title 4, Chapter 19, Article 6.



- ~~F.~~ The Board may rescind an approval held by an out of state nursing program to conduct clinical instruction in Arizona, in accordance with R4-19-212.
- ~~GF.~~ If the Board finds that a nursing program located and approved in another state or territory of the United States does not meet requirements for nursing programs prescribed in this Article the Board shall either provide a notice of deficiency to the program as prescribed in R4-19-212(A), (A)(1) and (A)(2) or may take other disciplinary action depending on the severity of the offense after offering a hearing conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and A.A.C. Title 4, Chapter 19, Article 6 under R4-19-211.
  - ~~1.~~ If the Board issues a notice of deficiency and the program fails to correct the deficiency before the expiration of the period of correction, the Board shall rescind approval of the program as prescribed in R4-19-212(B)(1).
  - ~~21.~~ If the period of Students enrolled at the time of the rescission of approval, from the date of rescission to the date of reinstatement, is at any time concurrent with an applicant's education from the date of admission to the date of graduation, the Board shall not be granted withhold licensure unless the applicant meets all applicable licensure requirements and completes any remedial education prescribed by the Board under R4-19-301(H).
  - ~~2.~~ The Board shall ensure that the applicant has completed a curriculum that is equivalent to that of an approved nursing program.
  - ~~3.~~ If a nursing program provides evidence of compliance with this Article after the rescission of approval, the Board shall review the evidence, determine whether or not the nursing program complies with these standards, and reinstate approval of the program if the program complies with these standards and reinstatement is in the best interest of the public.

**ARTICLE 3. LICENSURE**

**R4-19-307. Application for a Duplicate License Repealed**

- ~~A.~~ A licensee shall report a lost or stolen license to the Board, in writing or electronically through the Board website, within 30 days of the loss.
- ~~B.~~ A licensee requesting a duplicate license shall file an application on a form provided by the Board for a duplicate license and pay the applicable fee under A.R.S. § 32-1643(A)(14).

**R4-19-309. School Nurse Certification Requirements**

- A. An applicant for initial school nurse certification shall:
  - ~~1.~~ ~~Hold~~ hold a current license in good standing or multistate privilege to practice as a registered nurse in Arizona.
  - ~~2.~~ Submit a verified application to the Board on a form furnished by the Board that provides the following information about the applicant:
    - a. Full legal name and any former names used by the applicant;
    - b. Mailing address and telephone number;
    - e. Registered nurse license number;
    - d. Social security number;
    - e. A description of the applicant's educational background, including the number and location of schools attended, the number of years attended, the date of graduation, the type of degree or certificate awarded, and if applicable, evidence that the applicant has satisfied the requirements specified in subsection (B), (C) or (D);
    - f. Current employer, including address, telephone number, position type, dates of employment, and previous employer if the current employment is less than 12 months;
    - g. The name of any national certifying organization, specialty area, certification number and date of certification, if applicable; and for an applicant certified in as a nurse practitioner or clinical nurse specialist, the population of the certification;
    - h. Responses to questions regarding the applicant's background on the following subjects:
      - ~~i.~~ Current investigation or pending disciplinary action by a nursing regulatory agency in the United States or its territories or current investigation in another state or territory of the United States;
      - ~~ii.~~ Action taken on a nursing license by any other state;
      - ~~iii.~~ Undesignated offenses, felony charges, convictions and plea agreements, including deferred prosecution;
      - ~~iv.~~ Misdemeanor charges, convictions and plea agreements, including deferred prosecution, that are required to be reported under A.R.S. § 32-3208;
      - ~~v.~~ Unprofessional conduct as defined in A.R.S. § 32-1601;
      - ~~vi.~~ Substance use disorder within the last five years; and
      - ~~vii.~~ Current participation in an alternative to discipline program in any other state;
      - ~~i.~~ Explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
      - ~~j.~~ E-mail address, ethnic category and marital status at the applicant's discretion.
  - ~~3.~~ Pay applicable fees.
- ~~B.~~ National certification. In addition to the requirements of subsection (A), if an applicant provides evidence of current national certification as a school nurse or school nurse practitioner from an organization that meets the requirements of R4-19-310, the applicant qualifies for Arizona school nurse certification without meeting the requirements in subsection (C) for as long as the national certification remains current. The nurse shall provide evidence of continuing certification upon each renewal under subsection (D).
- ~~C.~~ Initial certification
  - ~~1.~~ In addition to the requirements in subsection (A), the registered nurse applicant shall provide evidence of completion of all the following:
    - a. Three semester hours in school nurse practice course work;
    - b. Three semester hours in physical assessment of the school aged child course work unless the applicant provides evidence of current national certification from an organization that meets the requirements of R4-19-310 as a pediatric nurse practitioner, family nurse practitioner, or pediatric clinical nurse specialist; and
    - e. Three semester hours in nursing care of the child with special needs.



- ~~2. An initial certificate expires six years after the issue date on the certificate.~~
- D.** ~~Renewal of certification.~~
- ~~1. If the initial certificate of a school nurse has expired and the applicant, has met the requirements in subsections (B) or (C)(1) of this Section, the applicant is eligible to apply for re-certification. Within the application, the applicant shall provide evidence of completion of one of the following for renewal of certification:~~
- ~~a. Current national certification as a school nurse as specified in subsection (B);~~
- ~~b. A bachelor of science or graduate degree in nursing earned from an accredited institution as specified in R4-19-201(A) within the last six years, or~~
- ~~e. Evidence of completion of a minimum of 90 contact hours of continuing education activity, as defined in R4-19-101, related to school nursing practice and completed within the last six years.~~
- ~~2. Renewal of certification expires six years after the issue date on the certificate.~~
- B.** An initial or renewal of certificate expires six years after the issue date on the certificate.
- EC.** The Board shall grant a school nurse certificate to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a school nurse certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the certificate. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

#### ARTICLE 4. REGULATION

##### R4-19-403. Unprofessional Conduct

For purposes of A.R.S. § 32-1601(24)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:

1. A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice;
2. Intentionally or negligently causing physical or emotional injury;
3. Failing to maintain professional boundaries or engaging in a dual relationship with a patient, resident, or any family member of a patient or resident;
4. Engaging in sexual conduct with a patient, resident, or any family member of a patient or resident who does not have a pre-existing relationship with the nurse, or any conduct in the work place that a reasonable person would interpret as sexual;
5. Abandoning or neglecting a patient who requires immediate nursing care without making reasonable arrangement for continuation of care;
6. Removing a patient's life support system without appropriate medical or legal authorization;
7. Failing to maintain for a patient record that accurately reflects the nursing assessment, care, treatment, and other nursing services provided to the patient;
8. Falsifying or making a materially incorrect, inconsistent, or unintelligible entry in any record:
  - a. Regarding a patient, health care facility, school, institution, or other work place location; or
  - b. Pertaining to obtaining, possessing, or administering any controlled substance as defined in the federal Uniform Controlled Substances Act, 21 U.S.C. 801 et seq., or Arizona's Uniform Controlled Substances Act, A.R.S. Title 36, Chapter 27;
9. Failing to take appropriate action to safeguard a patient's welfare or follow policies and procedures of the nurse's employer designed to safeguard the patient;
10. Failing to take action in a health care setting to protect a patient whose safety or welfare is at risk from incompetent health care practice, or to report the incompetent health care practice to employment or licensing authorities;
11. Failing to report to the Board a licensed nurse whose work history includes conduct, or a pattern of conduct, that leads to or may lead to an adverse patient outcome;
12. Assuming patient care responsibilities that the nurse lacks the education to perform, for which the nurse has failed to maintain nursing competence, or that are outside the scope of practice of the nurse;
13. Failing to supervise a person to whom nursing functions are delegated;
14. Delegating services that require nursing judgment to an unauthorized person;
15. Removing, without authorization, any money, property, or personal possessions, or requesting payment for services not performed from a patient, employer, co-worker, or member of the public.
16. Removing, without authorization, a narcotic, drug, controlled substance, supply, equipment, or medical record from any health care facility, school, institution, or other work place location;
17. A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location;
18. Obtaining, possessing, administering, or using any narcotic, controlled substance, or illegal drug in violation of any federal or state criminal law, or in violation of the policy of any health care facility, school, institution, or other work location at which the nurse practices;
19. Providing or administering any controlled substance or prescription-only drug for other than accepted therapeutic or research purposes;
20. Engaging in fraud, misrepresentation, or deceit in taking a licensing examination or on an initial or renewal application for a license or certificate;
21. Impersonating a nurse licensed or certified under this Chapter;
22. Permitting or allowing another person to use the nurse's license for any purpose;
23. Advertising the practice of nursing with untruthful or misleading statements;
24. Practicing nursing without a current license or while the license is suspended, or practicing as a nurse practitioner without current national certification, if required pursuant to R4-19-505;
25. Failing to:



- a. Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. § 32-1664, or
- b. Respond to a subpoena issued by the Board;
- 26. Making a written false or inaccurate statement to the Board or the Board's designee in the course of an investigation;
- 27. Making a false or misleading statement on a nursing or health care related employment or credential application concerning previous employment, employment experience, education, or credentials;
- 28. If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or applicant shall include the following in the notification:
  - a. Name, address, telephone number, social security number, and license number, if applicable;
  - b. Date of the charge; and
  - c. Nature of the offense;
- 29. Failing to notify the Board, in writing, of a conviction for a felony or an undesignated offense within 10 days of the conviction. The nurse or applicant shall include the following in the notification:
  - a. Name, address, telephone number, social security number, and license number, if applicable;
  - b. Date of the conviction; and
  - c. Nature of the offense;
- 30. For a registered nurse granted prescribing privileges, any act prohibited under R4-19-511(D); or
- 31. Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed.

**ARTICLE 5. ADVANCED PRACTICE REGISTERED NURSING**

**R4-19-505. Requirements for Initial APRN Certification**

- A. An applicant for certification as an advanced practice registered nurse, shall:
  - 1. Hold a current Arizona registered nurse (RN) license in good standing or an RN license in good standing from a compact party state with multistate privileges, and not be a participant in an alternative to discipline program in any jurisdiction; and
  - 2. Submit a verified application to the Board on a form provided by the Board that provides all of the following:
    - a. Full legal name and all former names used by the applicant;
    - b. Current mailing address, including primary state of residence and telephone number;
    - c. Place and date of birth;
    - d. RN license number, application for RN license, or copy of a multistate compact RN license;
    - e. Social security number for an applicant who lives or works in the United States;
    - f. Current e-mail address;
    - g. Educational background, including the name and location of basic nursing program, the institution that awarded the highest degree held and any and all advanced practice registered nursing education programs or schools attended including the number of years attended, the length of each program, the date of graduation or completion, and the type of degree or certificate awarded;
    - h. Role and population focus, as applicable for which the applicant is applying;
    - i. Current employer or practice setting, including address, position, and dates of service, if employed or practicing in nursing or health care;
    - j. Evidence of national certification or recertification as an advanced practice registered nurse in the role and population focus, if applicable, of the application and by a certification program that meets the requirements of R4-19-501(C). The applicant shall include the name of the certifying organization, population focus, certification number, date of certification, and expiration date;
    - k. For applicants holding a multistate compact RN license in a state other than Arizona:
      - i. State of original licensure and license number;
      - ii. State of current compact RN license, license number and expiration date;
      - iii. Date of taking RN licensure exam and name of exam;
      - iv. Whether the applicant ever submitted an application for and was granted an Arizona license and, if applicable, the date of Arizona licensure;
      - v. Other information related to the nurse's practice for the purpose of collecting nursing workforce data; and
      - vi. State of licensure and license number of all RN licenses held,
    - l. Responses regarding the applicant's background on the following subjects:
      - i. Current investigation or pending disciplinary action by a nursing regulatory agency in the United States or its territories;
      - ii. Undesignated offense and felony charges, convictions and plea agreements including deferred prosecution;
      - iii. Misdemeanor charges, convictions, and plea agreements, including deferred prosecution, that are required to be reported under A.R.S. § 32-3208;
      - iv. Actions taken on a nursing license by any other state;
      - v. Unprofessional conduct as defined in A.R.S. § 32-1601;
      - vi. Substance use disorder within the last five years;
      - vii. Current participation in an alternative to discipline program in any other state; and
    - m. Information that the applicant meets the criteria in R4-19-506(A) or (C).
  - 3. Submit a fingerprint card on a form provided by the Board or prints if the applicant has not submitted fingerprints to the Board within the last two years.
  - 4. Submit an official transcript from an institution accredited under A.R.S. § 32-1644 either sent directly from the institution or obtained from a Board-approved database that provides evidence of:



- a. A graduate degree with a major in nursing for RNP and CNS Applicants, or
  - b. A graduate degree associated with a CRNA program for a CRNA applicant.
5. The applicant shall cause the program to provide the Board with evidence of completion of an APRN program in the role and population focus of the application through submission of an official letter or other official program document sent either directly from the program, or from a Board-approved data base. The APRN program shall meet one of the following criteria during the period of the applicant's attendance in the program:
- a. The program was part of a graduate degree, or post-masters program at an institution accredited under A.R.S. § 32-1644; or
  - b. The program was approved or recognized in the U.S jurisdiction of program location for the purpose granting APRN licensure or certification.
6. For an applicant who completed an advanced practice or graduate program in a foreign jurisdiction, submit an evaluation from the Commission on Graduates of Foreign Nursing Schools or a Board-approved credential evaluation service that indicates the applicant's program is comparable to a U.S. graduate nursing or APRN program.
7. Submit the required fee.
- B.** If the applicant satisfies all other requirements, the Board shall continue to certify:
1. An RNP without a graduate degree with a major in nursing if the applicant:
    - a. Meets all other requirements for certification; and
    - b. Ensures that the U.S. jurisdiction of an applicant's previous RNP licensure or certification submits evidence of the applicant's certification or licensure in the nurse practitioner role and population focus that either is current or was current at least six months before the application was received by the Board, and was originally issued:
      - i. Before January 1, 2001, if the RNP applicant lacks a graduate degree; or
      - ii. Before November 13, 2005 if the RNP's graduate degree is in a health-related area other than nursing.
  2. An RNP or CNS applicant without evidence of national certification who received initial advanced practice certification or licensure in another state not later than July 1, 2004 and provides evidence, directly from the jurisdiction, that the certification or licensure is current.
  3. A CNS applicant without evidence of completion of a CNS program who received initial certification or advanced practice licensure in this or another state not later than November 13, 2005 and provides evidence, directly from the jurisdiction, that the certificate or license is current.
  4. A CRNA who completed a CRNA program before the effective date of this Section without evidence of a graduate degree.
  5. A CNS applicant who completed a women's health clinical nurse specialist program that was part of a graduate degree in nursing program under subsection (A), without evidence of national certification upon submission of the following:
    - a. A description of the applicant's scope of practice that is consistent with A.R.S. § 32-1601(7);
    - b. One of the following:
      - i. A letter from a faculty member who supervised the applicant during the graduate program attesting to the applicant's competence to practice within the defined scope of practice;
      - ii. A letter from a current supervisor verifying the applicant's competence in the defined scope of practice; or
      - iii. A letter from a physician, RNP, or CNS who has worked with the applicant within the past two years attesting to the applicant's competence in the defined scope of practice; and
    - c. A form verifying that the applicant has practiced a minimum of 500 hours in the population focus within the past two years, which may include clinical practice time in a CNS program.
- C.** The Board shall issue a certificate to practice as an RNP in a population focus, a CNS in a population focus, or a registered nurse anesthetist to a registered nurse who meets the criteria in this Section. An applicant who is denied a certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**R4-19-506. Expiration of APRN Certificate; Practice Requirement; Renewal**

- A.** An advanced practice certificate issued after July 1, 2004, expires when the certificate holder's RN license expires, or when national certification expires, whichever occurs first. Certificates issued on or before July 1, 2004, or those issued without proof of national certification under R4-19-505(B)(5) and (B)(2) do not expire unless the RN license expires under A.R.S. § 32-1642 or the nurse has not practiced advanced practice nursing at the applicable level of certification for a minimum of 960 hours in the five years before the date the application is received. This requirement is satisfied if the applicant verifies that the applicant has:
1. Completed an advanced practice nursing education program within the past five years; or
  2. Practiced for a minimum of 960 hours within the past five years where the nurse:
    - a. Worked for compensation or as a volunteer, as an APRN and performed one or more acts under A.R.S. § 32-1601(7) for a CNS, A.R.S. § 32-1601(20) for an RNP or A.R.S. § 32-1634.04 for a CRNA; or
    - b. Held a position for compensation or as a volunteer that required, preferred or recommended, in the job description, the level of advanced practice certification being sought or renewed.
- B.** A registered nurse requesting renewal of an advanced practice certificate or an RNP certificate issued after July 1, 2004 shall provide evidence of current national certification or recertification under R4-19-505(A)(2)(j). This provision does not apply to a CNS granted a waiver of certification.
- C.** An advanced practice nurse who does not satisfy the practice requirement of subsection (A) shall complete coursework or continuing education activities at the graduate or advanced practice level that include, at minimum, 45 contact hours of advanced pharmacology and 45 contact hours in a subject or subjects related to the role and population focus of certification. Upon completion of the coursework, the nurse shall engage in a period of precepted clinical practice as specified in this subsection;
1. Precepted clinical practice shall be directly supervised by an advanced practice nurse in the same role and population focus as the certification being renewed or a physician who engages in practice with the same population focus as the certification being renewed.



- 2. Practice hours completed during the time-frame specified below may be applied to reduce the number of precepted clinical practice hours, except that in no case shall the hours be reduced by more than half the requirement. The nurse shall complete hours according to the following schedule:
  - a. 300 hours if the applicant has practiced less than 960 hours in only the last five years;
  - b. 600 hours if the applicant has not practiced 960 hours in the last five years, but has practiced at least 960 hours in the last six years;
  - c. 1000 hours if the applicant has not practiced at least 960 hours in the last six years, but has practiced 960 hours in the last seven to 10 years; or
  - d. If the nurse has not practiced 960 hours of advanced practice nursing in the role and population focus being renewed in more than 10 years, complete a program of study as recommended by an approved advanced practice nursing program that includes, at minimum, 500 hours of faculty supervised clinical practice in the role and population focus of certification. An applicant who qualifies for any option in subsection (C)(2)(a) through (c) may complete the requirements of this subsection to satisfy the practice requirement.
- D. An applicant who, in addition to not meeting the requirements for continued APRN certification, does not meet the requirements for RN renewal, shall fulfill all RN renewal requirements before satisfying the requirements of this Section.
- E. The Board shall renew a certificate to practice as a registered nurse practitioner in a population focus, a clinical nurse specialist in a population focus, or a registered nurse anesthetist for a registered nurse who meets the criteria in this Section. An applicant who is denied renewal of a certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**R4-19-507. Temporary Advanced Practice Certificate; Temporary Prescribing and Dispensing Authority**

- A. Based on the registered nurse's qualifications, the Board may issue a temporary certificate to practice as a registered nurse practitioner or a clinical nurse specialist in a population focus or a registered nurse anesthetist. A registered nurse who is applying for a temporary certificate shall:
  - 1. Apply for certification as an advanced practice nurse;
  - 2. Submit an application for a temporary certificate;
  - 3. Demonstrate authorization to practice as a registered nurse in Arizona on either a permanent or temporary Arizona license in good standing or a multistate compact privilege;
  - 4. Meet all requirements of R4-19-505 or meet the requirements of R4-19-505 with the exception of national certification for RNP and CNS applicants unless exempt under R4-19-505(B); and
  - 5. Submit evidence that the applicant:
    - a. Has applied for and is eligible to take an approved national advanced practice certification exam in the role and population focus of the application;
    - b. Has requested that the certification program transmit all exam results directly to the Board; or
    - c. For a CRNA, holds national certification according to R4-19-501.
- B. If an applicant fails to meet criteria for national advanced practice certification or has failed a certification exam, the applicant is not eligible for a temporary certificate.
- C. The Board may issue temporary prescribing and dispensing authority for RNP applicants, if the applicant:
  - 1. Meets all application requirements for temporary certification in this Section,
  - 2. Applies for and meets all requirements for prescribing and dispensing authority under R4-19-511,
  - 3. Has been certified or licensed as a nurse practitioner or nurse midwife with prescribing and dispensing authority in the same role and population focus in another state or territory of the United States,
  - 4. Either holds current national certification as a registered nurse practitioner or nurse midwife in the population focus of the application or is exempt from national certification under R4-19-505(B), and
  - 5. Meets the practice requirement of R4-19-506(A)(2).
- D. Temporary certification as an advanced practice nurse and temporary prescribing and dispensing authority expire in six months and may be renewed for an additional six months for good cause. Good cause means reasons beyond the control of the temporary certificate holder such as unavoidable delays in obtaining information required for certification.
- E. Notwithstanding subsection (D), the Board shall withdraw a temporary advanced practice certificate and temporary prescribing and dispensing authority under any one of the following conditions. The temporary certificate holder:
  - 1. Does not meet requirements for RN licensure in this state or the RN license is suspended or revoked,
  - 2. Fails to renew the RN license upon expiration,
  - 3. Loses the multistate compact privilege,
  - 4. Fails the national certifying examination, fails to maintain current national certification, as required by R4-19-505, or
  - 5. Violates a statute or rule of the Board.
- F. An applicant who is denied a temporary certificate or temporary prescribing and dispensing authority may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the temporary certification or authority. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts**

- A. The Board shall authorize ~~an~~ a registered nurse practitioner (RNP) to prescribe and dispense (P&D) drugs and devices within the RNP's population focus only if the RNP does all of the following:
  - 1. Obtains authorization by the Board to practice as ~~an RNP-registered nurse practitioner;~~
  - 2. Applies for prescribing and dispensing privileges on the application for ~~registered nurse practitioner-RNP~~ certification;
  - 3. Submits a completed verified application on a form provided by the Board that contains all of the following information:
    - a. Name, address, e-mail address and home telephone number;



- b. Arizona registered nurse license number, or copy of compact license;
  - c. ~~Nurse practitioner~~ RNP population focus;
  - d. ~~Nurse practitioner~~ RNP certification number issued by the Board; and
  - e. Business address and telephone number;
4. Submits evidence of a minimum of 45 contact hours of education within the three years immediately preceding the application, covering one or both of the following topics consistent with the population focus of education and certification:
- a. Pharmacology, or
  - b. Clinical management of drug therapy, and
5. Submits the required fee.
- B.** An applicant who is denied P & D authority may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the P & D authority. Board hearings shall comply with A.R.S. Title 41, Chapter 6, Article 10, and 4 A.A.C. 19, Article 6.
- C.** An RNP shall not prescribe or dispense drugs or devices without Board authority or in a manner inconsistent with law. The Board may impose an administrative or civil penalty for each violation, suspend the RNP's P & D authority, or impose other sanctions under A.R.S. § 32-1606(C). In determining the appropriate sanction, the Board shall consider factors such as the number of violations, the severity of each violation, and the potential for or existence of patient harm.
- D.** In addition to acts listed under R4-19-403, for ~~a nurse~~ RNP who prescribes or dispenses a drug or device, a practice that is or might be harmful to the health of a patient or the public, includes one or more of the following:
- 1. Prescribing a controlled substance to oneself, a member of the ~~nurse's~~ RNP's family or any other person with whom the ~~nurse~~ RNP has a relationship that may affect the ~~nurse's~~ RNP's ability to use independent, objective and sound ~~nursing~~ judgment when prescribing;
  - 2. Providing any controlled substance or prescription-only drug or device for other than accepted therapeutic purposes;
  - 3. Delegating the prescribing and dispensing of drugs or devices to any other person;
  - 4. Prescribing for a patient that is not in the ~~registered nurse practitioner's~~ RNP's population focus of education and certification except as authorized in subsection (D)(5)(d); and
  - 5. Prescribing, dispensing, or furnishing a prescription drug or a prescription-only device to a person unless the ~~nurse~~ RNP has examined the person and established a professional relationship, except when the ~~nurse~~ RNP is engaging in one or more of the following:
    - a. Providing temporary patient care on behalf of the patient's regular treating and licensed health care professional;
    - b. Providing care in an emergency medical situation where immediate medical care or hospitalization is required by a person for the preservation or health, life, or limb;
    - c. Furnishing a prescription drug to prepare a patient for a medical examination; or
    - d. Prescribing antimicrobials to a person who is believed to be at substantial risk as a contact of a patient who has been examined and diagnosed with a communicable disease by the prescribing RNP even if the contact is not in the population focus of the ~~registered nurse practitioner's~~ RNP's certification.
  - 6. Prescribing or dispensing any controlled substance or prescription-only drug or device in a manner that is inconsistent with other state or federal requirements.
- E.** An RNP shall not dispense a Schedule II Controlled Substance that is an opioid, except for an opioid that is for medication assisted treatment for substance use disorders.

#### ARTICLE 8. CERTIFIED AND LICENSED NURSING ASSISTANTS AND CERTIFIED MEDICATION ASSISTANTS

##### R4-19-801. Common Standards for ~~Certified~~ Nursing Assistant (~~CNA~~) (NA) and Certified Medication Assistant (CMA) Training Programs

- A.** Program Administrative Responsibilities
- 1. Any person or entity offering a training program under this Article shall, before accepting tuition from prospective students, and at all times thereafter, provide program personnel including a coordinator and instructors, as applicable, who meet the requirements of this Article.
  - 2. If at any time, a person or entity offering a training program cannot provide a qualified instructor for its students, it shall immediately cease instruction and, if the training program cannot provide a qualified instructor within 5 business days, the training program shall offer all enrolled students a refund of all tuition and fees the students have paid to the program.
  - 3. A training program shall obtain and maintain Board approval or re-approval as specified in this Article and A.R.S. § 32-1650.01 (B) before advertising the program, accepting any tuition, fees, or other funds from prospective students, or enrolling students.
  - 4. A training program that uses external clinical facilities shall execute a written agreement with each external clinical facility.
  - 5. A training program that requires students to pay tuition for the program shall:
    - a. Make all program costs readily accessible on the school's website with effective dates,
    - b. Publically post any increases in costs on the school's website 30 days in advance of the increase;
    - c. Include in the cost calculation and public posting, all fees directly paid to the program including but not limited to tuition, lab fee, clinical fee, enrollment fee, insurance, books, uniform, health screening, credit card fee and state competency exam fee; and
    - d. Provide a description of all program costs to the student that are not directly paid to the program.
  - 6. Before collecting any tuition or fees from a student, a training program shall notify each prospective student of Board requirements for certification and licensure including:
    - a. Legal presence in the United States; and
    - b. For licensure, criminal background check requirements, and ineligibility under A.R.S. § 32-1606(B)(15) and (16).
  - 7. Within the first 14 days of the program and before 50% of program instruction occurs, a training program shall transmit to the Board-approved test vendor, accurate and complete information regarding each enrolled student for the purposes of tracking pro-



gram enrollment, attrition and completion. Upon receipt of accurate completion information, the vendor shall issue a certificate of completion to the program for each successful graduate.

8. A training program shall provide the Board, or its designee, access to all training program records, students and staff at any time, including during an announced or unannounced visit. A program's refusal to provide such access is grounds for withdrawal of Board approval.
  9. A training program shall provide each student with an opportunity to anonymously and confidentially evaluate the course instructor, curriculum, classroom environment, clinical instructor, clinical setting, textbook and resources of the program;
  10. A training program shall provide and implement a plan to evaluate the program that includes the frequency of evaluation, the person responsible, the evaluative criteria, the results of the evaluation and actions taken to improve the program. The program shall evaluate the following elements at a minimum every two years:
    - a. Student evaluations consistent with subsection (A)(9);
    - b. First-time pass rates on the written and manual skills certification exams for each admission cohort;
    - c. Student attrition rates for each admission cohort;
    - d. Resolution of student complaints and grievances in the past two years; and
    - e. Review and revision of program policies.
  11. A training program shall submit written documentation and information to the Board regarding the following program changes within 30 days of instituting the change:
    - a. For a change or addition of an instructor or coordinator, the name, RN license number, and documentation that the coordinator or instructor meets the applicable requirements of R4-19-802(B) and (C) for NA programs and R4-19-803 (B) for CMA programs;
    - b. For a change in classroom location, the previous and new location, and a description of the new classroom;
    - c. For a change in a clinical facility, the name and address of the new facility and a copy of the signed clinical contract;
    - d. For a change in the name or ownership of the training program, the former name or owners and the new name or owners; and
    - e. For a decrease in hours of the program, a written revised curriculum document that clearly highlights new content, strikes out deleted content and includes revised hours of instruction, as applicable.
- B. Policies and Procedures**
1. A training program shall promulgate and enforce written policies and procedures that comply with state and federal requirements, and are consistent with the policies and procedures of the parent institution, if any. The program shall provide effective and review dates for each policy or procedure.
  2. A training program shall provide a copy of its policies and procedures to each student on or before the first day the student begins the program.
  3. The program shall promulgate and enforce the following policies with accompanying procedures:
    - a. Admission requirements including:
      - i. Criminal background, health and drug screening either required by the program or necessary to place a student in a clinical agency; and
      - ii. English language, reading and math skills necessary to comprehend course materials and perform duties safely.
    - b. Student attendance policy, ensuring that a student receives the hours and types of instruction as reported to the Board in the program's most recent application to the Board and as required in this Article. If absences are permitted, the program shall ensure that each absence is remediated by providing and requiring the student to complete learning activities that are equivalent to the missed curriculum topics, clinical experience or skill both in substance and in classroom or clinical time.
    - c. A final examination policy that includes the following provisions:
      - i. Require that its students score a minimum 75% correct answers on a comprehensive secure final examination with no more than one re-take. The program may allow an additional re-take following documented, focused remediation based on past test performance. Any re-take examination must contain different items than the failed exam, address all course competencies, and be documented with score, date administered and proctor in the student record; and
      - ii. Require that each student demonstrate, to program faculty, satisfactory performance of each practical skill as prescribed in the curriculum before performance of that skill on patients or residents without the instructor's presence, direct observation, and supervision.
    - d. Student record maintenance policies consistent with subsection (D) including the retention period, the location of records and the procedure for students to access to their records.
    - e. Clinical supervision policies consistent with clinical supervision provisions of this Section, and:
      - i. R4-19-802(C) and (D) for NA programs, or
      - ii. R4-19-803(B) and (C) for CMA programs;
    - f. Student conduct policies for expected and unacceptable conduct in both classroom and clinical settings;
    - g. Dismissal and withdrawal policies;
    - h. Student grievance policy that includes a chain of command for grade disputes and ensures that students have the right to contest program actions and provide evidence in support of their best interests including the right to a third party review by a person or committee that has no stake in the outcome of the grievance;
    - i. Program progression and completion criteria.
- C. Classroom and clinical instruction**
1. During clinical training sessions, a training program shall ensure that each student is identified as a student by a name badge or another means readily observable to staff, patients, and residents.
  2. A training program shall not utilize, or allow the clinical facility to utilize, students as staff during clinical training sessions.
  3. A training program shall provide a clean, comfortable, distraction-free learning environment for didactic teaching and skill practice.





4. A training program shall provide, in either electronic or paper format, a written curriculum to each student on or before the first day of class that includes a course description, course hours including times of instruction and total course hours, instructor information, passing requirements, course goals, and a topical schedule containing date, time and topic for each class session.
  5. For each unit or class session the program shall provide, to its students, written:
    - a. Measurable learner-centered objectives,
    - b. An outline of the material to be taught, and
    - c. The learning activities or reading assignment.
  6. A training program shall utilize an electronic or paper textbook corresponding to the course curriculum that has been published within the previous five years. Unless granted specific permission by the publisher, a training program shall not utilize copies of published materials in lieu of an actual textbook.
  7. A training program shall provide, to all program instructors and enrolled students, access to the following instructional and educational resources:
    - a. Reference materials, corresponding to the level of the curriculum; and
    - b. Equipment and supplies necessary to practice skills.
  8. A training program instructor shall:
    - a. Plan each learning experience;
    - b. Ensure that the curriculum meets the requirements of this Section;
    - c. Prepare written course goals, lesson objectives, class content and learning activities;
    - d. Schedule and achieve course goals and objectives by the end of the course; and
    - e. Require satisfactory performance of all critical elements of each skill under R4-19-802(H) for nursing assistant and R4-19-803(D)(4) for medication assistant before allowing a student to perform the skill on a patient or resident without the instructor's presence at the bedside.
  9. A qualified RN instructor shall be present at all times and during all scheduled classroom, skills laboratory and clinical sessions. In no instance shall a nursing assistant or other unqualified person provide any instruction, reinforcement, evaluation or independent activities in the classroom or skills laboratory.
  10. A qualified RN instructor shall supervise any student who provides care to patients or residents by:
    - a. Remaining in the clinical facility and focusing attention on student learning needs during all student clinical experiences;
    - b. Providing the instructor's current and valid contact information to students and facility staff during the instructor's scheduled teaching periods;
    - c. Observing each student performing tasks taught in the training program;
    - d. Documenting each student's performance each day, consistent with course skills and clinical objectives;
    - e. During the clinical session, engaging exclusively in activities related to the supervision of students; and
    - f. Reviewing all student documentation.
- D. Records**
1. A training program shall maintain the following program records either electronically or in paper form for a minimum of three years for NA programs and five years for CMA programs:
    - a. Curriculum and course schedule for each admission cohort;
    - b. Results of state-approved written and manual skills testing;
    - c. Documentation of program evaluation under subsection (A)(10);
    - d. A copy of any Board reports, applications, or correspondence, related to the program; and
    - e. A copy of all clinical contracts, if using outside clinical agencies.
  2. A training program shall maintain the following student records either electronically or in paper form for a minimum of three years for NA programs and five years for CMA programs:
    - a. A record of each student's legal name, date of birth, address, telephone number, e-mail address and Social Security number, if available;
    - b. A completed skill checklist containing documentation of student level of competency performing the skills in R4-19-802(F) for nursing assistant, and in R4-19-803(D)(4) for medication assistants;
    - c. An accurate attendance record, which describes any make-up class sessions and reflects whether the student completed the required number of hours in the course;
    - d. Scores for each test, quiz, or exam and whether such test, quiz, or exam was retaken; and
    - e. For NA programs only, a copy of a document providing proof of legal presence in the United States as specified in A.R.S. § 41-1080 to be remitted to the Board's designated testing vendor in order to facilitate timely placement of program graduates on a nursing assistant registry.
- E. Certifying Exam Passing Standard:** A training program and each site of a consolidated program under R4-19-802(E) shall attain, at a minimum, an annual first-time passing rate on the manual skill and written certifying examinations that is equal to the Arizona average pass rate for all candidates on each examination minus 20 percentage points. The Board may waive this requirement for programs with less than five students taking the exam during the year. The Board shall issue a notice of deficiency under ~~A.A.C. R4-19-805~~ to any program with five or more students taking the exam that fails to achieve the minimum passing standard in any calendar year.
- F. Distance Learning; Innovative Programs**
1. A training program may be offered using real-time interactive distance technologies such as interactive television and web based conferencing if the program meets the requirements of this Article.
  2. Before a training program may offer, advertise, or recruit students for an on-line, innovative or other non-traditional program, the program shall submit an application for innovative applications in education under R4-19-214 and receive Board approval.



G. Site visits: A training program shall permit the Board, and its designee, including another state agency, to conduct an onsite scheduled evaluation for initial Board approval and renewal of approval in accordance with R4-19-804 and announced or unannounced site visits at any other time the Board deems necessary.

**R4-19-802. CNA Nursing Assistant (NA) Program Requirements**

**A. Organization and Administration**

1. A nursing assistant program may be offered by:
  - a. An educational institution licensed by the State Board for Private Postsecondary Education,
  - b. A public educational institution or a program funded by a local, state or federal governmental agency,
  - c. A health care institution licensed by the Arizona Department of Health Services or a federally authorized health care institution,
  - d. A private business that meets the requirements of this Article and all other legal requirements to operate a business in Arizona.
2. If a nursing assistant program is offered by a private business, the program shall meet the following requirements.
  - a. Hold insurance covering any potential or future claims for damages resulting from any aspect of the program or a hold a surety bond from a surety company with a financial strength rating of "A minus" or better by Best's Credit Ratings, Moody's Investors Service, Standard and Poor's rating service or another comparable rating service as determined by the Board in the amount of a minimum of \$15,000. The program shall ensure that:
    - i. Bond or insurance distributions are limited to students or former students with a valid claim for instructional or program deficiencies;
    - ii. The amount of the bond or insurance is sufficient to reimburse the full amount of collected tuition and fees for all students during all enrollment periods of the program; and
    - iii. The bond or insurance is maintained for an additional 24 months after program closure; and
  - b. Upon initial use and remodeling, provide the Board with a fire inspection report from the Office of the State Fire Marshall or the local authority with jurisdiction, indicating that each program classroom and skill lab location is in compliance with the applicable fire code.
3. Programs approved by the Board before the effective date of this Section shall comply with subsection (A)(2) within one year of the effective date. If a program does not charge tuition or fees, the bond requirement is waived.
4. A Medicare or Medicaid certified long-term care facility-based nursing assistant program shall not require a student to pay a fee for any portion of the program including the initial attempt on the state competency exam.
5. In addition to the policies required in R4-19-801(B), the Board may approve a nursing assistant program to offer an advanced placement option to a student with a background in health care. A nursing assistant program wishing to offer an advance placement option shall submit their advanced placement policy to the Board and receive approval before implementing the policy. The program shall include, at a minimum, the following provisions in its policy:
  - a. Advanced placement is limited to students with at least one year full-time employment in the direct provision of health care within the past five years or students who have successfully completed course work that included direct patient care experiences in allied health, medicine or nursing in the past five years.
  - b. The program, at a minimum, shall require an advanced placement student to meet the same outcomes as regular students on all examinations and skill performance demonstrations.
  - c. The program shall require an advanced placement student to successfully accomplish all clinical objectives during a minimum of 16 hours of clinical practice under the direct supervision and observation of a qualified instructor and in a long-term care facility.
  - d. Upon successful completion of advanced placement and any other program requirements, the program shall credit the graduate with the same number of didactic, laboratory and clinical hours as the regular graduate.

**B. Program coordinator qualifications and responsibilities**

1. Program coordinator qualifications include:
  - a. Holding a current, registered nurse license that is active and in good standing or multistate privilege to practice as an RN under A.R.S. Title 32, Chapter 15; and
  - b. Possessing at least two years of nursing experience at least one year of which is in the provision of long-term care facility services.
2. A director of nursing in a health care facility may assume the role of a program coordinator for a nursing assistant training program that is housed in the facility but shall not function as a program instructor.
3. A program coordinator's responsibilities include:
  - a. Supervising and evaluating the program;
  - b. Ensuring that instructors meet Board qualifications and there are sufficient instructors to provide for a clinical ratio not to exceed 10 students per instructor;
  - c. Ensuring that the program meets the requirements of this Article; and
  - d. Ensuring that the program meets federal requirements regarding clinical facilities under 42 CFR 483.151.
4. Other than the director of nursing in a long-term care facility, a program coordinator may also serve as a program instructor.

**C. Program instructor qualifications and duties**

1. Program instructor qualifications include:
  - a. Holding a current, registered nurse license that is active and in good standing under A.R.S. Title 32, Chapter 15 and provide documentation of a minimum of one year full time or 1500 hours employment providing direct care as a registered nurse in any setting; and
  - b. At a minimum, one of the following:
    - i. Successful completion of a three semester credit course on adult teaching and learning concepts offered by an accredited post-secondary educational institution,



- ii. Completion of a 40 hour continuing education program in adult teaching and learning concepts that was awarded continuing education credit by an accredited organization,
          - iii. One year of full-time or 1500 hours experience teaching adults as a faculty member or clinical educator, or
          - iv. One year of full time or 1500 hours experience supervising nursing assistants, either in addition to or concurrent with the one year of experience required in subsection (C)(1)(a).
  2. In addition to the program instruction requirements in R4-19-801(C), a nursing assistant program instructor shall provide on-site supervision for each student placed in a health care facility not to exceed 10 students per instructor;
- D. Clinical and classroom hour requirements and resources**
  1. A nursing assistant training program shall ensure each graduate receives a minimum of 120 hours of total instruction consisting of:
    - a. Instructor-led teaching in a classroom setting for a minimum of 40 hours;
    - b. Instructor-supervised skills practice and testing in a laboratory setting for a minimum of 20 hours; and
    - c. Instructor-supervised clinical experiences for a minimum of 40 hours, consistent with the goals of the program. Clinical requirements include the following:
      - i. The program shall provide students with clinical orientation to any clinical setting utilized.
      - ii. The program shall provide a minimum of 20 hours of direct resident care in a long-term care facility licensed by the Department of Health Services, except as provided in subsection (iv). Direct resident care does not include orientation and clinical pre and post conferences.
      - iii. If another health care facility is used for additional required hours, the program shall ensure that the facility provides opportunities for students to apply nursing assistant skills similar to those provided to long-term care residents.
      - iv. If a long-term care facility licensed by the Department of Health Services is not available within 50 miles of the training program's classroom, the program may provide the required clinical hours in a facility or unit that cares for residents or patients similar to those residing in a long-term care facility.
    - d. To meet the 120 hour minimum program hour requirement, a NA program shall designate an additional 20 hours to classroom, skill or clinical instruction based upon the educational needs of the program's students and program resources.
  2. A nursing assistant training program shall ensure that equipment and supplies are in functional condition and sufficient in number for each enrolled student to practice required skills. At a minimum, the program shall provide:
    - a. Hospital-type bed, over-bed table, linens, linen protectors, pillows, privacy curtain, call-light and nightstand;
    - b. Thermometers, stethoscopes, including a teaching stethoscope, aneroid blood pressure cuffs, and a scale;
    - c. Realistic skill training equipment, such as a manikin or model, that provides opportunity for practice and demonstration of perineal care;
    - d. Personal care supplies including wash basin, towels, washcloths, emesis basin, rinse-free wash, tooth brushes, disposable toothettes, dentures, razor, shaving cream, emery board, orange stick, comb, shampoo, hair brush, and lotion;
    - e. Clothes for dressing residents including undergarments, socks, hospital gowns, shirts, pants and shoes or non-skid slippers;
    - f. Elimination equipment including fracture bed pans, bed pans, urinals, ostomy supplies, adult briefs, specimen cups, graduate cylinder, and catheter supplies;
    - g. Aseptic and protective equipment including running water, sink, soap, paper towels, clean disposable gloves, surgical masks, particulate respirator mask for demonstration purposes, gowns, hair protectors and shoe protectors;
    - h. Restorative equipment including wheelchair, gait belt, walker, anti-embolic hose, adaptive equipment, and cane;
    - i. Feeding supplies including cups, glasses, dishes, straws, standard utensils, adaptive utensils and clothing protectors;
    - j. Clean dressings, bandages and binders; and
    - k. Documentation forms.
- E. Consolidated Programs**
  1. A nursing assistant program may request, in writing, to consolidate more than one site of a program under one program approval for convenience of administration. The site of a program is where didactic instruction occurs. The Board may approve the request for a consolidated program if all the following conditions are met:
    - a. The program is not based in a long-term care facility;
    - b. The program does not offer an innovative program as defined in R4-19-214 at any consolidated site;
    - c. A single RN administrator has authority and responsibility for all sites including hiring, retention and evaluation of all program personnel;
    - d. Curriculum and policies are identical for all sites;
    - e. Instructional delivery methods are substantially similar at all sites;
    - f. Didactic, lab practice and clinical hours are identical for all sites;
    - g. The program presents sufficient evidence that all sites have comparable resources, including classroom, skill lab, clinical facilities and staff. Evidence may include pictures, videos, documentation of equipment purchase and instructor resumes;
    - h. The program provides an application to the Board a minimum of 30 days before consolidation of the program or use of the new site;
    - i. The site is fully staffed before accepting students;
    - j. The program evaluates each site separately under R4-19-801(A)(9);
    - k. The program arranges for the test vendor to provide a separate program number for each site;
  2. There have been no substantiated complaints against the program or failure to follow the provisions of this Article in the past two years.
  3. The program shall notify the Board if a site is closed or has not been used in two years.
  4. A program that has been Board-approved as a consolidated program may request to add additional sites 30 days in advance of site utilization. The Board may approve the new site if the site meets the criteria in subsection (E)(1).



5. The Board may deny a request to consolidate programs or add a site if the requirements of this section are not met. Denial of such a request is not a disciplinary action and does not affect the program's approval status.
6. The Board shall not renew or visit any site that was not used in the previous approval period.
- F. Curriculum: a nursing assistant training program shall provide classroom and clinical instruction regarding each of the following subjects:
  1. Communication, interpersonal skills, and documentation;
  2. Infection control;
  3. Safety and emergency procedures, including abdominal thrusts for foreign body airway obstruction and cardiopulmonary resuscitation;
  4. Patient or resident independence;
  5. Patient or resident rights, including the right to:
    - a. Confidentiality;
    - b. Privacy;
    - c. Be free from abuse, mistreatment, and neglect;
    - d. Make personal choices;
    - e. Obtain assistance in resolving grievances and disputes;
    - f. Security of a patient's or resident's personal property; and
    - g. Be free from restraints;
  6. Recognizing and reporting abuse, mistreatment or neglect to a supervisor;
  7. Basic nursing assistant skills, including:
    - a. Taking vital signs, height, and weight using standing, wheelchair and bed scales;
    - b. Maintaining a patient's or resident's environment;
    - c. Observing and reporting pain;
    - d. Assisting with diagnostic tests including obtaining specimens;
    - e. Providing care for patients or residents with drains and tubes including catheters and feeding tubes;
    - f. Recognizing and reporting abnormal patient or resident physical, psychological, or mental changes to a supervisor;
    - g. Applying clean bandages;
    - h. Providing peri-operative care; and
    - i. Assisting in admitting, transferring, or discharging patients or residents.
  8. Personal care skills, including:
    - a. Bathing, skin care, and dressing;
    - b. Oral and denture care;
    - c. Shampoo and hair care;
    - d. Fingernail care;
    - e. Toileting, perineal, and ostomy care;
    - f. Feeding and hydration, including proper feeding techniques and use of assistive devices in feeding; and
  9. Age specific, mental health, and social service needs, including:
    - a. Modifying the nursing assistant's behavior in response to patient or resident behavior,
    - b. Demonstrating an awareness of the developmental tasks and physiologic changes associated with the aging process,
    - c. Responding to patient or resident behavior,
    - d. Allowing the resident or patient to make personal choices and providing and reinforcing other behavior consistent with the individual's dignity,
    - e. Providing culturally sensitive care,
    - f. Caring for the dying patient or resident, and
    - g. Using the patient's or resident's family as a source of emotional support for the resident or patient;
  10. Care of the cognitively impaired patient or resident including:
    - a. Understanding and addressing the unique needs and behaviors of patients or residents with dementia or other cognitive impairment,
    - b. Communicating with cognitively impaired patients or residents,
    - c. Reducing the effects of cognitive impairment, and
    - d. Appropriate responses to the behavior of cognitively impaired individuals.
  11. Skills for basic restorative services, including:
    - a. Body mechanics;
    - b. Resident self-care;
    - c. Assistive devices used in transferring, ambulating and dressing;
    - d. Range of motion exercises;
    - e. Bowel and bladder training;
    - f. Care and use of prosthetic and orthotic devices; and
    - g. Turning and positioning a resident in bed, transferring a resident between bed and chair and positioning a resident in a chair.
  12. Health care team member skills including the role of the nursing assistant and others on the health care team, time management and prioritizing work; and
  13. Legal aspects of nursing assistant practice, including:
    - a. Requirements for licensure and registry placement and renewal.
    - b. Delegation of nursing tasks,
    - c. Ethics,
    - d. Advance directives and do-not-resuscitate orders, and



- e. Standards of conduct under R4-19-814.
- 14. Body structure and function, together with common diseases and conditions.
- G. Curriculum sequence: A nursing assistant training program shall provide a student with a minimum of 16 hours instruction in the subjects identified in subsections (F)(1) through (F)(6) before allowing a student to care for patients or residents.
- H. Skills: A nursing assistant instructor shall verify and document that the following skills are satisfactorily performed by each student before allowing the student to perform the skill on a patient or resident without the instructor present:
  1. Hand hygiene, gloving and gowning; and
  2. Skills in subsection (F)(7), (8) and (11)(a), (c), (d), (f), and (g).
- I. One-year approval: following receipt and review of a complete initial application as specified in R4-19-804 the Board may approve the program for a period that does not exceed one year, if requirements are met, without a site visit.
- J. A Medicare or Medicaid certified long-term care facility-based program shall provide in its initial and each renewal application, a signed, sworn, and notarized document, executed by the program coordinator, affirming that the program does not require a nursing assistant student to pay a fee for any portion of the program including the initial attempt on the state competency exam.

#### R4-19-809. Nursing Assistant Licensure and Medication Assistant Certificate Renewal

- A. An applicant for renewal of a LNA license or a CMA certificate shall:
  1. Submit a verified application to the Board on a form furnished by the Board that provides all of the following information about the applicant:
    - a. Full legal name, mailing address including county of residence, e-mail address and telephone number;
    - b. Marital status and ethnicity at the applicant's discretion;
    - c. Current health care employer including name, address, telephone number, dates of employment and type of setting;
    - d. If the applicant fails to meet the practice requirements in subsections (A)(2) for nursing assistant or (A)(3) for medication assistant renewal, documentation that the applicant has completed a Board-approved training program for the licensure or certification sought and passed both the written and manual skills portions of the competency examination within the past two years;
    - e. Responses to questions that address the applicant's background:
      - i. Any investigation or disciplinary action by a nursing regulatory agency or nursing assistant regulatory agency in the United States or its territories not previously disclosed by the applicant to the Board;
      - ii. Felony conviction or conviction of undesignated offense and date of absolute discharge of sentence since licensed, certified or last renewed, and
      - iii. Unprofessional conduct committed by the applicant as defined in A.R.S. § 32-1601 since the time of last renewal and not previously disclosed by the applicant to the Board;
      - iv. Any disciplinary action or investigation related to the applicant's nursing ~~license~~ or nursing assistant license or medication assistant ~~license certificate, nursing assistant~~ certificate or registry listing by any other state regulatory agency since the issuance of the license or certificate, or since last renewal and not previously disclosed to the Board.
      - v. Explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
    - 2f. For LNA renewal, employment as a nursing assistant, performing nursing assistant tasks for an employer or the applicant's performance of nursing assistant activities as part of a nursing or allied health program for a minimum of 160 hours every two years since the last license or certificate was issued, or
    - 3g. For CMA renewal, employment as a medication assistant for a minimum of 160 hours within the last 2 years, and
    - 4h. Applicable Pay applicable fees under pursuant to A.R.S. § 32-1643 and R4-19-808.
  - B. ~~A nursing assistant An applicant's license and a medication assistant or certificate expire expires simultaneously every 2 two years on the last day of the licensee's applicant's birth date month. If a licensee an applicant fails to timely renew the license or certificate, the licensee applicant shall:~~
    1. Not work or practice as ~~a an LNA or CMA~~ until the Board issues a renewal license ~~and shall not practice as a CMA until the Board issues a renewal or~~ certificate; and
    2. Pay any late fee imposed by the Board.
  - C. If an ~~applicant applicant's holds a license or held a license or certificate that has been was, or is currently, revoked, surrendered, denied, suspended or placed on probation in another jurisdiction, the applicant is not eligible to renew or reactivate the applicant's Arizona license or certificate until a review or investigation has been completed and a decision made by the Board.~~
  - D. The Board may renew an LNA license and CMA certificate of an applicant who meets the criteria established in statute and this Article. An applicant who is denied renewal of a license or certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of the license or certificate. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. Title 4, Chapter 19, Article 6.

#### R4-19-810. Certified Nursing Assistant ~~Register~~ Registry; Licensed Nursing Assistant ~~Register~~ Registry

- A. The Board shall maintain a Certified Nursing Assistant (CNA) Registry and a Licensed Nursing Assistant (LNA) Registry. All individuals listed in either Registry shall provide proof to the Board, either directly or through the Board's test vendor, of legal presence in the United States as specified in A.R.S. § 41-1080. Both Registries meet the requirements of ~~A.R.S. § 32-1601(B)(11)~~ A.R.S. § 32-1606(B)(11).
  1. To be placed on the CNA Registry, ~~the an~~ applicant shall either:
    - a. Have successfully completed an approved nursing assistant training program and passed the nursing assistant written and manual skills competency evaluation within the past two years; or
    - b. For endorsement, be listed on another state's nursing assistant registry.
  2. To renew CNA Registry status under A.R.S. § 32-1642(E), an applicant shall submit an application that includes verified statements ~~of establishing~~:



- a. Whether applicant has performed nursing assistant or nursing related services ~~for compensation~~ for at least eight hours within the past 24 months. ~~An applicant must complete this work requirement to be eligible for renewal, and~~
- b. Whether the applicant's listing on any registry in any other state includes documented findings of abuse, neglect or misappropriation of property.
- 3. The Executive Director shall include the following information in the CNA ~~Registry~~ Register for each registered individual:
  - a. Full legal name and any other names used;
  - b. Address of record;
  - c. County of residence;
  - d. The date of initial placement on the ~~register registry~~;
  - e. Dates and results of both the written and manual skills portions of the nursing assistant competency examination;
  - ~~6f.~~ 6f. Date of expiration of current registration, if applicable;
  - ~~7g.~~ 7g. Any substantiated complaints of abuse, neglect or misappropriation of ~~property funds~~; and
  - ~~8h.~~ 8h. Registry status such as active or expired as applicable.
- B. An LNA applicant who meets the qualifications under subsection (A)(1) and the licensure requirements of this Article shall be placed on an LNA Registry. The Executive Director shall include the following information in the ~~License Nursing Assistant-LNA Register Registry~~ for each licensed individual:
  - 1. Information contained in subsection (A)(3);
  - ~~2. Existence of pending investigation, if applicable;~~
  - ~~3. Status of the license and any Board actions on the license, such as active, denied, expired, or revoked, as applicable.~~
- C. The Executive Director shall include the following information in the applicable ~~Register Registry~~ for an individual if the Board, or the United States Department of Health and Human Services (HHS), ~~or the Arizona Department of Health Services~~ finds that the individual has violated relevant law: ~~1. For a finding by the Board or HHS, the Executive Director shall include:~~
  - ~~a1.~~ a1. The finding, including the date of the decision, and a reference to each statute, rule, or regulation violated; and
  - ~~b2.~~ b2. The sanction, if any, including the date of action and the duration of action, if time-limited.
  - ~~2. For a finding by the Arizona Department of Health Services, the Executive Director shall include:~~
    - ~~a. The allegation;~~
    - ~~b. Documentation of the investigation, including the:~~
      - ~~i. Nature of allegation, and~~
      - ~~ii. Description of evidence supporting the findings;~~
    - ~~c. Date of hearing, if any, or the date that the complaint was substantiated;~~
    - ~~d. Statement disputing the allegation, if any;~~
    - ~~e. The finding, including the date of the decision and a reference to each statute or rule violated; and~~
    - ~~f. The sanction, including the dates of action and the duration of the sanction, if time limited.~~

**R4-19-811. Application for Duplicate License or Certificate Repealed**

- ~~A. A licensee or CMA certificate holder shall report a lost or stolen license or certificate to the Board in writing or electronically through the Board's website, within 30 days of discovery of the loss.~~
- ~~B. An individual requesting a duplicate license or certificate shall file an application on a form provided by the Board and pay the applicable fee under A.R.S. § 32-1643 (A) (14).~~

**R4-19-815. Reissuance or Subsequent Issuance of a Nursing Assistant License or Medication Assistant Certificate**

An applicant whose application is denied or a licensee or CMA certificate holder whose certificate or license is revoked in accordance with A.R.S. § 32-1663, may reapply to the Board after a period of five years from the date the license, certificate or application is revoked or denied. A licensee or CMA certificate holder who voluntarily surrenders a certificate may reapply to the Board after no less than three years from the date the certificate is surrendered. The Board may issue or re-issue a nursing assistant license or medication assistant certificate under the following terms and conditions:

- A. A person whose LNA license or CMA certificate was denied, revoked, or voluntarily surrendered pursuant to A.R.S. § 32-1663 may apply to the Board to issue or re-issue the license or certificate:
  - 1. Five years from the date of denial or revocation, or
  - 2. In accordance with the terms of a voluntary surrender agreement.
- B. A person who applies for issuance or re-issuance of a license or certificate under the conditions of subsection (A) is subject to the following terms and conditions:
  - 1. The applicant shall submit a written application for issuance or re-issuance of the license or certificate that contains substantial evidence that the basis for surrendering, denying, or revoking the license or certificate has been removed and that the issuance or re-issuance of the license or certificate will not be a threat to public health or safety.
  - 2. Safe practice:
    - a. Pursuant to A.R.S. § 32-1664(F), the Board for reasonable cause may require a combination of mental, physical, nursing competency, psychological, or psychiatric evaluations, or any combination of evaluations, reports, and affidavits that the Board considers necessary to determine the person's competence and conduct to safely practice as an LNA or CMA.
  - ~~1. An applicant shall submit documentation showing that the basis for denial, revocation or voluntary surrender has been removed and that the issuance or re-issuance of licensure or CMA certification will no longer constitute a threat to the public health or safety.~~
    - ~~a. The Board may require ~~an~~ the applicant to be tested for competency, or retake and successfully complete a Board approved training program and pass the required examination, all at the applicant's expense.~~
- 2C. The Board shall consider the application, and may designate a time for the applicant to address the Board at a regularly scheduled meeting.
- 3D. After considering the application, the Board may:



- a1. Grant certification, with or without conditions or limitations, or
  - b2. Deny the application.
- 4E. An applicant who is denied issuance or ~~reinstatement~~ re-issuance of LNA licensure or CMA certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order ~~denying issuance or reinstatement of nursing assistant licensure or medication assistant certification~~. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.



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 12. NATURAL RESOURCES
CHAPTER 15. DEPARTMENT OF WATER RESOURCES

[R18-275]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rule:
4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:





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

Reasons for Initiating the Rulemaking

Developers of new subdivisions within an AMA must either obtain a certificate of AWS from the Arizona Department of Water Resources ("Department") or obtain a commitment of water service from a municipal water provider designated by the Department as having an AWS prior to the sale of any lots. A.R.S. § 45-576(A). One of several requirements to obtain a certificate or designation of AWS is to demonstrate that any groundwater use is consistent with the management goal of the AMA. The management goal of the Pinal AMA, where a predominately agricultural economy exists, is to allow development of non-irrigation uses and to preserve existing agricultural economies for as long as feasible, consistent with the necessity to preserve future water supplies for non-irrigation uses. A.R.S. § 45-562(B).

One of the methods for demonstrating consistency with the management goal for groundwater use in the Pinal AMA is through the use of extinguishment credits. Under the Department's AWS Rules, when a grandfathered groundwater right is extinguished, the Department issues extinguishment credits that can be used by a developer or municipal water provider to demonstrate that a specified volume of groundwater use by the development or water provider will be consistent with the management goal of the AMA.

Another method of demonstrating that groundwater use is consistent with the management goal of the AMA is through the use of a groundwater allowance established in the Department's AWS rules. Currently, under the Department's rules, an applicant for a certificate of AWS receives a certain volume of groundwater allowance. Like extinguishment credits, a groundwater allowance represents a volume of groundwater that can be used to serve a subdivision consistent with the management goal.

Prior to 2007, the amount of extinguishment credits issued for the extinguishment of grandfathered groundwater rights in the Pinal AMA was an annual volume that remained the same each year, regardless of when the right was extinguished. In 2007, the Department amended the rule governing the calculation of extinguishment credits in the Pinal AMA, R12-15-725, to provide for a gradual reduction in the amount of credits given for the extinguishment of grandfathered groundwater rights, depending on when the extinguishment occurs. Under the rule as amended, the first reduction in the allocation factor for calculating extinguishment credits was to take effect on January 1, 2010, with additional reductions each year thereafter until 2054, when no credits would be given for the extinguishment of a grandfathered right.

One of the major reasons for the 2007 amendment was that residential development in the Pinal AMA was increasing rapidly, and the rate of development was projected to continue for the foreseeable future. Some of this development was anticipated to result in the extinguishment of IGFRs for extinguishment credits. Extinguishment of IGFRs under the extinguishment credit rule in effect at that time, combined with rapid development, could have led to a sharp increase in unreplenished groundwater pumping. The 2007 amendment was designed to reduce potential unreplenished groundwater pumping.

Shortly after the 2007 rule amendment, the Arizona real estate market began experiencing a significant downturn and residential development in the Pinal AMA slowed dramatically. In 2009, landowners and irrigation districts in the Pinal AMA expressed concerns to the Department that implementation of the reduction in extinguishment credits as scheduled could result in owners of farm land in the AMA prematurely extinguishing their IGFRs before the first reduction in credits was to take effect on January 1, 2010. It was feared that this would exacerbate the effects of the economic recession in the area by prematurely taking more lands out of agricultural production and increasing the water and power costs for those lands that continued to be farmed.

Consistent with the Pinal AMA management goal of preserving the agricultural economy for as long as feasible while ensuring water supply availability for future municipal and industrial water uses, the Department amended rule R12-15-725 in 2009 to delay the effective date of the first reduction of the allocation factor for calculating extinguishment credits in the Pinal AMA until 2014. It was felt that by 2014, economic conditions in the AMA would improve sufficiently so that implementation of the reduction in extinguishment credits at that time would not have a significant negative impact on the local economy. Through the 2009 amendment, the allocation factors for calendar years 2010 through 2013 were increased to 100, and the allocation factors for calendar years 2014 through 2016 were increased to 94, 88 and 82, respectively. No changes were made to the allocation factors for calendar years 2017 and thereafter.

In 2013, a group of stakeholders in the Pinal AMA requested that the Department again delay the reduction in the allocation factor used to calculate extinguishment credits in the Pinal AMA because economic conditions in the area had not improved as much as expected when rule R12-15-725 was amended in 2009. In response to this request, the Department again amended the Pinal AMA AWS rules to temporarily delay the first reduction in the allocation factor until September 15, 2014. This was accomplished through the adoption of two new rules, R12-15-725.01 and R12-15-725.02.

The combined effect of the adoption of R12-15-725.01 and R12-15-725.02 was that the first reduction in the allocation factor was delayed until September 15, 2014, when the reduction schedule adopted in 2009 was to become effective again. The temporary delay in the reduction schedule was designed to allow water users and other interested parties in the Pinal AMA to work together to examine conditions within the AMA and consider alternatives for meeting the Pinal AMA's management goal.

Again in 2014, a group of stakeholders in the Pinal AMA requested that the Department delay the first reduction in the Pinal AMA extinguishment credit calculation allocation factor. The stakeholders requested a delay until January 1, 2019 so that they could



explore alternative solutions to extinguishment credit reductions in the AMA and make recommendations before the first extinguishment credit reduction would become effective in 2019. In response, the Department again amended the Pinal AMA AWS rules in 2014 to postpone the first allocation factor reduction until January 1, 2019.

Following the Department’s amendment of the Pinal AMA AWS rules in 2014, a group of stakeholders in the Pinal AMA held several meetings to consider changes to both the extinguishment credit rule and the rule providing for a groundwater allowance for new certificates of AWS. Earlier this year, Stephen Q. Miller, Chairman of the Pinal AMA stakeholders group, requested that the Department amend the Pinal AMA AWS rules to: (1) modify the method of calculating extinguishment credits in the Pinal AMA, (2) limit the amount of groundwater that may be made consistent with the Pinal AMA management goal with the use of extinguishment credits for new certificates of AWS, and (3) eliminate the groundwater allowance for new certificates of AWS. After considering this request, the Department agreed that the requested rule changes should be made. These amendments will serve to both eliminate the concerns of IGFR holders that the current rule may result in IGFR holders extinguishing their grandfathered groundwater rights prematurely as well as potentially reduce the amount of future unreplenished groundwater use by new subdivisions.

Explanation of the Rules

1. Amendments relating to extinguishment credit calculation and use of credits

The Department is repealing rule R12-15-725.01, which contains the extinguishment credit calculation for the Pinal AMA, and adding a new subsection (B) to rule R12-15-725 that contains the new extinguishment credit calculation. This will combine the Pinal AMA groundwater allowance calculation and extinguishment credit calculation into one rule. The Department’s new extinguishment credit calculation in rule R12-15-725(B) no longer includes a declining allocation factor. Under the new calculation, all new extinguishments, regardless of when they occur, would be calculated in the same manner. For all new extinguishments, the initial amount of extinguishment credits given for the extinguishment would be calculated using the same formula that is currently used to calculate extinguishment credits. However, once extinguished, if 25 percent of the extinguishment credits are not used in each five-year period after extinguishment, the total amount of extinguishment credits will be reduced so that in the fifth year only 75 percent of the original amount of extinguishment credits remain, 50 percent in the 10th year, 25 percent in the 15th year, and zero percent in the 20th year.

The Department is amending rule R12-15-722(C) to limit, for certificates of AWS, the volume of groundwater use that can be made consistent with the management goal with the use of extinguishment credits created after January 1, 2019. Under the amendment, for certificates, in years six through 10 only 75 percent of total groundwater use may be made consistent with the management goal through the use of those extinguishment credits. The percentage declines over time as follows: 50 percent for years 11 through 15, 25 percent for years 16 through 20, and zero percent for years 21 and after.

This amendment is designed to avoid CAGRDR replenishment fee rate shock to future homeowners in subdivisions with a certificate of AWS issued based on a combination of extinguishment credits issued after January 1, 2019 and CAGRDR membership. Under the amendments to the extinguishment credit calculation in rule R12-15-725, unused extinguishment credits created in the Pinal AMA after January 1, 2019 will decline to zero after 20 years. With the declining extinguishment credits, the Department anticipated that a steep increase in CAGRDR fees likely would be experienced by homeowners in subdivisions with certificates relying on new extinguishment credits. The amendment ensures that subdivisions with certificates relying on new extinguishment credits will be required to gradually “ramp down” annual extinguishment credit use and gradually “ramp up” annual CAGRDR replenishment to make subdivision groundwater use consistent with the Pinal AMA management goal.

The Department is amending R12-15-723(D)(5) to make a conforming change by deleting the language in subsection (D)(5) that states that grandfathered rights cannot be extinguished in the Pinal AMA in the first calendar year in which the allocation factor for the extinguishment of a grandfathered right is zero. Because the Department is eliminating the current declining allocation factor, under the rule changes, grandfathered rights can be extinguished in perpetuity.

2. Amendments relating to the groundwater allowance

The Department is amending the groundwater allowance calculation for certificates of AWS in R12-15-725 by eliminating the groundwater allowance for certificate applications filed on or after January 1, 2019. Currently, the rule provides for a groundwater allowance for certificate applications until January 1, 2025. The Department is amending this rule by deleting the table containing allocation factors used to calculate the groundwater allowance for applications filed during the first through fifth management periods and replacing the table with two new subsections. New subsection (A)(1)(a) provides that for certificate applications in the Pinal AMA filed before January 1, 2019, the groundwater allowance is calculated by multiplying the annual estimated water demand of the subdivision by 10 (this is the current formula). New subsection (A)(1)(b) provides that for certificate applications filed on or after January 1, 2019, the groundwater allowance is zero.

**7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes 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:**

None

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule 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 rule amendments related to extinguishment credits will have potential positive economic impacts on IGFR holders who would have prematurely extinguished their IGFRs under the existing rules, but who will retain their IGFRs until it is most advantageous to extinguish. These IGFR holders may benefit in the following ways: (1) by continuing farming operations so that they can



receive an income from the land, and (2) by maintaining the lower tax rates applicable to agricultural land uses. The rule amendment will likely have positive economic impacts on businesses within the Pinal AMA that sell farming materials, such as seed and equipment.

The rule changes related to extinguishment credits may result in reduced CAGR fees for future homeowners within the Pinal AMA who purchase homes in subdivisions with AWS determinations based wholly or in part on extinguishment credits created in the later years of the existing rule allocation factor table. Additionally, the rule changes may also have a positive economic impact on future homeowners in the Pinal AMA in subdivisions with certificates issued after January 1, 2019 based in part on extinguishment credits due to the proposed extinguishment credit use limitations in R12-15-722(C) designed to avoid abrupt increases in CAGR replenishment fees.

The rule amendment will likely have no economic impact on the Department. The Department does not believe that any new full-time employees would be necessary to implement the proposed rule amendments. The rule amendments related to extinguishment credits may have a negative economic impact on governmental entities that receive tax revenues from the real estate taxes assessed on lands within the Pinal AMA, such as Pinal County, Maricopa County, and Pima County. Some lands within the AMA that otherwise would have been taken out of agricultural production may remain in agricultural production for a longer period of time. These lands would retain their lower agricultural tax status during that period. However, the loss in real estate tax revenue may be offset by more revenues from other taxes paid by the persons farming the lands, such as income taxes and sales taxes.

The rule amendment related to extinguishment credits may result in more IGFR groundwater withdrawals within the Pinal AMA, as some IGFR holders will likely continue irrigating their lands with groundwater longer under the proposed rule modification than under the current extinguishment credit rules. However, because under the proposed rule amendments, extinguishment credits created on or after January 2, 2019 decline by 25 percent every five years unless used, the rule amendments may reduce the amount of un replenished groundwater that would have been pumped to support future AWS determinations under the current rule. This may have a positive economic impact on all water users and businesses in the Pinal AMA by reducing the mining of un replenished groundwater in the AMA. The amendment could result in higher CAGR fees for some future homeowners in the Pinal AMA.

The rule amendment eliminating the groundwater allowance for certificate applications filed on or after January 1, 2019 may also reduce the amount of un replenished groundwater that would have been pumped to support future AWS determinations under the current rules. This likely will have a positive economic impact on all water users and businesses in the Pinal AMA by reducing the mining of un replenished groundwater in the AMA. The amendment could result in higher CAGR fees for some future homeowners in the Pinal AMA.

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

There are no changes between the proposed rules and the final rules.

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

**Comment from Representative David L. Cook, Legislative District 8:**

Pinal county has been working to solve these problems for years. Its citizens deserve to have government work for them and not to continuously have “the can” kicked down the road. The proposed rule changes should be moved through the process expeditiously. I am in support of this rule.

**Response:**

The Department appreciates the support and is requesting an immediate effective date for the rule amendment and repeal pursuant to A.R.S. § 45-1032(A)(4).

**Comment from Representative David L. Cook, Legislative District 8:**

These proposed rule changes should help the water modeling methods of the Department. The Department has not issued an application approval in over 18 months for this county, while there are still 16 applications waiting. Will this rule help the Department in their modeling system to approve these applications that have been pending?

**Response:**

Groundwater modeling relates to the demonstration of physical availability of groundwater. Applicants for assured water supply determinations are required to demonstrate the following for all proposed water supplies: physical availability, continuous availability, financial capability and adequate water quality. Applicants that include groundwater as a proposed source of supply are also required to demonstrate that the projected groundwater use is consistent with the management plan and achievement of the management goal of the active management area. While extinguishment credits and groundwater allowance are methods for demonstrating that pumped groundwater is consistent with the management goal, they do not eliminate the requirement that an applicant for an assured water supply determination demonstrate that the groundwater will be physically available for 100 years using a method of analysis approved by the Department. This rulemaking does not address the requirements for demonstrating the physical availability of groundwater nor is its purpose to aid in the demonstration of physical availability of groundwater for pending assured water supply applications in the Pinal AMA.

**Comment from Pinal County Supervisor Stephen Q. Miller:**

The people of Pinal County have been working for a solution for several years that has now been found. This rule proposal is supported by diverse group of industry and business interests. As the Pinal County Supervisor, District 3 and Chairman of the Adhoc Committee I support the proposed rule amendment. This rule amendment provides a balance between equity to farmers and maintaining future water supplies for Pinal County. I want to thank everybody who participated in the committee.



**Response:**

The Department appreciates the support.

**Comment from Casa Grande Council Member Dick Powell:**

The rule proposal is the best option and meets the most needs of the people involved. The rule proposal allows farmers to save credits for a later time and makes credits available to developers. The rule should be adopted. I commend everybody that worked on this rule proposal.

**Response:**

The Department appreciates the support.

**Comment from Mike Malano, Managing Director of Greenstone:**

The proposed amendment impairs the value of farmland in the Pinal AMA by greatly diminishing the value of Extinguishment Credits created when a farmland owner retires farmland.

The proposed rule amendment is very similar to Senate Bill 1511 proposed in the most recent legislative session. Greenstone provided testimony in opposition to Senate Bill 1511, including an analysis of the financial implications to irrigation grandfathered right owners.

**Response:**

The proposed rule amendments change the extinguishment credit calculation for extinguishments of grandfathered groundwater rights in the Pinal AMA taking place after January 1, 2019. Extinguishment credits were developed by rule to provide a method, aside from CAGR replenishment or groundwater allowance, for groundwater to meet the consistency with management goal requirement for AWS purposes. Extinguishment credits were not created with the intention of impacting the value of farmland and the Department is not aware of any evidence indicating that the proposed rule amendment will have such an impact. The rule amendments are intended to eliminate the concerns of grandfathered rightholders in the Pinal AMA that the current extinguishment credit rule may result in premature extinguishment of grandfathered rights.

**Comment from Mike Malano, Managing Director of Greenstone:**

Greenstone suggests that the rule amendment should provide farmland owners the option to choose from the following two options when extinguishing grandfathered groundwater rights:

1. Creating extinguishment credits consistent with the proposed rule change contained in the Department's current Notice of Proposed Rulemaking, or
2. Creating extinguishment credits consistent with the original Pinal AMA guidelines established in 2010 per R12-15-722(C) and attached to Greenstone's comment.

**Response:**

The rulemaking referenced by Mr. Malano and attached to the comment, is a Notice of Final Rulemaking published in the Arizona Administrative Register on April 20, 2007. This 2007 extinguishment credit calculation rulemaking is discussed in the Notice of Proposed Rulemaking and Notice of Final Rulemaking filed in this rulemaking proceeding.

Providing two optional methods for the calculation of extinguishment credits would further complicate the administration of the Assured Water Supply Program in the Pinal AMA. If the current proposed rule amendment is approved, the Department will have three types of extinguishment credits to manage and administer in the Assured Water Supply Program; the original extinguishment credit type, the extinguishment credit type created after the 2007 rule change, and the extinguishment credit type created with this current rulemaking. The alternative method proposed by Greenstone would further complicate the administration of the program by requiring the Department to simultaneously administer two completely different extinguishment credit calculation methodologies for extinguishments in the Pinal AMA beginning in 2019.

The Department instituted this rule amendment at the recommendation of the Pinal AMA Stakeholders Group chaired by Stephen Miller. The recommendation included only one methodology for calculating extinguishment credits in the Pinal AMA, which the Department included in the rule amendment package contained in the Notice of Proposed Rulemaking. The Department agrees with the recommendation of the Pinal AMA Stakeholders Group that only one extinguishment credit calculation methodology should be used.

**Comment from Warren Tenney, Executive Director of the Arizona Municipal Water Users Association regarding paragraph four of the Preliminary Summary of the Economic, Small Business, and Consumer Impact Statement in the Notice of Proposed Rulemaking filed for this rule amendment and repeal:**

“The rule amendment related to extinguishment credits may result in more IGFR groundwater withdrawals within the Pinal AMA, as some IGFR holders will likely continue irrigating their lands with groundwater longer under the proposed rule modification than under the current extinguishment credit rules. However, because under the proposed rule amendments, extinguishment credits created on or after January 2, 2019 decline by 25 percent every five years unless used, the rule amendments may reduce the amount of unreplenished groundwater that would have been pumped to support future AWS determinations under the current rule.”

Can the Department provide any quantitative estimates demonstrating that these changes would not increase unreplenished groundwater withdrawals in the Pinal AMA, regardless of sector? Overall, can you provide any additional demonstration of how these rule changes would result in an increase or decrease in the physical availability of groundwater in the Pinal AMA?

**Response:**

The Department does not have any quantitative estimates of the impact of this rule change on unreplenished groundwater withdrawals or physical availability of groundwater in the Pinal AMA. However, the Department believes that the statement quoted



above from the Preliminary Summary of the Economic, Small Business, and Consumer Impact Statement is a reasonable statement of potential impact.

**Comment from Warren Tenney, Executive Director of the Arizona Municipal Water Users Association regarding paragraph five of the Preliminary Summary of the Economic, Small Business, and Consumer Impact Statement in the Notice of Proposed Rulemaking filed for this rule amendment and repeal:**

“The rule amendment eliminating the groundwater allowance for certificate applications filed on or after January 1, 2019 may also reduce the amount of unreplenished groundwater that would have been pumped to support future AWS determinations under the current rules. This likely will have a positive economic impact on all water users and business in the Pinal AMA by reducing the mining of groundwater in the AMA.”

Under the current AWS rules, the groundwater allowance for certificate applications would decline to 0 after 2025, the end of the fifth management period. The proposed rule change eliminates six years of groundwater allowance, while removing an incentive to discontinue the use [sic] of unreplenished IGFR groundwater withdrawals. Can the Department provide any quantitative estimates that illustrate whether this tradeoff will result in increased or decreased physical availability of groundwater in the Pinal AMA?

**Response:**

The Department does not have any quantitative estimates of the impact of this rule change on physical availability of groundwater in the Pinal AMA. However, the Department believes that the statement quoted above from the Preliminary Summary of the Economic, Small Business, and Consumer Impact Statement is a reasonable statement of potential impact.

**Comment from Warren Tenney, Executive Director of the Arizona Municipal Water Users Association regarding paragraph two of the Preliminary Summary of the Economic, Small Business, and Consumer Impact Statement in the Notice of Proposed Rulemaking filed for this rule amendment and repeal:**

“The rule changes related to extinguishment credits may result in reduced CAGRDR fees for future homeowners within the Pinal AMA who purchase homes in subdivisions with AWS determinations based wholly or in part on extinguishment credits created in the later years of the current rule allocation factor table.”

Can the Department offer any reasonable numerical estimates on the cumulative cost impact to future homeowners in the Pinal AMA due to these changes? Can the Department also provide estimates as to how these rule changes would impact CAGRDR’s future replenishment obligations in the Pinal AMA?

**Response:**

The Department does not have any numerical estimates on the cumulative cost impact to future homeowners in the Pinal AMA due to these changes. Likewise, the Department does not have quantitative estimates as to how the rule changes would impact future CAGRDR replenishment obligations in the Pinal AMA. However, the Department believes that the statement above contained in the Preliminary Summary of the Economic, Small Business, and Consumer Impact Statement is a reasonable statement of potential impact.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
The rules do not require a permit. The rules provide guidance in the issuance of assured water supply determinations.
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Federal law is not applicable to the subject of the rules because the rules are based on state law.
- c. Whether a person submitted an analysis to the agency that compares the rules’ impact of the competitiveness of business in this state to the impact on business in another state:**  
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. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES  
CHAPTER 15. DEPARTMENT OF WATER RESOURCES  
ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY**

Section	
R12-15-722.	Consistency with Management Goal
R12-15-723.	Extinguishment Credits
R12-15-725.	Pinal AMA — <del>Groundwater Allowance</del> Calculation of Groundwater Allowance and Extinguishment Credits
R12-15-725.01.	Pinal AMA — <del>Extinguishment Credits Calculation</del> Repealed



ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

R12-15-722. Consistency with Management Goal

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
- B. No change
- C. For a certificate in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA for at least 100 years by adding the following:
  - 1. No change
  - 2. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished on or after January 1, 2019, according to R12-15-725(B), except that annual reported use of such extinguishment credits to make groundwater use consistent with the management goal is limited to the following percentages of groundwater use from the sixth year after certificate issuance:

<u>Years After Certificate Issuance</u>	<u>Percentage of Total Groundwater Use that May Be Made Consistent with the Pinal AMA Management Goal with Extinguishment Credits Pledged to Certificate</u>
<u>Years Six through Ten</u>	<u>75%</u>
<u>Years Eleven through Fifteen</u>	<u>50%</u>
<u>Years Sixteen through Twenty</u>	<u>25%</u>
<u>Years Twenty-one and After</u>	<u>0%</u>

- 23. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished on or after October 1, 2007, ~~according to R12-15-725(B)~~ and before January 1, 2019.
- 34. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished before October 1, 2007. The Director shall calculate the amount of the extinguishment credits by multiplying the annual amount of the credits by 100.
- 45. Any groundwater that is consistent with achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- D. No change
- E. For a designation in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the Pinal AMA on an annual basis for at least 100 years by adding the following for each year during the 100-year period:
  - 1. No change
  - 2. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after January 1, 2019, divided by the number of years remaining in which the credits may be used pursuant to R12-15-725(B). These credits shall be included in the calculation only for those years in which the credits may be used. If any of the extinguishment credits were originally pledged to a certificate and are being used to support the municipal provider's designation pursuant to R12-15-723(G)(2), the extinguishment credits shall not be limited by the percentages in subsection (C)(2) of this section.
  - 23. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after October 1, 2007 ~~and before January 1, 2019, according to R12-15-725(B)~~; divided by 100. Extinguishment credits for a grandfathered right that was extinguished on or after October 1, 2007 ~~and before January 1, 2019~~ may be used in any year.
  - 34. The annual amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished before October 1, 2007. The following shall apply if any of the extinguishment credits are not used during a calendar year:
    - a. If the extinguishment credits were pledged to the designation before October 1, 2007, any extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
    - b. If the extinguishment credits are pledged to the designation on or after October 1, 2007, any of the extinguishment credits not used during a calendar year shall not be added to the volume calculated under this subsection for the following calendar year, except that if the extinguishment credits were originally pledged to a certificate before October 1, 2007 and are used to support the municipal provider's designation pursuant to R12-15-723(G)(2), any of the extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
  - 45. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- F. For a designation in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the Pinal AMA if the ~~annual~~ volume calculated in subsection (E) of this Section for each year during the 100-year period is equal to or greater than the portion of the applicant's annual estimated water demand to be met with groundwater.
- G. No change
  - 1. No change
  - 2. No change
  - 3. No change
- H. No change



**R12-15-723. Extinguishment Credits**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
  - 5. No change
  - 6. No change
- B. No change
- C. No change
- D. The following rights may not be extinguished in exchange for extinguishment credits:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. ~~Any grandfathered right in the Pinal AMA beginning in the first calendar year in which the allocation factor for the extinguishment of a grandfathered right is zero, pursuant to R12-15-725(B)(3) or (4).~~
  - 6. A Type 1 non-irrigation grandfathered right that was requested to be included by a city or town in the Tucson AMA in the determination made under A.R.S. § 45-463(F).
- E. No change
- F. No change
- G. No change
  - 1. No change
  - 2. No change
- H. No change
- I. No change
  - 1. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
- J. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
- K. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- L. No change

**R12-15-725. Pinal AMA — ~~Groundwater Allowance Calculation of Groundwater Allowance and Extinguishment Credits~~**

- A. The Director shall calculate the groundwater allowance for a certificate or designation in the Pinal AMA as follows:
  - 1. If the application is for a certificate, ~~multiply the applicable allocation factor in the table below for the management period in effect on the date of application by the annual estimated water demand for the proposed subdivision.~~

MANAGEMENT PERIOD/ DATE OF APPLICATION	ALLOCATION FACTOR
Third	10
Fourth	10
Fifth	5
After Fifth	0

- a. If the certificate application is filed before January 1, 2019, multiply the annual estimated water demand for the proposed subdivision by 10.
- b. If the certificate application is filed on or after January 1, 2019, the groundwater allowance shall be zero.
- 2. If the application is for a designation:
  - a. No change
    - i. No change



- ii. No change
- iii. No change
- iv. No change
- v. No change
- b. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation ~~is~~was filed before January 1, 2012, multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology in Section 5-103(D) of the Third Management Plan for the Pinal AMA.
- c. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation ~~is~~was filed on or after January 1, 2012, the applicant's groundwater allowance is zero acre-feet.
- d. No change
- 3. No change

**B. The Director shall calculate the extinguishment credits for extinguishing a grandfathered right in the Pinal AMA as follows.**

- 1. The Director shall calculate the initial volume of extinguishment credits for the extinguishment of a grandfathered right in the Pinal AMA as follows:
  - a. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate of grandfathered right by 100.
  - b. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, multiply 1.5 acre-feet by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply that product by 100, except that:
    - i. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, only those acres associated with the portion of the right that is extinguished shall be included in the calculation; and
    - ii. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under § 45-467, the amount of the debit shall be subtracted from the amount of the extinguishment credits.
- 2. For grandfathered rights extinguished in the Pinal active management area on or after January 1, 2019, if the amount of the extinguishment credits remaining unused in the fifth, tenth, fifteenth, and twentieth year after the year of extinguishment is greater than an amount calculated by multiplying the initial volume of extinguishment credits by the applicable percentage shown in the table below, the amount of unused credits shall be reduced to an amount calculated by multiplying the initial volume of extinguishment credits by the applicable percentage:

<u>Year After Extinguishment</u>	<u>Percentage</u>
<u>Fifth</u>	<u>75%</u>
<u>Tenth</u>	<u>50%</u>
<u>Fifteenth</u>	<u>25%</u>
<u>Twentieth</u>	<u>0%</u>

- 3. For purposes of subsection (B)(2) of this section, the amount of extinguishment credits remaining unused shall be the initial volume of extinguishment credits issued for the extinguishment of the right, less:
  - a. The amount of any of the extinguishment credits previously pledged to a certificate of assured water supply or designation of assured water supply pursuant to R12-15-723, subsections (E) or (F) and reported to the department as having been used; and
  - b. The amount of any previous reductions made to the extinguishment credits pursuant to subsection (B)(2) of this section.

**R12-15-725.01. Pinal AMA Extinguishment Credits Calculation Repealed**

The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Pinal AMA as follows:

- 1. ~~For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre feet indicated on the certificate by the applicable allocation factor as determined under subsection (A)(3) or (A)(4) of this Section.~~
- 2. ~~For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, an amount calculated by multiplying 1.5 acre feet by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply that product by the applicable allocation factor as determined under subsection (A)(3) or (A)(4) of this Section, except that:~~
  - a. ~~If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and~~
  - b. ~~If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment credits.~~
- 3. ~~Except as provided in subsection (A)(4) of this Section, in calculating the extinguishment credits for the extinguishment of a grandfathered right under subsection (A)(1) or (A)(2) of this Section, the Director shall use the allocation factor associated with the year in which the grandfathered right is extinguished, as shown in the table below.~~



Year	Allocation Factor
2010	100
2011	100
2012	100
2013	100
2014	100
2015	100
2016	100
2017	100
2018	100
2019	94
2020	88
2021	82
2022	76
2023	74
2024	72
2025	70
2026	68
2027	66
2028	64
2029	62
2030	60
2031	58
2032	56
2033	54
2034	52
2035	50
2036	48
2037	46
2038	44
2039	42
2040	40
2041	38
2042	36
2043	34
2044	32
2045	30
2046	28
2047	26
2048	24
2049	22
2050	20
2051	18
2052	16
2053	14
2054	12
2055	10
2056	8
2057	6
2058	4



2059	2
After 2059	0

4. ~~If, before January 1, 2060, there is a moratorium on adding new member lands and member service areas in the Pinal AMA pursuant to A.R.S. § 45-576.06(A), in calculating the extinguishment credits for the extinguishment of a grandfathered right under subsection (A)(1) or (A)(2) of this Section, the Director shall use an allocation factor determined as follows:~~
  - a. ~~If the grandfathered right is extinguished while the moratorium is in effect, the Director shall use the allocation factor associated with the year in which the moratorium first became effective, as shown in the table in subsection (A)(3) of this Section.~~
  - b. ~~If the grandfathered right is extinguished when the moratorium is no longer in effect, the Director shall use the allocation factor associated with the year determined pursuant to this subsection, as shown in the table in subsection (A)(3) of this Section. The Director shall determine the year as follows:~~
    - i. ~~Subtract the year in which the moratorium first became effective from the year in which the moratorium ended.~~
    - ii. ~~Subtract the difference in subsection (A)(4)(b)(i) of this Section from the year in which the grandfathered right was extinguished.~~




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## NOTICES OF EMERGENCY RULEMAKING

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

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

Questions about the interpretation of the emergency rules should be addressed to the agency proposing them.

Refer to Item #5 to contact the person charged with the rulemaking.

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### NOTICE OF EMERGENCY RULEMAKING TITLE 3. AGRICULTURE CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

[R18-276]

#### PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u>  | <u>Rulemaking Action</u>  |
|---|---|
| R3-2-704  | New Section   |
| <b><u>2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b>   |   |
| Authorizing statute: A.R.S. § 3-107   |   |
| Implementing statute: A.R.S. § 3-1261   |   |
| <b><u>3. The effective date of the rule:</u></b>  |   |
| December 13, 2018   |   |
| <b><u>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):</u></b> |   |
| Not applicable  |   |
| <b><u>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):</u></b>                      |   |
| Not applicable  |   |
| <b><u>4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:</u></b>   |   |
| None  |   |
| <b><u>5. The agency's contact person who can answer questions about the rulemaking:</u></b>   |   |
| Name:   | Chris McCormack   |
| Address:  | Department of Agriculture<br>1688 W. Adams<br>Phoenix, AZ 85007 |
| Telephone:  | (602) 542-7186  |
| E-mail:   | <a href="mailto:cmccormack@azda.gov">cmccormack@azda.gov</a>    |
| <b><u>6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:</u></b>   |   |

For over a century, the State of Arizona has been issuing livestock brands to livestock producers throughout the state. For almost as long, the language in statute authorizing the State has included a provision that states, "no two brands of the same design or figure shall be adopted or recorded." A.R.S. § 3-1261(B). The State has historically inferred that part of what makes up a "brand" is the location on the animal. As a result of this inference, identical looking brands have been issued to other livestock producers, but they are assigned to a different location of the animal. Currently there are a minimum of 40 of these identical looking brands recorded with the Department.

In 2012, the Department issued an identical looking brand to a producer. David Stambaugh, also owned the same looking brand in a different location on the animal. Stambaugh sued the Department claiming they violated A.R.S. § 3-1261. Both the Superior Court and the Court of Appeals gave deference to the Department's interpretation of the statute; however, on August 3, 2017, the Arizona Supreme Court found that the statute's language clearly prohibits identical looking brands, regardless of the location on the animal.

Since receiving the opinion, the Department has sought legal advice as to the scope of the Court's decision and has worked with commodity groups to understand how the livestock industries would like this situation to be addressed. It was the Department's hope that the industry would recommend running legislation that would grandfather the existing brands; however, at the end of April 2018, the Arizona Cattlemen's Association and the Arizona Farm Bureau Federation both recommended that the



Department invalidate the subsequent identical brands. The Department decided that because of the risks associated with running legislation without industry support, it is in the best interest of the State to apply the current laws and invalidate the existing identical looking brands.

After receiving this recommendation, the Department developed a process to review existing brands and determine if they are identical or similar; and if identical, how to determine which brand is the original and which brand is a subsequent.

This rule is critical to ensure that the Department is providing substantive due process to brand holders when it makes a determination as to which brand holders will lose their brand. Without this rule, the Department risks opening itself up to additional liability.

**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:**

None

**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:**

Not applicable

**10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**

This rule was reviewed and recommended for adoption by the Department of Agriculture Advisory Committee, as required by A.R.S. § 3-104.

**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:**

No such analysis was received.

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

None

**12. An agency explanation about the situation justifying the rulemaking as an emergency rule:**

This rule is justified to be adopted as an emergency rule under A.R.S. § 41-1026(A)(3). Arizona law requires that brands be renewed every five years. Since receiving the Stambaugh decision, the Department has not been able to rerecord any of the brands that appear to be very similar or identical because this would be a direct violation of A.R.S. § 3-1261 as now interpreted by the Supreme Court. The Department's inability to rerecord these brands puts livestock producers in a difficult situation because State law prohibits the use of an unrecorded brand. The sooner that the Department can adopt this rule the sooner it can begin rerecording the original brands and helping subsequent brand holders find a suitable substitute brand.

The situation causing this rule to be an emergency is not due to a delay by the Department. Since the opinion was released, the Department has been working to understand the scope of the situation and to determine how to best resolve it. The Department received the industry recommendations in late April, and quickly developed a procedure to implement those recommendations.

**13. The date the Attorney General approved the rule:**

December 13, 2018

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

**TITLE 3. AGRICULTURE  
CHAPTER 2. DEPARTMENT OF AGRICULTURE  
ANIMAL SERVICES DIVISION**

**ARTICLE 7. LIVESTOCK INSPECTION**

Section  
R3 2 704. ~~Repealed~~ Determining Original and Subsequent Brands

**ARTICLE 7. LIVESTOCK INSPECTION**

**R3-2-704. ~~Repealed~~ Determining Original and Subsequent Brands**

**A.** Application of this rule. This rule is to be used to address brands that may have been adopted improperly as a result of the Arizona Supreme Court ruling in Stambaugh v. Killian, 398 P.3d 574 (Ariz. 2017). The rule shall only be used by the Department to evaluate existing recorded brands to determine if it has the "same design or figure" as another recorded brand. If there is a determination that



two brands are of the same design or figure, the Department shall use this rule to determine which brand will remain a valid brand and which brand will become invalid.

**B. Definitions.** The following definitions shall be used for interpreting this rule:

“Arrangement” means the placement and orientation of the characters within the brand.

“Brand” means a design or figure that is recorded with the Department and applied to livestock in a manner that leaves a permanent mark used to identify the owner of the livestock.

“Chain of ownership” means the period of time from the date the brand was recorded, until present and begins each time a brand is abandoned, if applicable.

“Design or figure” means the brand’s image as a whole, including the font, size, and arrangement of the characters.

“Font” means the style or type variation of a character.

“Original brand” means as the brand that is deemed to be of the same design or figure as another brand, but has the longer continuous chain of ownership.

“Size” means the height, length, or width of the characters relative to the other characters within the brand.

“Subsequent brand” means all brands that are deemed to be of the same design or figure, but are not the original brand.

**C. Brands that are the same.** Brands with a design or figure that have no visible distinctions from another brand’s design or figure shall be deemed a brand of the same design or figure. This determination shall be made by comparing the images printed on the current brand certificates recorded with the Department. Neither the location of the brand on the livestock, nor the species of livestock shall be considered when determining if a brand is of the same design or figure.

**D. Original Brands.** In the event that two or more recorded brands are determined to be of the same design or figure, an evaluation must be conducted to determine which is the original brand, and which are subsequent brands. To determine which brand is the original brand, the individual brand files must be reviewed to determine which brand has the longest chain of ownership. In the event that a brand is deemed to be abandoned pursuant to A.R.S. § 3-1265, the chain of ownership breaks; a new chain of ownership begins the next time the brand is recorded. The original brand is deemed to be properly recorded with the Department. Any brand determined to be a subsequent brand is deemed to be unlawfully recorded with the Department and therefore is not valid.

**NOTICE OF EMERGENCY RULEMAKING (RENEWAL)  
TITLE 6. ECONOMIC SECURITY  
CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY  
FOOD STAMPS PROGRAM**

[R18-277]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
Article 3	New Article
R6-14-301	New Section
R6-14-302	New Section
R6-14-303	New Section
R6-14-304	New Section
R6-14-305	New Section
R6-14-306	New Section
R6-14-307	New Section
R6-14-308	New Section
Article 4	New Article
R6-14-401	New Section
R6-14-402	New Section
R6-14-403	New Section
R6-14-404	New Section
R6-14-405	New Section
R6-14-406	New Section
R6-14-407	New Section
R6-14-408	New Section
R6-14-409	New Section
R6-14-410	New Section
R6-14-411	New Section
R6-14-412	New Section
R6-14-413	New Section
R6-14-414	New Section



R6-14-415	New Section
R6-14-416	New Section
R6-14-417	New Section
Article 5	New Article
R6-14-501	New Section
R6-14-502	New Section
R6-14-503	New Section
R6-14-504	New Section
R6-14-505	New Section
R6-14-506	New Section
R6-14-507	New Section

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

Authorizing statute: A.R.S. §§ 41-1954(A)(3), 46-134(1) and (10)  
Implementing statute: A.R.S. §§ 41-1954(A)(1)(c) and (A)(8) and 46-136(B) and (C); 7 U.S.C. § 2013

**3. The effective date of the rule:**

January 2, 2019

**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 rules shall become effective immediately upon expiration of the current emergency rules. This renewal is intended to maintain emergency rules until new rules promulgated through the regular rulemaking process become effective. The Code of Federal Regulations (CFR) requires the Arizona Department of Economic Security (Department) to implement procedures for claims against households (7 CFR 273.18), to provide fair hearings to any household aggrieved by a Department action (7 CFR 273.15), and to establish a system for conducting Intentional Program Violation disqualifications (7 CFR 273.16). The effective date of the rules will permit the Department to comply with federal law and regulation.

**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 emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:**

Notice of Emergency Rulemaking: 24 A.A.R. 2081, July 27, 2018

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

Name: Rodney K. Huenemann  
Address: Department of Economic Security  
P.O. Box 6123, Mail Drop 1292  
Phoenix, AZ 85005  
or  
Department of Economic Security  
1789 W. Jefferson St., Mail Drop 1292  
Phoenix, AZ 85007  
Telephone: (602) 542-6159  
Fax: (602) 542- 6000  
E-mail: rhuenemann@azdes.gov

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

The Department administers the Nutrition Assistance Program (Program), formerly called Food Stamps. The Program is authorized by the federal Supplemental Nutrition Assistance Program (SNAP) under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.) and the Code of Federal Regulations (7 CFR 271 through 7 CFR 283). This rulemaking will maintain rules that were implemented as an emergency measure under A.R.S. § 41-1026(A)(3) to amend Chapter 14, Food Stamps Program, of the Arizona Administrative Code to provide rules that are consistent with federal law and regulation. Further, these rules conform to current practice and terminology, and are clear, concise and understandable. This rulemaking will maintain rules implemented as an emergency measure until rulemaking being conducted through the regular rulemaking process becomes effective.

Article Three establishes procedures for the Department to identify and collect overpayments from households. The rules establish categories of claims and criteria for identifying a claim’s date of discovery. The Department may determine the cost effectiveness of pursuing or terminating the collection of an overpayment and provide the household a compromise agreement to settle a claim. The rules provide for acceptable payment and collection methods.

Article Four provides for an appeal and fair hearing to any household wishing to contest an adverse Department action. The house-



hold must file an appeal request within 90 days of receiving a notice of the adverse action. The Department shall stay any adverse action pending an appeal decision. The fair hearing procedure outlines the hearing schedule, duties of the hearing officer, and parties' rights. The hearing officer must issue a decision within 60 days after the appeal request is filed. The household can appeal the hearing officer's decision.

Article Five defines an Intentional Program Violation and establishes a procedure for disqualifying a household from further Program benefits. A household may waive the right to an administrative disqualification hearing. The administrative disqualification procedures outline the hearing schedule, hearing officer's responsibilities, and the parties' rights. Various sanctions may be imposed for any program violation found. A household may appeal the determination of a program violation. The Department will honor out-of-state sanctions and impose Program penalties in this state.

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

The Department did not review or rely on any study relevant to the rules.

**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 Department anticipates that this rulemaking will have a minimal (under \$1,000) economic impact on the implementing agency, small businesses, and consumers. These rules codify current Department policy and practice in order to conform to federal law. There is no additional cost to the Department or other state agencies anticipated by this rulemaking.

The persons directly impacted by this rulemaking are individuals or households who are applicants for, recipients of, or former recipients of the Nutrition Assistance program. These individuals and households will benefit from clear, concise, and understandable information regarding the overpayment and claims processes, and the rights and responsibilities afforded to individuals and households in the Fair Hearings, Appeals, and Intentional Program Violation processes.

**10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**

No other matters are prescribed.

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

This rule does not require a permit.

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

Article Three - Claims Against Households. Federal law at 7 U.S.C. § 2022 is applicable to this rule. This federal law is implemented in the SNAP program at 7 CFR 273.18. This rule is not more stringent than federal law or regulation.

Article Four – Appeals and Fair Hearings. Federal law at 7 U.S.C. § 2020 is applicable to this rule. This federal law is implemented in the SNAP program at 7 CFR 273.15. This rule is not more stringent than federal law or regulation.

Article Five – Intentional Program Violation. Federal law at 7 U.S.C. § 2015 is applicable to this rule. This federal law is implemented in the SNAP at 7 CFR 273.16. This rule is not more stringent than federal law or regulation.

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

No analysis was submitted.

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

None

**12. An agency explanation about the situation justifying the rulemaking as an emergency rule:**

This rulemaking is necessary as an emergency measure under A.R.S. § 41-1026(A)(3). Federal law and regulation requires that households in the Program be afforded fair hearings to grieve an adverse Department action and that action is stayed pending final resolution of the matter. If the Department seeks to disqualify a household from further Program benefits for committing an Intentional Program Violation, the Department must follow an administrative disqualification procedure. Any attempt to establish and collect an overpayment of benefits to a household is governed by federal regulation. The existing rules regarding fair hearings, Intentional Program Violations, or overpayments were implemented as an emergency measure and will expire one hundred eighty days after they were filed with the Secretary of State. The Department has published a Notice of Proposed Rulemaking to obtain input through the regular rulemaking process. This rulemaking is necessary to maintain the rules initially implemented as an emergency measure until rules promulgated through the regular rulemaking process become effective. A lack of rules would cause confusion among Program households and the Department. The lack of rules also would place the Department out of compliance with federal law and regulation.

**13. The date the Attorney General approved the rule:**

December 13, 2018

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



TITLE 6. ECONOMIC SECURITY
CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY
FOOD STAMPS PROGRAM

ARTICLE 3. EXPIRED CLAIMS AGAINST HOUSEHOLDS

- Section
R6-14-301. Expired Purpose and Definitions
R6-14-302. Expired Calculating a Claim Amount
R6-14-303. Expired Pre-establishment Cost Effective Determination
R6-14-304. Expired Claim Compromise
R6-14-305. Expired Terminating and Writing Off a Claim
R6-14-306. Expired Acceptable Forms of Payment
R6-14-307. Expired Collection Methods
R6-14-308. Expired Notice of Claim

ARTICLE 4. EXPIRED APPEALS AND FAIR HEARINGS

- Section
R6-14-401. Expired Entitlement to a Fair Hearing; Appealable Action
R6-14-402. Expired Computation of Time
R6-14-403. Request for Hearing; Form; Time Limits; Presumptions
R6-14-404. Stay of Action Pending Appeal
R6-14-405. Hearings; Location; Notice; Time
R6-14-406. Postponing the Hearing
R6-14-407. Hearing Officer: Duties and Qualifications
R6-14-408. Change of Hearing Officer; Challenges for Cause
R6-14-409. Subpoenas
R6-14-410. Parties' Rights
R6-14-411. Withdrawal of an Appeal
R6-14-412. Failure to Appear; Default; Reopening
R6-14-413. Hearing Proceedings
R6-14-414. Hearing Decision
R6-14-415. Effect of the Decision
R6-14-416. Further Administrative Appeal
R6-14-417. Appeals Board

ARTICLE 5. EXPIRED INTENTIONAL PROGRAM VIOLATION

- Section
R6-14-501. Expired Intentional Program Violation (IPV): Defined
R6-14-502. Expired IPV Administrative Disqualification Hearings; Hearing Waiver
R6-14-503. Expired Administrative Disqualification Hearings
R6-14-504. Expired Failure to Appear; Default; Reopening
R6-14-505. Expired Disqualification Sanctions; Notice
R6-14-506. Expired Administrative Disqualification Hearings or Waiver of the Right to a Hearing; Appeal
R6-14-507. Expired Honoring Out-of-State IPV Determinations and Sanctions

ARTICLE 3. EXPIRED CLAIMS AGAINST HOUSEHOLDS

R6-14-301. Expired Purpose and Definitions

- A. The Department establishes and collects claims under 7 CFR 273.18, Claims against households. This Article clarifies the Department's policies and procedures as permitted in federal regulation.
B. The definitions in section R6-14-111 and the following definitions apply to this Article:
1. "Agency error" or "AE claim" means any claim for an overpayment caused by an action or failure to take action by the Department.
2. "Claim" means the amount of a federal debt owed because Nutrition Assistance benefits were overpaid or benefits were trafficked.
3. "Household" means one of the following individuals or groups of individuals, unless otherwise specified under 7 CFR 273.1(b):
a. An individual living alone;
b. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
c. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.
4. "Inadvertent household error" or "IHE claim" means any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the Nutrition Assistance household. This includes instances when the household received more benefits than it was entitled to receive because the household requested a continuation of benefits, pending a fair hearing decision.





5. “Intentional Program Violation” or “IPV claim” means any claim for an overpayment resulting from an individual committing an IPV under 7 CFR 273.16.
6. “Trafficking claim” means any claim for the value of benefits that are trafficked, under 7 CFR 273.18. Trafficking is defined under 7 CFR 271.2.

**R6-14-302. Expired Calculating a Claim Amount**

Under 7 CFR 273.18, the Department shall calculate an overpayment of benefits claim by:

- A.** Date of discovery. The date of discovery is determined when the Department becomes aware of the overpayment. The Department becomes aware of an overpayment when:
  1. For AE claims, the date that the Department received written or oral notification, or the date the Department discovered an agency error occurred that caused an overpayment to the household.
  2. For IHE and IPV non-trafficking claims, the date that verification used to calculate the over-issuance is obtained.
  3. For claims resulting from trafficking, the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.
- B.** For AE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
- C.** For IHE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
- D.** For an IPV claim not related to trafficking, calculate a claim back to the month that the IPV first occurred, not to exceed 72 months prior to the date of discovery.
- E.** For a claim resulting from trafficking, calculate a claim for the value of the trafficked benefits, as determined under 7 CFR 273.18(c)(2).

**R6-14-303. Expired Pre-establishment Cost Effectiveness Determination**

The Department shall not establish an overpayment that is not cost effective using the threshold at 7 CFR 273.18(e)(2)(ii), unless the Department establishes and collects claims under a cost-effectiveness plan approved by F.N.S. under 7 CFR 273.18(e)(2)(ii) that establishes a different threshold.

**R6-14-304. Expired Claim Compromise**

For households not receiving Nutrition Assistance benefits under 7 CFR 273.18(e)(7), the Department may reduce or compromise a claim when the Department reasonably determines that a household's economic circumstances dictate that the claim will not be paid in three years. The Department shall:

1. Allow a household to repay a claim in equal monthly increments based on the following claim amounts:
  - a. 12 month increments when the claim is \$600.00 or less.
  - b. 24 month increments when the claim is \$1,200.00 or less.
  - c. 36 month increments when the claim is over \$1,200.00.
2. When a household reports that it is unable to afford the monthly increments established in subsection (1) and requests a compromise of the claim balance, the Department shall:
  - a. Request the household to provide an oral or written financial statement that includes the sources and amounts of all earned and unearned income and all household monthly expenses.
  - b. Establish a new claim balance based on the monthly amount the Department determines the household can reasonably afford to pay over a 36 month period based on the household's oral or written financial statement.
3. The Department shall consider the claim paid in full and subsequently adjust off any amount(s) remaining from the original claim after the household pays the new claim balance established in subsection (2)(b).
4. When the household fails to pay the new claim balance established in subsection (2)(b) within the 36 month period established in the new payment agreement, the Department shall reinstate the original amount of the claim, minus any payments received.

**R6-14-305. Expired Terminating and Writing Off a Claim**

- A.** Under 7 CFR 273.18(e)(8)(ii)(F), the Department may terminate and write off a claim when no adult member of the household who is responsible for paying the claim can be located.
- B.** Under 7 CFR 273.18(e)(8)(ii)(E), the Department shall not terminate and write off a claim which has been delinquent for 36 months when the claim is pending for possible payment through the Treasury Offset Program or a State Offset Program.

**R6-14-306. Expired Acceptable Forms of Payment**

The Department may accept all forms of payment methods listed in 7 CFR 273.18(f) to collect a claim.

**R6-14-307. Expired Collection Methods**

- A.** Allotment reduction. The Department may use the allotment reduction in 7 CFR 273.18(g)(1) except the allotment reduction in 7 CFR 273.18(g)(1)(vi).
- B.** Under 7 CFR 273.18(g)(5), the Department may allow the household to pay a claim in installment payments pursuant to R6-14-304(1)(a) through (c).
- C.** Intercept of unemployment compensation benefits.
- D.** Under 7 CFR 273.18(g)(8), the Department may use other collection methods that include:
  1. Submit the claim to the Arizona Department of Revenue for payment through a state tax refund.
  2. Submit the claim to the Arizona Lottery Commission for payment through a lottery winnings offset.
  3. Submit the claim to the federal Treasury Offset Program pursuant to 7 CFR 273.18(n).
  4. Wage garnishment established through a civil judgment or criminal restitution order. When the Department has obtained a judgment or order, the Department shall:



- a. Send the household a Pre-Garnishment Notice to allow the household to agree to pay the claim in a manner other than wage garnishment; and
- b. If the household fails to arrange for payment in response to the Pre-Garnishment Notice, the Department may request the Arizona Attorney General's Office to initiate a wage garnishment pursuant to A.R.S. Title 12, Chapter 9, Article 4.1, and that garnishment may continue until the claim is paid in full.
- 5. Garnishment or levy of monies or property, pursuant to A.R.S. Title 12, Chapter 9, Article 4.
- 6. Imposition or enforcement of all liens, including judgment liens imposed pursuant to A.R.S. § 33-961.
- 7. Any other legal or equitable remedy for the collection of debts and judgments.
- E. Under 7 CFR 273.18(i)(2), the Department may accept a claim from another state if the household subject to the claim receives Nutrition Assistance benefits in Arizona, when:
  - 1. The Department confirms that the household was notified by the other state of the overpayment; and
  - 2. There is no pending or unresolved Fair Hearing or Appeal of the overpayment in the other state.
- F. Under 7 CFR 273.18(j) and at the Arizona Attorney General's direction, the Department shall act on behalf of the federal Food and Nutrition Service in any bankruptcy proceeding against a household subject to a claim.

**R6-14-308. Expired Notice of Claim**

To begin collection on a claim, the Department shall send the household a Notice of Claim. At a minimum, the notice shall include all elements required under 7 CFR 273.18(e)(3)(iv).

**ARTICLE 4. EXPIRED APPEALS AND FAIR HEARINGS**

**R6-14-401. Expired Entitlement to a Fair Hearing: Appealable Action**

Any applicant or recipient who disagrees with any action or inaction by the Department has the right to challenge the action or inaction by requesting an administrative or fair hearing. Administrative hearings are conducted by the Department's Office of Appeals. In this Article, "hearing" refers to a Fair Hearing as required in 7 CFR 273.15.

**R6-14-402. Expired Computation of Time**

- A. In computing any time period:
  - 1. "Day" means a calendar day;
  - 2. "Working day" means Monday through Friday, excluding federal or Arizona state holidays;
  - 3. The Department does not count the date of the act, event, notice, or default from which a designated time period begins to run as part of the time period; and
  - 4. The Department counts the last day of the designated time period unless it is a Saturday, Sunday, federal holiday or Arizona state holiday.
- B. Documents sent by the Department are received by an applicant or recipient on the date sent to the applicant or recipient's last known street or electronic mail address, plus an additional five calendar days only when sent by United States Postal Service. The send date is the date shown on the document unless the facts show otherwise.

**R6-14-403. Request for Hearing: Form: Time Limits: Presumptions**

- A. An applicant or recipient who wishes to appeal an action or inaction shall make an oral or written request for a hearing to the Department within 90 days of the notice date advising the applicant or recipient of the action, except that a recipient may appeal the current level of benefits at any time within a certification period. Action by the Department shall include a denial of a request for restoration of any benefits lost more than 90 days but less than one year prior to the request for a hearing. An applicant or recipient may file a request for hearing in-person or by mail, fax, or Internet. The Department shall provide a form for this purpose and, upon request, shall help an applicant or recipient complete the form. If the applicant or recipient makes an oral request for a hearing, the Department shall reduce the appeal and the stated reasons for the appeal to writing, record the date of the oral request, and forward the request to the Office of Appeals. The freedom to make a request for a hearing shall not be limited or interfered with in any way.
- B. An appellant is an applicant or recipient who files an appeal. The appellant shall include the following information in the request for hearing:
  - 1. Name, address, electronic mail address, if applicable, and telephone number of the appellant;
  - 2. A description of the action or inaction that is the subject of the appeal;
  - 3. The date of the notice of adverse action or inaction;
  - 4. A statement explaining why the appellant disagrees with the action or inaction.
- C. The Department shall process any oral or written request for a hearing as long as the request contains sufficient information for the Department to determine the appellant's identity.
- D. The Department deems a request for hearing filed on:
  - 1. If the appellant sends the request for hearing by first-class mail through the United States Postal Service to the Department:
    - a. The mailing date as shown by the postmark;
    - b. In the absence of a postmark, the postage meter mark on the envelope in which it is received; or
    - c. If not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.
  - 2. The date the Department actually receives the request, if not mailed.
- E. A document is timely filed if the appellant can demonstrate that any delay in submission was due to any of the following reasons:
  - 1. Department error or misinformation;
  - 2. Delay or other action by the United States Postal Service, or
  - 3. Delay due to the appellant's changing mailing addresses at a time when the appellant had no duty to notify the Department of the change.
- F. When the Office of Appeals receives an untimely request for a hearing, the Office of Appeals shall determine whether the delay in submission is excusable, as provided in subsection (E).



- G. An appellant whose appeal the Office of Appeals denies as untimely may petition for review of this issue as provided in R6-14-416.
- H. The Department shall expedite a hearing request for any person covered by 7 CFR 273.15(i)(2).
- I. The Department shall provide interpreters or other language services at no cost to persons who speak a language other than English. This shall include explaining the hearing procedures orally in the person's language if the materials are not translated into the person's language.
- J. The Department shall offer an agency conference as provided by 7 CFR 273.15(d) to those persons denied expedited service and to any person who requests a conference.

**R6-14-404. Stay of Action Pending Appeal**

As provided by 7 CFR 273.15(k), and subject to the exceptions listed in that regulation, if the appellant timely requests a fair hearing, the Department shall stay the implementation of an action until the hearing officer renders a decision on the appeal and the person receives the decision, unless the appellant signs a waiver of continuation of benefits.

**R6-14-405. Hearings: Location: Notice: Time**

- A. The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing instead of an in-person hearing or permit a witness or party, upon request, to appear telephonically.
- B. Unless the appellant requests an earlier hearing date, the Office of Appeals shall schedule the hearing no earlier than 20 days from the date the Department receives the appellant's request for hearing.
- C. The Office of Appeals shall send a notice of hearing to all parties at least 20 days before the hearing date, unless a request for an earlier hearing date is granted under subsection (B).
- D. The notice of hearing shall be in writing and shall:
  - 1. Advise the appellant or the appellant's representative of the name, address, and phone number to notify the Office of Appeals in the event it is not possible for the appellant to attend the hearing;
  - 2. Specify that the Office of Appeals will dismiss the hearing request if the appellant or the appellant's representative fails to appear for the hearing without good cause;
  - 3. Include the Office of Appeals hearing procedures and any other information that would provide the appellant with an understanding of the proceedings and that would contribute to the effective presentation of the appellant's case, which shall include a pre-hearing summary prepared by the Department; and
  - 4. Explain that the appellant or the appellant's representative shall be given adequate opportunity to:
    - a. Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the Department to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the Department shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing officer's decision.
    - b. Present the case or have it presented by a legal counsel or other person.
    - c. Bring witnesses.
    - d. Advance arguments without undue interference.
    - e. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
    - f. Submit evidence to establish all pertinent facts and circumstances in the case.
  - 5. The notice shall include information about the availability of free legal services.

**R6-14-406. Postponing the Hearing**

- A. The appellant may request and is entitled to receive one postponement of the first scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. The Office of Appeals may grant subsequent postponements upon a showing of good cause.
- B. When the Office of Appeals reschedules a hearing under this Section, the Office of Appeals shall send the notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing, unless the appellant agrees to shorter notice.

**R6-14-407. Hearing Officer: Duties and Qualifications**

- A. An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B. The hearing officer shall:
  - 1. Administer oaths and affirmations;
  - 2. Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
  - 3. Consider all relevant issues;
  - 4. Request, receive, and admit into the record all evidence determined necessary to decide the issues being raised;
  - 5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department. The hearing officer shall decide on the source of the medical assessment or professional evaluation when the household and the Department are unable to agree on a mutually satisfactory source. The Department shall pay for the medical assessment or professional evaluation when such services are not available to the household as part of the household's current health insurance coverage; and
  - 6. Render a hearing decision and issue a written decision.

**R6-14-408. Change of Hearing Officer: Challenges for Cause**

- A. A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit that shall include:



- 1. The case name and number.
- 2. The hearing officer assigned to the case, and
- 3. The name and signature of the party requesting the change.
- B.** The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least five days before the hearing date.
- C.** A party shall request only one change of hearing officer unless that party is challenging a hearing officer for cause under subsection (E).
- D.** A party may not request a change of hearing officer once the hearing officer has heard and decided a motion except as provided in subsection (E).
- E.** At any time before a hearing officer renders a final decision under R6-14-414, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- F.** A party who brings a challenge for cause shall file an affidavit as provided in subsection (A) and send a copy of the affidavit to all other parties. The affidavit shall explain the reason why the assigned hearing officer is not impartial or disinterested.
- G.** The hearing officer being challenged for cause may hear and decide the challenge unless:
  - 1. A party specifically requests that another hearing officer make the determination, or
  - 2. The assigned hearing officer recuses himself or herself.
- H.** The Office of Appeals shall transfer the case to another hearing officer when:
  - 1. A party requests a change as provided in subsections (A) through (D); or
  - 2. The hearing officer is removed for cause, as provided in subsections (E) through (G).
- I.** The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

**R6-14-409. Subpoenas**

- A.** A party who wishes to have a witness testify at a hearing or to offer a particular document or item in evidence shall first attempt to obtain the witness or evidence by voluntary means. Subpoena forms are available to the appellant under R6-14-410(2).
- B.** If the party cannot obtain the voluntary attendance of the witness or production of the evidence, the party may ask the assigned hearing officer to issue a subpoena for a witness, document, or other physical evidence or to otherwise obtain the requested evidence.
- C.** The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
  - 1. The case name and number;
  - 2. The name of the party requesting the subpoena;
  - 3. The name and address of any person to be subpoenaed;
  - 4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item;
  - 5. A statement about the expected substance of the testimony or other evidence as well as the relevance and importance of the requested testimony or other evidence; and
  - 6. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D.** A party shall request a subpoena at least five working days before the hearing date.
- E.** The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is duplicative.
- F.** The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their jobs, by regular mail, hand-delivered mail, electronic mail, or interoffice mail.

**R6-14-410. Parties' Rights**

The appellant and the Department have the following rights:

- 1. The right to request a postponement of the hearing;
- 2. The right to receive before and during the hearing a free copy of any documents in the Department's file on the appellant and documents the Department may use at the hearing, except documents protected by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws;
- 3. The right to request a change of hearing officer;
- 4. The right to request subpoenas for witnesses and evidence;
- 5. The right to be represented by an authorized representative, subject to any limitations on the unauthorized practice of law in the Rules of the Supreme Court of Arizona, Rule 31;
- 6. The right to bring witnesses, present evidence, and to confront and cross-examine adverse witnesses;
- 7. The right to advance arguments without undue interference, to question or refute any testimony or evidence, and
- 8. The right to further appeal, as provided in R6-14-416 and R6-14-417, if dissatisfied with the Office of Appeals decision.

**R6-14-411. Withdrawal of an Appeal**

- A.** An appellant may withdraw an appeal at any time prior to the time the hearing officer issues a decision.
  - 1. An appellant may withdraw an appeal orally, either in person or by telephone. The Department may record the audio of the withdrawal. The Department is prohibited from coercion or actions that would influence the appellant or the appellant's representative to withdraw the fair hearing request. The Department must provide a written notice within 10 days of the oral request confirming the withdrawal request and providing the appellant an opportunity to reinstate a hearing. The notice shall explain the appellant's right to request or reinstate the hearing within 10 days of when they receive the notice.
  - 2. An appellant may withdraw an appeal by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.



- B.** The Department shall dismiss the appeal upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or upon receipt of a statement of withdrawal made on the record when the hearing officer has accepted the withdrawal.

**R6-14-412. Failure to Appear; Default; Reopening**

- A.** If an appellant fails to appear at the hearing, the hearing officer shall:
1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
  2. Rule summarily on the available record; or
  3. Adjourn the hearing to a later date and time.
- B.** The hearing officer shall not enter a default or rule summarily if the appellant notifies the Office of Appeals before the scheduled time of hearing that the appellant cannot attend the hearing because of good cause and still desires a hearing or wishes to have the matter considered on the available record. Good cause exists if circumstances beyond the party's reasonable control make it unduly difficult or burdensome for the party or the party's representative to attend the hearing at the scheduled time.
- C.** A party who did not appear at the hearing may file a request to reopen the proceedings no later than 10 days after the hearing. The request shall be in writing or be made in person and shall demonstrate good cause for the party's failure to appear.
- D.** If the hearing officer finds that the party had good cause for failure to appear, the hearing officer shall reopen the proceedings and schedule a new hearing with notice to all interested parties as prescribed in R6-14-405.
- E.** Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party. Good cause also exists when the nonappearing party demonstrates excusable neglect, as used in Arizona Rules of Civil Procedure, Rule 60(b)(1) for both the failure to appear and the failure to timely notify the hearing officer.

**R6-14-413. Hearing Proceedings**

- A.** The hearing is a de novo proceeding. The Department has the initial burden of presenting the evidence to support the adverse action being appealed.
- B.** The standard of proof is a preponderance of the evidence.
- C.** The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 41-1062(A).
- D.** The Office of Appeals shall record all hearings. The Office of Appeals shall also transcribe the proceedings when a transcription is requested by the Appeals Board or when a transcription is required for a judicial review under A.R.S. § 41-1993. If a transcript is prepared for any purpose, the appellant is entitled to a copy of the transcription at no cost.
- E.** A party may, at the party's own expense, arrange to have a court reporter present to transcribe the hearing, provided that such transcription does not delay or interfere with the hearing. The Office of Appeal's recording of the hearing shall constitute the official record of the hearing.
- F.** The hearing officer shall call the hearing to order and dispose of any prehearing motions or issues.
- G.** With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- H.** Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence.
- I.** A party may testify, present evidence, call witnesses, cross-examine adverse witnesses, and object to evidence. The hearing officer may also take witness testimony or admit evidence on the hearing officer's own motion.
- J.** The hearing officer shall keep a complete record of all proceedings in connection with an appeal.
- K.** The hearing officer may request the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.
- L.** The recording of the hearing, all the evidence presented at the hearing and all papers and requests filed shall constitute the record and shall be available to the household or its representative at any reasonable time for copying and inspection.

**R6-14-414. Hearing Decision**

- A.** No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
- B.** The hearing decision shall include:
1. Findings of fact concerning the issue on appeal.
  2. Citations to the law and authority applicable to the issue on appeal.
  3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions.
  4. The name of the hearing officer.
  5. The date of the decision.
  6. A statement of further appeal rights and the time period for exercising those rights, and
  7. That an appeal may result in a reversal of the decision.
- C.** The Office of Appeals shall send a copy of the decision to each party or the party's representative.
- D.** When requested by the appellant, the Department, or upon the hearing officer's own motion, the Office of Appeals may amend or vacate a decision to correct clerical errors, including typographical and computational errors.

**R6-14-415. Effect of the Decision**

- A.** If the hearing officer affirms the adverse action against the appellant, the adverse action is effective as of the date of the initial determination of adverse action by the Department. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.



B. If the hearing officer vacates or reverses the Department’s decision to take adverse action, the Department shall not take the action or shall reverse any adverse action.

**R6-14-416. Further Administrative Appeal**

A. A party can appeal an adverse decision issued by a hearing officer to the Department’s Appeals Board as prescribed in A.R.S. § 41-1992(C) and (D) by filing a written petition for review with the Office of Appeals within 15 days of the mailing or transmittal date of the hearing officer’s decision.

B. The petition for review shall:

1. Be in writing and filed in person, by mail, or fax.
2. Describe why the party disagrees with the hearing officer’s decision, and
3. Be signed and dated by the party or the party’s representative.

**R6-14-417. Appeals Board**

A. The Appeals Board shall conduct proceedings in accordance with A.R.S. §§ 41-1992(D) and 23-672.

B. The Appeals Board shall issue to all parties a final written decision affirming, reversing, setting aside, or modifying the hearing officer’s decision based on the record. The decision of the Appeals Board shall specify the parties’ rights to seek further review and the time for filing an application for appeal.

C. An appellant adversely affected by an Appeals Board decision may seek judicial review under A.R.S. § 41-1993.

**ARTICLE 5. EXPIRED INTENTIONAL PROGRAM VIOLATION**

**R6-14-501. Expired Intentional Program Violation (IPV); Defined**

A. An Intentional Program Violation (IPV) consists of having intentionally:

1. Made a false or misleading statement, or misrepresented, concealed, or withheld facts; or
2. Committed any act that constitutes a violation of the Food Stamp Act, Nutrition Assistance Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of nutrition assistance benefits or EBT cards.

B. For the purpose of imposing sanctions as prescribed in R6-14-505, a person is considered to have committed an IPV if:

1. A person signs a waiver of an Administrative Disqualification Hearing,
2. A person is found to have committed an IPV by an Administrative Disqualification Hearing, or
3. A person is convicted of a criminal offense the elements of which would constitute an IPV under subsection (A) above or enters into a disqualification consent agreement for deferred prosecution for fraud in a court of law.

**R6-14-502. Expired IPV Administrative Disqualification Hearings: Hearing Waiver**

A. Upon receipt of sufficient documentary evidence substantiating that a person has committed an IPV, the Department shall initiate either an Administrative Disqualification Hearing, or a referral for prosecution.

B. When the Department initiates an Administrative Disqualification Hearing, the Department shall mail the person suspected of an IPV written notice of the right to waive the Administrative Disqualification Hearing. This notice shall be sent either by first class mail or certified mail – return receipt requested.

C. The waiver notice of the Administrative Disqualification Hearing shall include the following information as well as the information described in R6-14-503(D):

1. A statement that the Department has determined that the individual suspected of the IPV committed one or more acts described in R6-14-501(A) and that the Department has initiated an Administrative Disqualification Hearing against the individual suspected of the IPV.
2. A summary of the allegations and evidence against the individual suspected of the IPV and notification that the individual suspected of the IPV has the right to examine and, when requested by the individual or representative, be provided a free copy of the portions of the case file that are relevant to the hearing.
3. A statement of the right of the individual suspected of the IPV to remain silent concerning the allegation of an IPV, and that anything said or signed by the individual concerning the allegations can be used against the individual suspected of the IPV in a court of law, including signing any part of the waiver.
4. A statement that signing a waiver of the Administrative Disqualification Hearing will result in disqualification periods as determined by R6-14-505, a statement of the penalty the Department believes is applicable to the case scheduled for a hearing, and a reduction in benefits for the period of disqualification, even if the individual suspected of the IPV does not admit to the facts as presented by the Department.
5. A statement that the individual suspected of the IPV does not have to sign a waiver of the Administrative Disqualification Hearing, return the waiver form to the Department, or speak to anyone at the Department.
6. A listing of the individual suspected of the IPV’s fair hearing rights contained in 6 A.A.C. 14, Article 4 and notification that the individual suspected of the IPV will waive these rights if the waiver of the Administrative Disqualification Hearing is signed.
7. A statement that waiver of the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual suspected of the IPV for the IPV in a civil or criminal court action, or from collecting any overissuance of Nutrition Assistance benefits.
8. A statement that the individual suspected of the IPV may wish to consult an attorney and a list of any individuals or organizations that provide free legal representation.
9. A statement that Nutrition Assistance benefits will continue and will only be terminated if the following occurs:
  - a. The individual suspected of the IPV signs a notice to waive their rights to an Administrative Disqualification Hearing,
  - b. There is an Administrative Disqualification Hearing decision that the individual suspected of the IPV is disqualified,
  - c. The individual is determined to no longer be eligible on other grounds, or
  - d. The individual requests that the Nutrition Assistance benefits not be continued in order to avoid a potential overissuance of benefits.



10. A statement that the remaining household members, if any, will be held responsible for repayment of the resulting overissuance claim.
  11. An opportunity for the individual suspected of the IPV to specify whether or not the individual admits to the facts as presented by the Department. This opportunity shall consist of the following statements, and a method for the individual suspected of the IPV to designate the individual's waiver choice:
    - a. I admit to the facts as presented and understand that a disqualification penalty will be imposed if I sign this waiver. I understand that if I sign this waiver, there will not be an Administrative Disqualification Hearing; or
    - b. I do not admit that the facts as presented are correct in my Nutrition Assistance case. However, I have chosen to sign this waiver of the Administrative Disqualification Hearing. I also understand that a disqualification penalty will be imposed. I understand that if I mark this box, I will not be able to submit additional evidence, have an Administrative Disqualification Hearing, or have the right to administrative appeal.
    - c. A statement that the individual suspected of the IPV does not waive the individual's right to an Administrative Disqualification Hearing and a method to indicate this choice:

I do not admit that I committed an Intentional Program Violation and I do not waive my right to an Administrative Disqualification Hearing where the Department must prove that I committed an Intentional Program Violation. I understand that I may attend the hearing but I am not required to attend. If I attend the hearing, I may talk to the judge about what happened. I understand that at my hearing, I can present additional evidence to the judge if I want. I understand that I have the right to remain silent. I understand that the judge will decide if I will be disqualified from participating in the Nutrition Assistance program.
  12. The telephone number of the appropriate Department unit which the individual may contact to obtain additional information.
  13. A due date that the signed waiver of an Administrative Disqualification Hearing must be provided to the Department so that a hearing will not be held and a signature line for the individual suspected of the IPV, along with a statement that the head of household must also sign the waiver if the individual suspected of the IPV is not the head of household, with an appropriately designated signature line.
- D.** For the purpose of imposing sanctions as prescribed in R6-14-505, a timely signed waiver of an Administrative Disqualification Hearing shall have the same effect as an administrative adjudication that an IPV occurred.

**R6-14-503. ~~Expired~~ Administrative Disqualification Hearings**

- A.** The rules on fair hearings apply to Intentional Program Violation (IPV) Administrative Disqualification Hearings, except as provided in this Article.
- B.** All IPV Administrative Disqualification Hearings are conducted by the Department's Office of Appeals.
- C.** If the individual suspected of an IPV does not sign and return the waiver of Administrative Disqualification Hearing by the return date set in the waiver notice, or returns the waiver notice stating they do not waive the Administrative Disqualification Hearing, the Office of Appeals shall send the individual a written hearing notice. The Office of Appeals shall send the notice by first class mail, certified mail return receipt requested, or any other reliable method, no later than 30 days before the scheduled hearing date.
- D.** The hearing notice shall include the following information:
1. The date, time, and place of the hearing;
  2. The allegations of an IPV against the individual;
  3. A summary of the evidence, and how and where the evidence can be examined. When requested by the household or its representative, the Department shall provide a free copy of the portions of the case file that are relevant to the hearing;
  4. A notice that the decision will be based solely on information provided by the Department if the individual suspected of the IPV fails to appear at the hearing;
  5. A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
  6. A warning that a determination of IPV will result in disqualification periods as defined by section R6-14-505, and a statement of which penalty the Department believes is applicable to the case scheduled for a hearing;
  7. A listing of the individual's rights as contained in R6-14-410;
  8. A statement that the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual for the IPV in a civil or criminal court action, or from collecting any overissuance of Nutrition Assistance benefits;
  9. A statement that the individual suspected of the IPV may consult with an attorney and a list of any individuals or organizations known to the Department that provide free legal representation; and
  10. A notice that the individual suspected of the IPV has the right to obtain a copy of the Department's published hearing procedures together with an explanation of how the individual suspected of the IPV can obtain these procedures.
- E.** The hearing officer shall postpone a hearing for up to 30 days if the individual suspected of the IPV files a written or oral request for postponement with the hearing officer no later than 10 days before the hearing date. Any such postponement shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (G) below.
- F.** The time and place for the hearing shall be arranged so that the hearing is accessible to the individual suspected of the IPV, including making reasonable accommodations for a person with a disability.
- G.** At the start of the Administrative Disqualification Hearing, the hearing officer shall advise the individual suspected of the IPV or representative of the right to remain silent during the hearing and the consequences of exercising that right, including the court's ability to draw an adverse inference from silence. The hearing officer shall also advise that if the individual suspected of the IPV or representative chooses not to exercise the right to remain silent, anything they say could be used against them.
- H.** A hearing officer, as prescribed in R6-14-407, shall conduct the Administrative Disqualification Hearing pursuant to the procedures set forth in R6-14-408, R6-14-409, R6-14-410, and R6-14-413, except as prescribed in this subsection.
- I.** The Department shall prove by clear and convincing evidence that the household member committed an IPV.



**J.** No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the individual suspected of the IPV a written decision. The hearing officer shall find whether the evidence shows by clear and convincing evidence that the person committed an IPV or did not commit the IPV. The decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation, and respond to reasoned arguments made by the individual suspected of the IPV or representative.

**~~R6-14-504. Expired~~ Failure to Appear; Default; Reopening**

- A.** If the individual suspected of the IPV fails to appear at the Administrative Disqualification Hearing without good cause, the hearing officer shall conduct the hearing.
- B.** The hearing officer shall not conduct the hearing if the individual suspected of the IPV notifies the Office of Appeals before the hearing that the individual cannot attend the hearing because of good cause and still desires a hearing. Good cause exists if circumstances beyond the party's reasonable control make it unduly difficult or burdensome for the party or the party's representative to attend the hearing on the scheduled date.
- C.** An individual suspected of the IPV who did not appear at the hearing may file a request to reopen the Administrative Disqualification Hearing. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
  - 1. The individual suspected of the IPV has 30 days after the date of the written notice of the hearing decision to file a request to reopen the Administrative Disqualification Hearing if the individual did not receive a hearing notice.
  - 2. In all other instances, the individual suspected of the IPV has 10 days from the hearing date to show good cause why the individual failed to appear.
- D.** The hearing officer shall review the good cause reason submitted by the individual suspected of the IPV and unless the hearing officer can grant or deny the request based on the information provided, shall set the matter for a hearing to determine whether the individual suspected of the IPV had good cause for failing to appear.
- E.** If the hearing officer finds that the individual suspected of the IPV had good cause for failure to appear, the previous decision shall be vacated and the hearing officer shall reopen the Administrative Disqualification Hearing and schedule a new hearing with notice to all parties. The hearing officer must enter the good cause decision on the record.
- F.** Good cause, for the purpose of reopening an Administrative Disqualification Hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the individual suspected of the IPV. Good cause also exists when the individual suspected of the IPV demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" means an action involving an error such as might be made by a reasonably prudent person who attempts to handle a matter in a prompt and diligent fashion.

**~~R6-14-505. Expired~~ Disqualification Sanctions; Notice**

- A.** A person found to have committed an IPV is disqualified from program participation:
  - 1. For a period of 12 months for the first IPV, except as provided under subsections (B) through (E) of this section;
  - 2. For a period of 24 months for the second IPV, except as provided in subsections (B) through (E) of this section;
  - 3. Permanently for the third IPV; and
  - 4. The same act of IPV repeated over a period of time shall not be separated so that separate penalties can be imposed.
- B.** Individuals found by any court to have used or received benefits in a transaction involving the sale of a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), shall be ineligible to participate in the program: For a period of 24 months for the first violation; and Permanently upon the second violation.
- C.** Individuals found by any court to have used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives shall be permanently ineligible to participate in the program upon the first violation.
- D.** An individual convicted by any court of having trafficked benefits for an aggregate amount of \$500 or more shall be permanently ineligible to participate in the program upon the first violation.
- E.** Except as provided under subsection (A)(3) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple Nutrition Assistance benefits simultaneously shall be ineligible to participate in the program for 10 years.
- F.** The Department shall not include the needs of the disqualified person in the household but shall count the income and resources of the disqualified person available to the household.
- G.** Upon a determination of IPV, the Department shall notify the disqualified person in writing of the pending disqualification. The written notice shall:
  - 1. Inform the disqualified person of the decision and the reasons for the decision; and
  - 2. Inform the disqualified person of the date the disqualification will take effect and the duration of the disqualification. If the disqualified person is no longer receiving Nutrition Assistance benefits, the notice shall inform the disqualified person that the period of disqualification will be deferred until such time as the disqualified person again applies for and is determined eligible for Nutrition Assistance benefits.

**~~R6-14-506. Expired~~ Administrative Disqualification Hearings or Waiver of the Right to a Hearing; Appeal**

- A.** Upon a determination of IPV through a signed waiver of an Administrative Disqualification Hearing, the individual has no right to further administrative appeal. The individual may seek relief in a court having jurisdiction and may seek a stay or other injunctive relief of a period of disqualification.
- B.** A person found to have committed an IPV through an Administrative Disqualification Hearing has no right to further administrative appeal but may seek relief in a court of appropriate jurisdiction.

**~~R6-14-507. Expired~~ Honoring Out-of-State IPV Determinations and Sanctions**

The Department shall honor sanctions imposed against an applicant or recipient by the agency of another state that administers the Nutrition Assistance program and shall consider prior violations committed in another state when determining the appropriate sanction.





**NOTICES OF RULEMAKING DOCKET OPENING**

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

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

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

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

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

**NOTICE OF RULEMAKING DOCKET OPENING  
STATE BOARD OF NURSING**

[R18-271]

1. **Title and its heading:** 4, Professions and Occupations  
**Chapter and its headings:** 19, State Board of Nursing  
**Articles and headings:** 1, Definitions and Time-Frames  
 2, Arizona Registered and Practical Nursing Programs; Refresher Programs  
 3, Licensure  
 4, Regulation  
 5, Advanced Practice Registered Nursing  
 8, Certified and Licensed Nursing Assistants and Certified Medication Assistants  
  
**Section numbers:** R4-19-101; R4-19-201 through R4-19-207; R4-19-209 through R4-19-217; R4-19-307, R4-19-309; R4-19-403; R4-19-505 through R4-19-507; R4-19-511; R4-19-801, R4-19-802, R4-19-809, R4-19-810, R4-19-811, R4-19-815 (*Sections may be added, modified or deleted as necessary.*)
  
2. **The subject matter of the proposed rule:**  
 The Arizona State Board of Nursing is opening a docket on these Sections for the following reasons:
  1. To update the definition of "dispense" as it is used in Chapter 19
  2. To streamline and clarify requirements for nursing programs
  3. To eliminate unnecessary requirements for school nurses
  4. To delete obsolete rules and to modify existing rules consistent with statutory changes, including the Opioid Epidemic Act
  5. To decrease regulatory burdens
  6. To increase paper-free processing
  7. To increase consistency of rules with the Nurse Practice Act, including consistent use of titles
  8. To clarify requirements for Nurse Practitioners regarding national certification
  
3. **A citation to all published notices relating to the procedure:**  
 Notice of Proposed Rulemaking: 24 A.A.R. 3543, December 28, 2018 (*in this issue*)
  
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Joey Ridenour RN, MS, FAAN  
 Executive Director  
  
 Address: Board of Nursing  
 1740 W. Adams Ave., Suite 2000  
 Phoenix, AZ 85007  
  
 Telephone: (602) 771-7801  
 Fax: (602) 771-7888  
 E-mail: jridenour@azbn.gov  
 Website: azbn.gov
  
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 The Board will hold an oral proceeding on February 4, 2019 at 3:00 p.m., in the Board offices at 1740 West Adams Avenue, Boardroom C, Phoenix, AZ 85007. The Board will accept written comments submitted to Joey Ridenour, Executive Director, 1740 West Adams Avenue, Suite 2000, Phoenix, AZ 85007 until the close of record at 5 p.m., on February 4, 2019.
  
6. **A time table for agency decisions or other action on the proceeding, if known:**  
 Has not yet been determined.



GOVERNOR EXECUTIVE ORDER

Executive Order 2018-02 is being reproduced in each issue of the Administrative Register as a notice to the public regarding state agencies' rulemaking activities.

This order will appear in the Register until its expiration on December 31, 2018, and has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2018-02

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

[M18-46]

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

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

WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order, and renewed the moratorium in 2016 and 2017; and

WHEREAS, in 2017 the State of Arizona eliminated or repealed 676 needless regulations; and

WHEREAS, estimates show these eliminations saved job creators more than \$48 million in operating costs; and

WHEREAS, 161,000 private sector jobs have been added to Arizona since January 2015; and

WHEREAS, all government agencies of the State of Arizona should continue to promote customer-service-oriented principles for the people that it serves; and

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

WHEREAS, each State agency should evaluate its administrative rules using any available and reliable data and performance metrics; and

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

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

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

- 2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. A State agency subject to this Order, shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
4. A State agency subject to this Order, shall coordinate with the Office of Economic Opportunity to prepare a statement of estimated regulatory costs analyzing the economic impact of agency rules, including an analysis of the effort of such rules on the creation and retention of jobs within the State of Arizona.
5. A State agency subject to this Order, shall review the agency's rules related to license reciprocity and identify opportunities to decrease burdens for qualified professionals who relocate to Arizona, whether administrative or legislative, and report these opportunities to the office of the Governor no later than July 1, 2018.



- 6. A State agency subject to this Order, shall review the agency’s rules to identify opportunities for veterans by recognizing the skills, credentials, and training received during military service in place of some or all of the training requirements for a specific license, and include additional opportunities in the report to the office of the Governor no later than July 1, 2018.
- 7. For the purposes of this Order, the term “State agencies,” includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
- 8. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule,” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
- 9. This Executive Order expires on December 31, 2018.

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

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this Twelfth day of February in the Year Two Thousand and Eighteen and of the Independence of the United States of America the Two Hundred and Thirty-Sixth.

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

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**REGISTER INDEXES**

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

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

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

**SUPPLEMENTAL PROPOSED RULEMAKING**

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

**FINAL RULEMAKING**

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

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

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

**FINAL SUMMARY**

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

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

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

**SUPPLEMENTAL EXPEDITED**

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

**FINAL EXPEDITED**

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

**EXEMPT RULEMAKING****EXEMPT**

XN = Exempt new Section  
XM = Exempt amended Section  
XR = Exempt repealed Section  
X# = Exempt renumbered Section

**EXEMPT PROPOSED**

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

**EXEMPT SUPPLEMENTAL PROPOSED**

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

**FINAL EXEMPT RULEMAKING**

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

**EMERGENCY RULEMAKING**

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

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

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

**RULE EXPIRATIONS**

EXP = Rules have expired  
*See also “emergency expired” under emergency rulemaking*

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R14-2-107. PM-1643;  
FM-2750  
R14-2-108. PN-1643;  
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R14-2-803. PM-1617;  
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R10-4-103.	FM-377		FM-1415		PN-2893
R10-4-104.	FM-377	R6-1-203.	F#-1415;	R6-14-412.	EN-2081;
R10-4-106.	FM-377		FN-1415;		PN-2893
R10-4-107.	FM-377		FM-1415	R6-14-413.	EN-2081;
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R10-4-110.	FM-377	<b>Developmental Disabilities</b>			PN-2893
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R10-4-202.	FM-377		FN-2013		PN-2893
R10-4-203.	FM-377	R6-6-302.	F#-2013;	R6-14-416.	EN-2081;
R10-4-204.	FM-377		FM-2013		PN-2893
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	FM-3425		F#-2013;		PN-2893
R10-4-403.	PM-2259;		FM-2013	R6-14-501.	EN-2081;
	FM-3425	R6-6-304.	FN-2013		PN-2893
R10-4-404.	PM-2259;	R6-6-305.	FN-2013	R6-14-502.	EN-2081;
	FM-3425	R6-6-306.	FN-2013		PN-2893
R10-4-406.	PM-2259;	R6-6-307.	FN-2013	R6-14-503.	EN-2081;
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		R6-6-309.	FN-2013	R6-14-504.	EN-2081;
		R6-6-501.	FR-2013		PN-2893
		R6-6-502.	FR-2103	R6-14-505.	EN-2081;
		R6-6-503.	FR-2013		PN-2893
		R6-6-504.	FR-2013	R6-14-506.	EN-2081;
		R6-6-505.	FR-2013		PN-2893
				R6-14-507.	EN-2081;
					PN-2893
<b>Department Dissolved</b> (previously <i>Department of Weights and Measures</i> )		<b>Economic Security, Department of -</b>		<b>Economic Security, Department of -</b>	
R20-2-205.	EXP-1125	<b>Food Stamps Program</b>		<b>Social Services</b>	
		R6-14-301.	EN-2081;	R6-5-3301.	PN-2357
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R4-20-105.	PR-2299;		PN-2893	<b>Unemployment Insurance</b>	
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R4-20-106.	PR-2299;		PN-2893	R6-3-5205.	FM-1417
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R4-20-107.	PM-2299;		PN-2893	R6-3-52235.	FM-1417
	FM-3418	R6-14-308.	EN-2081;	R6-3-55460.	FM-1417
R4-20-109.	PM-2299;		PN-2893		
	FM-3418	R6-14-401.	EN-2081;	<b>Education, State Board of</b>	
R4-20-110.	PM-2299;		PN-2893	R7-2-301.	FXM-691
	FM-3418	R6-14-402.	EN-2081;	R7-2-302.	FXM-691
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R4-20-113.	PM-2299;		PN-2893	R7-2-604.04.	FXM-195
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R4-20-115.	PM-2299;		PN-2893	R7-2-606.	FXM-1427
	FM-3418	R6-14-405.	EN-2081;	R7-2-607.	FXM-195
R4-20-119.	PM-2299;		PN-2893	R7-2-608.	FXM-195
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R4-20-123.	PR-2299;		PN-2893		FXM-2947
	FR-3418	R6-14-407.	EN-2081;	R7-2-609.01.	FXN-791
R4-20-124.	PR-2299;		PN-2893	R7-2-610.	FXM-195
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R4-20-125.	PR-2299;		PN-2893	R7-2-610.02.	FXN-195;
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R4-20-126.	PR-2299;		PN-2893	R7-2-611.	FXM-195;
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	FN-1415;				
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R7-2-612.	FXM-195;	R18-8-101.	PM-3146	R4-46-406.	PM-3001
	FXM-694	R18-8-260.	PM-3146	R4-46-407.	PM-3001
R7-2-612.01.	FXM-694	R18-8-261.	PM-3146	R4-46-408.	PM-3001
R7-2-613.	FXM-195	R18-8-262.	PM-3146	R4-46-501.	PM-3001
R7-2-614.	FXM-195;	R18-8-263.	PM-3146	R4-46-503.	PM-3001
	FXM-2947	R18-8-264.	PM-3146	R4-46-504.	PM-3001
R7-2-616.	FXM-195	R18-8-265.	PM-3146	R4-46-505.	PM-3001
R7-2-617.	FXM-195;	R18-8-266.	PM-3146	R4-46-506.	PM-3001
	FXM-2947	R18-8-268.	PM-3146	R4-46-508.	PM-3001
R7-2-619.	FXM-195	R18-8-270.	PM-3146	R4-46-509.	PM-3001
R7-2-621.	FXM-195	R18-8-271.	PM-3146	R4-46-510.	PM-3001
R7-2-809.	FXM-3279	R18-8-273.	PM-3146	R4-46-511.	PM-3001
R7-2-810.	FXN-146;	R18-8-280.	PM-3146		
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R7-2-1004.	FXM-3283	R16-4-101.	PN-619	R12-4-101.	PM-529;
R7-2-1014.	FXM-3283	R16-4-102.	PN-619		SPM-1936;
R7-2-1093.	FXM-3283	R16-4-103.	PN-619	R12-4-216.	PM-529;
R7-2-1112.	FXM-3283	R16-4-104.	PN-619		SPM-1936;
		R16-4-105.	PN-619		SPM-2910
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R18-2-731.	PM-501;	R16-4-108.	PN-619		SPM-2910
	FM-1864	R16-4-109.	PN-619	R12-4-302.	PM-529;
R18-2-901.	PM-501;	R16-4-110.	PN-619		SPM-1936;
	FEM-1564;	R16-4-111.	PN-619		SPM-2910
	FM-1864	R16-4-112.	PN-619	R12-4-303.	PM-529;
R18-2-1001.	PM-2801	R16-4-113.	PN-619		SPM-1936;
R18-2-1002.	PN-2801	R16-4-114.	PN-619		SPM-2910
R18-2-1003.	PM-2801	R16-4-115.	PN-619	R12-4-304.	PM-529;
R18-2-1005.	PM-2801	R16-4-116.	PN-619		SPM-1936;
R18-2-1006.	PM-2801	R16-4-117.	PN-619		SPM-2910
R18-2-1007.	PM-2801	<b>Financial Institutions, Department of - Real Estate Appraisal Division</b>		R12-4-305.	PM-529;
R18-2-1008.	PM-2801	R4-46-101.	PM-3001		SPM-1936;
R18-2-1009.	PM-2801	R4-46-103.	PR-3001		SPM-2910
R18-2-1010.	PM-2801	R4-46-106.	PM-3001	R12-4-306.	PM-529;
R18-2-1011.	PM-2801	R4-46-107.	PM-3001		SPM-1936
R18-2-1012.	PM-2801	R4-46-107.	PM-3001	R12-4-307.	PM-529;
R18-2-1013.	PR-2801	R4-46-201.	PM-3001		SPM-1936;
R18-2-1016.	PM-2801	R4-46-201.01.	PM-3001		SPM-2910
R18-2-1017.	PM-2801	R4-46-202.	PR-3001	R12-4-308.	PM-529;
R18-2-1018.	PM-2801	R4-46-202.01.	PM-3001		SPM-1936
R18-2-1019.	PM-2801	R4-46-203.	PM-3001	R12-4-309.	PM-529;
R18-2-1020.	PM-2801	R4-46-204.	PM-3001		SPM-1936;
R18-2-1022.	PM-2801	R4-46-205.	PR-3001		SPM-2910
R18-2-1023.	PM-2801	R4-46-207.	PR-3001	R12-4-310.	PM-529;
R18-2-1025.	PM-2801	R4-46-209.	PM-3001		SPM-1936;
R18-2-1026.	PM-2801	R4-46-301.	PM-3001		SPM-2910
R18-2-1027.	PR-2801	R4-46-302.	PR-3001	R12-4-311.	PM-529;
R18-2-1028.	PR-2801	R4-46-303.	PR-3001		SPM-1936;
R18-2-1031.	PR-2801	R4-46-304.	PR-3001		SPM-2910
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R18-2-1101.	FEM-1564	R4-46-306.	PR-3001		SPM-1936;
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R18-2-1601.	EXP-2500	R4-46-301.01.	PN-3001	R12-4-314.	PN-529;
R18-2-1602.	EXP-2500	R4-46-302.01.	PN-3001		SPN-1936;
R18-2-1603.	EXP-2500	R4-46-303.01.	PN-3001		SPN-2910
R18-2-1604.	EXP-2500	R4-46-304.01.	PN-3001	R12-4-315.	PR-529;
R18-2-1605.	EXP-2500	R4-46-305.01.	PN-3001		SPR-1936;
R18-2-1606.	EXP-2500	R4-46-306.01.	PN-3001		SPR-2910
R18-2-1607.	EXP-2500	R4-46-307.01.	PN-3001	R12-4-316.	PR-529;
R18-2-1608.	EXP-2500	R4-46-401.	PM-3001		SPR-1936;
R18-2-1609.	EXP-2500	R4-46-402.	PM-3001		SPR-2910
		R4-46-403.	PM-3001	R12-4-317.	PR-529;
		R4-46-404.	PM-3001		SPR-1936;
		R4-46-405.	PM-3001		SPR-2910
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R12-4-318.	PM-529; SPM-1936; SPM-2910	R9-5-201.	PEM-2471; FEM-3429	Table 2.	PER-745; FER-2682
R12-4-319.	PM-529; SPM-1936; SPM-2910	R9-5-202.	PEM-2471; FEM-3429	R9-6-708.	PEM-745; FEM-2682
R12-4-320.	PM-529; SPM-1936; SPM-2910	Table 2.1.	PEM-2471; FEM-3429	R9-6-801.	PEM-1650; FEM-2758
R12-4-321.	PM-529; SPM-1936; SPM-2910	R9-5-203.	PEM-2471; FEM-3429	R9-6-802.	PEM-1650; FEM-2758
R12-4-322.	PM-529; SPM-1936; SPM-2910	R9-5-205.	PEM-2471; FEM-3429	R9-6-1001.	PEM-1973; FEM-2761
R12-4-401.	PM-529; SPM-1936; SPM-2910	R9-5-208.	PEM-2471; FEM-3429	R9-6-1002.	PEM-1973
R12-4-601.	FE#-393; FEN-393	R9-5-301.	PEM-2471; FEM-3429	R9-6-1004.	PEM-1973; FEM-2761
R12-4-602.	FE#-393; FEM-393	R9-5-303.	PEM-2471; FEM-3429	R9-6-1005.	PEM-1973; FEM-2761
R12-4-603.	FE#-393; FEM-393	R9-5-305.	PEM-2471; FEM-3429	R9-6-1006.	PEM-1973; FEM-2761
R12-4-604.	FE#-393; FEM-393	R9-5-307.	PEM-2471; FEM-3429	R9-6-1201.	PEM-3174
R12-4-605.	FE#-393; FEM-393	R9-5-310.	PEM-2471; FEM-3429	R9-6-1202.	PEM-3174
R12-4-606.	FE#-393; FEM-393	R9-5-402.	PEM-2471; FEM-3429	R9-6-1203.	PEM-3174
R12-4-607.	FE#-393; FEM-393	R9-5-403.	PEM-2471; FEM-3429	R9-6-1204.	PEM-3174
R12-4-608.	FEN-393	R9-5-501.	PEM-2471; FEM-3429	<b>Health Services, Department of - Emergency Medical Services</b>	
R12-4-609.	FEM-393	R9-5-507.	PEM-2471; FEM-3429		
R12-4-610.	FEM-393	Table 5.1.	PEM-2471; FEM-3429	R9-25-201.	PM-3137
R12-4-611.	FEM-393	R9-5-517.	PEM-2471; FEM-3429	R9-25-202.	PM-3137
R12-4-901.	FE#-407	R9-5-601.	PEM-2471; FEM-3429	R9-25-203.	PM-3137
R12-4-902.	FE#-407; FEM-407	R9-5-602.	PEM-2471; FEM-3429	R9-25-204.	PM-3137
R12-4-1101.	FE#-407	R9-5-603.	PEM-2471; FEM-3429	R9-25-205.	PM-3137
R12-4-1102..	FE#-407	<b>Health Services, Department of - Communicable Diseases and Infes- tations</b>		R9-25-206.	PM-3137
<b>Governor's Regulatory Review Council</b>		R9-6-601.	FEM-261	R9-25-207.	PM-3137
		R9-6-701.	PEM-745; FEM-2682	R9-25-209.	FEM-268; PEM-2492; FEM-3487
R1-6-101.	PM-2007; FM-3095	R9-6-702.	PEM-745; FEM-2682	R9-25-303.	PEM-2492; FEM-3487
R1-6-105.	PN-2007; FN-3095	Table 7.1.	PEN-745; FEN-2682	R9-25-305.	FEM-268; PEM-2492; FEM-3487
R1-6-201.	PM-2007; FM-3095	Table 7.2.	PEN-745; FEN-2682	Table 8.1.	PEM-2492; FEM-3487
R1-6-202.	PM-2007; FM-3095	R9-6-703.	PEM-745; FEM-2682	R9-25-306.	FEM-268
R1-6-301.	PM-2007; FM-3095	R9-6-704.	PEM-745; FEM-2682	R9-25-401.	FEM-268
R1-6-302.	PM-2007; FM-3095	R9-6-705.	PEM-745; FEM-2682	R9-25-402.	FEM-268
R1-6-303.	PM-2007; FM-3095	R9-6-706.	PEM-745; FEM-2682	R9-25-403.	FEM-268
R1-6-401.	PM-2007; FM-3095	R9-6-707.	PEM-745; FEM-2682	R9-25-405.	FEM-268
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<b>Health Services, Department of - Food, Recreational, and Institu- tional Sanitation</b>		R9-8-102.	PM-99; FM-1817	R9-25-408.	FEM-268
		R9-8-201.	FEM-263	R9-25-409.	FEM-268
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R9-8-206.	FEM-263	R9-8-1338.	PR-3225		PM-1922;	
R9-8-301.	FEM-389	<b>Health Services, Department of - Health Care Institutions: Licensing</b>				F#-3043;
R9-8-302.	FEM-389					
R9-8-303.	FEN-389			R9-10-1510.	P#-1922;	
R9-8-304.	FEM-389	R9-10-101.	PM-1901;		PM-1922;	
R9-8-306.	FER-389		FM-3020		F#-3043;	
R9-8-307.	FER-389	R9-10-102.	PM-1901;		FM-3043	
R9-8-401.	FEM-266		FM-3020	R9-10-1511.	P#-1922;	
R9-8-402.	FEM-266	R9-10-106.	PM-1901;		PM-1922;	
R9-8-501.	PN-3217		FM-3020		F#-3043;	
R9-8-502.	PN-3217	R9-10-120.	EM-303;		FM-3043	
R9-8-503.	PN-3217		FN-657;	R9-10-1512.	P#-1922;	
Table 5.1.	PN-3217		FM-3020		PM-1922;	
Table 5.2.	PN-3217	R9-10-223.	PM-1922;		F#-3043;	
R9-8-504.	PN-3217		FM-3043		FM-3043	
R9-8-505.	PN-3217	R9-10-323.	PEM-3178	R9-10-1513.	P#-1922;	
R9-8-506.	PN-3217	R9-10-517.	PEM-3178		PM-1922;	
R9-8-507.	PN-3217	R9-10-617.	PEM-3178		F#-3043;	
R9-8-512.	PR-3217	R9-10-721.	PEM-3178		FM-3043	
R9-8-521.	PR-3217	R9-10-819.	PEM-3178	R9-10-1514.	P#-1922;	
R9-8-522.	PR-3217	R9-10-917.	PEM-3178		PM-1922;	
R9-8-523.	PR-3217	R9-10-1001.	FM-3020		F#-3043;	
R9-8-531.	PR-3217	R9-10-1021.	PM-1901;		FM-3043	
R9-8-533.	PR-3217		FM-3020	R9-10-1515.	PR-1922;	
R9-8-541.	PR-3217	R9-10-1030.	PEM-3178		P#-1922;	
R9-8-542.	PR-3217	R9-10-1316.	PEM-3178		PM-1922;	
R9-8-543.	PR-3217	R9-10-1302.	PEM-1977;		FR-3043;	
R9-8-544.	PR-3217		FEM-2764		F#-3043;	
R9-8-551.	PR-3217	R9-10-1307.	PEM-1977;		FM-3043	
R9-8-601.	PN-3225		FEM-2764	R9-10-1610.	PEM-3178	
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Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index and published by volume page number.

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## RULES EFFECTIVE DATES CALENDAR

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

January		February		March		April		May		June	
Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



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



**REGISTER PUBLISHING DEADLINES**

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

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
November 9, 2018	November 30, 2018	December 31, 2018
November 16, 2018	December 7, 2018	January 7, 2019
November 23, 2018	December 14, 2018	January 14, 2019
November 30, 2018	December 21, 2018	January 22, 2019
December 7, 2018	December 28, 2018	January 28, 2019
December 14, 2018	January 4, 2019	February 4, 2019
December 21, 2018	January 11, 2019	February 11, 2019
December 28, 2018	January 18, 2019	February 19, 2019
January 4, 2019	January 25, 2019	February 25, 2019
January 11, 2019	February 1, 2019	March 4, 2019
January 18, 2019	February 8, 2019	March 11, 2019
January 25, 2019	February 15, 2019	March 18, 2019
February 1, 2019	February 22, 2019	March 25, 2019
February 8, 2019	March 1, 2019	April 1, 2019
February 15, 2019	March 8, 2019	April 8, 2019
February 22, 2019	March 15, 2019	April 15, 2019



### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

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

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <http://grrc.az.gov>.

#### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2018

[M18-01]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday January 3, 2018	Tuesday January 9, 2018
Tuesday December 19, 2017	Tuesday January 23, 2018	Tuesday January 30, 2018	Tuesday February 6, 2018
Tuesday January 23, 2018	Tuesday February 20, 2018	Tuesday February 27, 2018	Tuesday March 6, 2018
Tuesday February 20, 2018	Tuesday March 20, 2018	Tuesday March 27, 2018	Tuesday April 3, 2018
Tuesday March 20, 2018	Tuesday April 17, 2018	Tuesday April 24, 2018	Tuesday May 1, 2018
Tuesday April 17, 2018	Tuesday May 22, 2018	Wednesday May 30, 2018	Tuesday June 5, 2018
Tuesday May 22, 2018	Tuesday June 19, 2018	Tuesday June 26, 2018	Tuesday July 10, 2018
Tuesday June 19, 2018	Tuesday July 24, 2018	Tuesday July 31, 2018	Tuesday August 7, 2018
Tuesday July 24, 2018	Tuesday August 21, 2018	Tuesday August 28, 2018	Wednesday September 5, 2018
Tuesday August 21, 2018	Tuesday September 18, 2018	Tuesday September 25, 2018	Tuesday October 2, 2018
Tuesday September 18, 2018	Tuesday October 23, 2018	Tuesday October 30, 2018	Tuesday November 6, 2018
Tuesday October 23, 2018	Tuesday November 20, 2018	Tuesday November 27, 2018	Tuesday December 4, 2018
Tuesday November 20, 2018	Tuesday December 18, 2018	Thursday January 3, 2019	Tuesday January 8, 2019
Tuesday December 18, 2018	Tuesday January 22, 2019	Tuesday January 29, 2019	Tuesday February 5, 2019

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