

NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSING

PREAMBLE

- | <u>1.</u> | <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|------------------|--|---------------------------------|
| | R9-10-802 | Amend |
- 2.** **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statutes: A.R.S. §§ 36-132(A)(1), 36-136(G)
Implementing statutes: A.R.S. §§ 36-405 and 36-406, and Laws 2019, Ch. 190
- 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 expedited rule:**
Notice of Rulemaking Docket Opening: 27 A.A.R. XXXX, September XX, 2021 (to be completed by rules editor)
- 4.** **The agency’s contact person who can answer questions about the rulemaking:**
- | | |
|------------|---|
| Name: | Kathryn McCanna, Branch Chief |
| Address: | Arizona Department of Health Services
Health Care Institution Licensing
150 N. 18th Ave., Suite 450
Phoenix, AZ 85007 |
| Telephone: | (602) 364-2841 |
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| or | |
| Name: | Robert Lane, Chief |
| Address: | Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007 |
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| Fax: | (602) 364-1150 |
| E-mail: | Robert.Lane@azdhs.gov |

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S § 41- 1027, to include an explanation about the rulemaking:

Arizona Revised Statutes (A.R.S.) § 36-132(A)(1) requires the Arizona Department of Health Services (Department) to protect the health of the people in Arizona. In order to ensure public health, safety, and welfare, A.R.S. §§ 36-405 and 36-406 require the Department to adopt rules establishing minimum standards and requirements for construction, modification, and licensure of health care institutions. The Department has adopted rules to implement these statutes in Arizona Administrative Code Title 9, Chapter 10, Article 8 for assisted living facilities. Laws 2019, Ch. 190, adds an exemption that removes architectural plans and specifications requirements and physical plant standard for the Arizona Pioneers' Home. After receiving an exception from the rulemaking moratorium established by Executive Order 2021-02, the Department will amend the rules to comply with Laws 2019, Ch. 190. As part of the rulemaking, any changes to cross-references will be corrected if required. The Department does not expect the expedited rulemaking will increase regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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

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

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

Not applicable

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

Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

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

Not applicable

10. Where, when, and how persons may provide written comments on the proposed expedited rule:

Close of record: September XX, 2021 at 1:00 p.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

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

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

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:

A.R.S. § 36-407 prohibits a person from establishing, conducting, or maintaining “a health care institution or any class or subclass of health care institution unless that person holds a current and valid license issued by the [D]epartment specifying the class or subclass of health care institution the person is establishing, conducting or maintaining.” A health care institution license is specific to the licensee, class or subclass of health care institution, facility location, and scope of services provided. As such, a general permit is not applicable and is not used.

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

Not applicable

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

No business competitiveness analysis was received by the Department.

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

Not applicable

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES
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ARTICLE 8. ASSISTED LIVING FACILITES

Section

R9-10-802. Supplemental Application Requirments

ARTICLE 8. ASSISTED LIVING FACILITES

R9-10-802. Supplemental Application Requirements; Exemption

- A.** In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as an assisted living facility shall include in a Department-provided format:
1. Which of the following levels of assisted living services the applicant is requesting authorization to provide:
 - a. Supervisory care services,
 - b. Personal care services, or
 - c. Directed care services; and
 2. Whether the applicant is requesting authorization to provide:
 - a. Adult day health care services, or
 - b. Behavioral health services other than behavioral care.
- B.** The Arizona Pioneers' Home is exempt from:
1. Architectural plans and specifications for a health care institution specified in A.A.C. R9-10-104; and
 2. Physical plant codes and standards for a health care institution specified in A.A.C. R9-10-105(A)(5)(a).